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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2026–8086; Special Conditions No. 25–896–SC]

Special Conditions: ATR–GIE Avions de Transport Régional Model ATR42–500 and ATR72–212A Airplanes; Electronic System Security Protection From Unauthorized Internal Access

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the ATR–GIE Avions de Transport Régional (ATR) Model ATR42–500 and ATR72–212A airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is the installation of a digital system that contains a wireless and hardwired network with hosted application functionality that allows access, from sources internal to the airplane, to the airplane's internal electronic components. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on ATR on August 7, 2026. Send comments on or before September 21, 2026.

ADDRESSES: Send comments identified by Docket No. FAA–2026–8086 using any of the following methods:

- *Federal eRegulations 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 (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Thuan T. Nguyen, Avionics Software and Components Unit, AIR–626D, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax (206) 231–3365; email; email *Thuan.T.Nguyen@faa.gov.*

SUPPLEMENTARY INFORMATION: The substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. Therefore, the FAA finds, pursuant to 14 CFR 11.38(b), that new comments are unlikely, and notice and comment prior to this publication are unnecessary.

Privacy

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in title 14, Code of Federal Regulations (14 CFR) 11.35, the FAA will post all comments received without change to *www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about these special conditions.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to these special conditions contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to these special conditions, 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 the indicated comments will not be placed in the public docket of these special conditions. Send submissions containing CBI to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above. Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for these special conditions.

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments. The FAA may change these special conditions based on the comments received.

Background

On April 17, 2026, ATR applied for a change to Type Certificate A53EU for the installation of a digital system that contains a wireless and hardwired network with hosted application functionality that allows access, from sources internal to the airplane, to the airplane's internal electronic components in the ATR Model ATR42–500 and ATR72–212A airplanes. These airplanes, approved under Type Certificate No. A53EU are twin engine transport category airplanes. The ATR Model ATR42–500 has a maximum passenger capacity of 42 passengers, and

a maximum takeoff weight of 41,000 pounds. The ATR Model ATR72–21A has a maximum passenger capacity of 72 passengers, and a maximum takeoff weight of 48,501 pounds.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, ATR must show that changes to the ATR Model ATR42–500 and ATR72–212A airplanes continue to meet the applicable provisions of the regulations listed in Type Certificate No. A53EU or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the ATR Model ATR42–500 and ATR72–212A airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the ATR Model 42–500 and ATR72–212A airplanes must comply with the exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The ATR Model ATR42–500 and ATR72–212A airplanes will incorporate the following novel or unusual design feature:

The installation of a digital system that contains a wireless and hardwired network with hosted application functionality that allows access, from sources internal to the airplane, to the airplane's internal electronic components.

Discussion

The ATR Model ATR72–212A and ATR42–500 airplanes electronic system architecture and network configuration change is novel or unusual for commercial transport airplanes because it is composed of several connected wireless and hardwired networks. This proposed system and network architecture is used for a diverse set of airplane functions, including:

- flight-safety related control and navigation systems,
- airline business and administrative support, and
- passenger entertainment.

The airplane's control domain and airline information services domain of these networks perform functions required for the safe operation and maintenance of the airplane. Previously, these domains had very limited connectivity with other network sources. This network architecture creates a potential for unauthorized persons to access the aircraft control domain and airline information services domain from sources internal to the airplane, and presents security vulnerabilities related to the introduction of computer viruses and worms, user errors, and intentional sabotage of airplane electronic assets (networks, systems, and databases) critical to the safety and maintenance of the airplane.

The existing FAA regulations did not anticipate these networked airplane-system architectures. Furthermore, these regulations and the current guidance material do not address potential security vulnerabilities, which could be exploited by unauthorized access to airplane networks, data buses, and servers. Therefore, these special conditions ensure that the security (*i.e.,* confidentiality, integrity, and availability) of airplane systems will not be compromised by unauthorized hardwired or wireless electronic connections from within the airplane. These special conditions also require the applicant to provide appropriate instructions to the operator to maintain all electronic-system safeguards that have been implemented as part of the original network design so that this feature does not allow or reintroduce security threats.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the ATR Model ATR42–500 and ATR72–212A airplanes. Should ATR apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on the ATR Model ATR42–500 and ATR72–212A airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 40113, 44701, 44702, and 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for ATR Model ATR42–500 and ATR72–212A airplanes.

1. The applicant must ensure that the design provides isolation from, or airplane electronic-system security protection against, access by unauthorized sources internal to the airplane. The design must prevent inadvertent and malicious changes to, and all adverse impacts upon, airplane equipment, systems, networks, and other assets required for safe flight and operations.

2. The applicant must establish appropriate procedures to allow the operator to ensure that continued airworthiness of the airplane is maintained, including all post-type-certification modifications that may have an impact on the approved electronic system security safeguards.

Issued in in Des Moines, WA, on August 4, 2026.

Paul R. Siegmund,

Manager, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service.

[FR Doc. 2026–16129 Filed 8–6–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2026–6997; Airspace Docket No. 26–AGL–13]

RIN 2120–AA66

Amendment of Class D and Class E Airspace; Chicago/Rockford, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class D and Class E airspace at Chicago/Rockford, IL. This action is due to a biennial airspace review conducted pursuant to FAA Order JO 7400.2R, Procedures for Handling Airspace Matters. This action brings the airspace into compliance with FAA orders and supports instrument flight rule (IFR) procedures and operations.

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 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, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

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 the Class D and Class E airspace at the affected airport to support IFR operations.

History

The FAA published an NPRM for Docket No. FAA–2026–6997 in the **Federal Register** (91 FR 35907; June 15, 2026) proposing to amend the Class D and Class E airspace at Chicago/Rockford, IL. 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 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 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 Class D airspace and Class E airspace extending upward from 700 ft. above the surface at Chicago/Rockford, Illinois due to a biennial airspace review conducted pursuant to FAA Order JO 7400.2R.

For the Chicago/Rockford International Airport, Chicago/Rockford, IL, Class D airspace, this action: (1) expands the radius from 4.6 miles to 5.7 miles; and (2) removes the extension south of the airport as it is no longer required.

For the Chicago/Rockford International Airport Class E airspace extending upward from 700 ft. above the surface, this action: (1) increases the radius from 7.1 miles to 8.2 miles; and (2) amends the extension south of the airport to within 4 miles (increased from 3 miles) each side of the 185° bearing from the Chicago/Rockford INTL: RWY 01–LOC extending from the 8.2-mile (currently 7.1-mile) radius of the airport to 11.1 miles (currently 12.3 miles) south of the Chicago/Rockford INTL: RWY 01–LOC.

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, ''Policies and Procedures for Rulemakings'' (March 10, 2025); and (3) is expected to result in, at most, de minimis costs from compliance with applicable operating requirements or minor flight rerouting for operators choosing to navigate around the controlled airspace. Since these 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 preparation of an environmental assessment.

Lists of Subjects in 14 CFR 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 5000 Class D Airspace.

* * * * *

AGL IL D Chicago/Rockford, IL [Amended]

Chicago/Rockford International Airport, IL
(Lat 42°11′43″ N, long 089°05′50″ W)

That airspace extending upward from the surface of the earth to and including 3,200 feet MSL within a 5.7-mile radius of the Chicago/Rockford International Airport.

* * * * *

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

* * * * *

AGL IL E5 Chicago/Rockford, IL [Amended]

Chicago/Rockford International Airport, IL
(Lat 42°11′43″ N, long 089°05′50″ W)
Chicago/Rockford INTL: RWY 01–LOC
(Lat 42°12′36″ N, long 089°05′17″ W)

That airspace extending upward from 700 feet above the surface within an 8.2-mile radius of the Chicago/Rockford International Airport; and within 4 miles each side of the 185° bearing from the Chicago/Rockford INTL: RWY 01–LOC extending from the 8.2-mile radius of the airport to 11.1 miles south of the Chicago/Rockford INTL: RWY 01–LOC.

* * * * *

Issued in Fort Worth, Texas, on August 5, 2026.

Courtney E. Johns,

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

[FR Doc. 2026–16158 Filed 8–6–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2026–6966; Airspace Docket No. 26–AGL–10]

RIN 2120–AA66

Revocation of Class E Airspace; Lake Geneva, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Class E airspace at Lake Geneva, WI. This action is due to the instrument procedures being cancelled and the closure of the airport.

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 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, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

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 revokes Class E airspace at the affected airport as it is no longer needed.

History

The FAA published an NPRM for Docket No. FAA–2026–6966 in the **Federal Register** (91 FR 35910; June 15, 2026) proposing to revoke the Class E airspace at Lake Geneva, WI. 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 E airspace designations are published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document 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 revoking the Class E airspace extending upward from 700 ft. above the surface at Geneva Airport, Lake Geneva, Wisconsin due to the cancellation of the instrument procedures and closure of the airport.

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, ''Policies and Procedures for Rulemakings'' (March 10, 2025); and (3) is expected to result in, at most, de minimis costs from compliance with applicable operating requirements or minor flight rerouting for operators choosing to navigate around the controlled airspace. Since these 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 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 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

AGL WI E5 Lake Geneva, WI [Remove]

* * * * *

Issued in Fort Worth, Texas, on August 5, 2026.

Courtney E. Johns,

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

[FR Doc. 2026–16159 Filed 8–6–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2026–1026]

Special Local Regulations; Annual Les Cheneaux Islands Antique Wooden Boat Show, Marquette Bay, Hessel, MI

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Annual Les Cheneaux Islands Antique Wooden Boat Show special local regulation on the U.S. navigable waters of Marquette Bay, Hessel, MI on August 8, 2026. This action is necessary to provide for the safety of life and property on these navigable waters prior to, during, and immediately after the boat show. While in the regulated area all vessels will operate at a no wake speed and follow the directions of the on-scene patrol commander.

DATES: The regulations in 33 CFR 100.922 will be enforced for the Annual Les Cheneaux Islands Antique Wooden Boat Show regulated area from 9 a.m. to 5 p.m. on August 8, 2026.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Petty Officer Cameron Gundlock, Waterways Management Division, U.S. Coast Guard; telephone 206–827–3995, email *ssmprevention@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the established special local regulation in 33 CFR 100.922 for the Annual Les Cheneaux Islands Antique Wooden Boat Show in Hessel, MI from 9 a.m. to 5 p.m. on August 8, 2026. In accordance with the requirements in § 100.922, these special local regulations apply to all U.S. navigable waters of Marquette Bay, Hessel, MI. This action is necessary to provide for the safety of life and property on these navigable waters prior to, during, and immediately after the boat show. While in the regulated area all vessels will operate at a no wake speed and follow the directions of the on-scene patrol commander.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. If the Captain of the Port Northern Great Lakes determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may suspend such enforcement and notify the public of the suspension via Broadcast Notice to Mariners and grant general permission to enter the regulated area.

W. C. Albright,

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

[FR Doc. 2026–16164 Filed 8–6–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2026–0952]

Safety Zones; Annual Events in the Captain of the Port Detroit Zone

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Roostertail Fireworks in Detroit, MI, from 9:30 p.m. to 11 p.m. on August 8, 2026, to protect the safety of life and property on the navigable waters of the Detroit River immediately prior to, during, and immediately after this event. During the enforcement period, no person or vessel may enter the safety zone without permission from the Captain of the Port (COTP) Detroit or a designated representative.

DATES: The regulations in 33 CFR 165.941 will be enforced for the location identified in item (32) of Table 1, from 9:30 p.m. through 11 p.m. on August 8, 2026.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Tracy Girard, CG Sector Detroit, Waterways Management Division, U.S. Coast Guard, (313) 475–7475, *D09-SMB-SECDetroit-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone listed in item (32) of Table 1 to 33 CFR 165.941 for the Roostertail Fireworks event in Detroit, MI from 9:30 p.m. to 11 p.m. on August 8, 2026. This action is being taken to provide for the safety of life on certain navigable waters of the Detroit River in the vicinity of Roostertail. Our regulation for recurring marine events within the COTP Detroit Zone in § 165.941 specifies the location of the regulated area, in item (32) to Table 1. During the enforcement period, if you are the operator of a vessel in the regulated area, you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

Caren C. Damon,

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

[FR Doc. 2026–16155 Filed 8–6–26; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 174

[EPA–HQ–OPP–2025–0047; FRL–13446–01–OCSPP]

Bacillus thuringiensis eCry1Gb.1Ig Protein; Exemption From the Requirement of a Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of *Bacillus thuringiensis* eCry1Gb.1Ig protein in or on the food and feed commodities of corn, field; corn, sweet; and corn, pop when used as a plant-incorporated protectant (PIP) in corn. Syngenta Seeds, LLC submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA) requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of eCry1Gb.1Ig protein under FFDCA when used in accordance with the terms of the exemption.

DATES: This rule is effective on August 7, 2026. Objections and requests for hearings must be received on or before October 6, 2026, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of this document).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2025–0047, is available online at *https://www.regulations.gov.* Additional information about the docket generally, along with instructions for visiting the docket center in-person, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Shannon Borges, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1400; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is EPA's authority for taking this action?

EPA is issuing this rulemaking under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. FFDCA section 408(c)(2)(A)(i) allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' FFDCA section 408(c)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that the Agency consider, among other things, ''available information concerning the cumulative effects of a particular pesticide's residues'' and ''other substances that have a common mechanism of toxicity.''

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. If you fail to file an objection to the final rule within the time period specified in the final rule, you will have waived the right to raise any issues resolved in the final rule. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2025–0047 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before October 6, 2026.

EPA's Administrative Law Judges Division (ALJD), in which the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in other procedural rules governing those proceedings. See ''Order Urging Electronic Filing and Service,'' dated December 3, 2025, which can be found at *https://www.epa.gov/system/files/documents/2025-12/2025-12-03-order-urging-electronic-filing-and-service.pdf.* Although EPA's regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the OALJ electronically, a person should utilize the OALJ e-filing system at *https://yosemite.epa.gov/oa/eab/eab-alj_upload.nsf.*

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute. If you wish to include CBI in your request, please follow the applicable instructions at *https://www.epa.gov/dockets/commenting-epa-dockets#rules* and clearly mark the information that you claim to be CBI. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice.

II. Petitioned for Exemption

In the **Federal Register** of April 7, 2025 (90 FR 14954) (FRL–12474–01–OSCPP), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a, announcing the filing of a pesticide tolerance petition (PP 4F9142) by Syngenta Seeds, LLC, 9 Davis Drive,

Research Triangle Park, NC 27709. The petition requested that 40 CFR part 174 be amended by establishing an exemption from the requirement of a tolerance for residues of the insecticidal PIP *Bacillus thuringiensis* eCry1Gb.1Ig protein and the genetic material (vector pSYN24795) necessary for its production in MZIR260 Corn (SYN–ØØ260Ø–3) in or on corn, field; corn, sweet; and corn, pop. That document referenced a summary of the petition prepared by the petitioner Syngenta Seeds, LLC, which is available in the docket. Two comments were received on the notice of filing. EPA's responses to these comments are discussed in Unit III.C.

Based upon review of the data supporting the petition and in accordance with its authority under FFDCA section 408(d)(4)(A)(i), EPA is not establishing a new tolerance exemption for residues of the genetic material (vector pSYN24795), because such residues are covered by the existing tolerance exemption at 40 CFR 174.507.

III. Final Tolerance Actions

A. EPA's Safety Determination

EPA evaluated the available toxicological and exposure data for *Bacillus thuringiensis* eCry1Gb.1Ig protein and considered their validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled, ''Product Characterization Review and Human Health Risk Assessment of the Insecticidal Plant-Incorporated Protectant Active Ingredient, eCry1Gb.1Ig, and the Genetic Material Necessary (pSYN24795) for its Production in Event MZIR260 maize (OECD Unique Identifier: SYN–ØØ26Ø–3 and Establishment of a Permanent Tolerance Exemption for Residues of this Protein When Used as a Plant-Incorporated Protectant in Maize.'' (Human Health Risk Assessment). This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**.

eCry1Gb.1Ig is a chimeric protein that is composed of three specific domains from insecticidal Cry proteins derived from the soil bacterium *Bacillus thuringiensis* (*Bt*). It is active against fall armyworm, a lepidopteran pest of corn. The mode of action of eCry1Gb.1Ig is equivalent to other Cry proteins, *i.e.,* upon ingestion, insecticidal Cry proteins are proteolytically activated in the insect gut and bound to unique receptors, leading to membrane pore formation in the midgut cells and ultimately insect death. However, eCry1Gb.1Ig is unique, in that it has a different binding receptor on the midgut cell surface than other Cry proteins and therefore confers insecticidal efficacy against traditionally Cry-resistant lepidopterans.

As discussed in the Human Health Risk Assessment, available data demonstrate that, with regard to humans, the eCry1Gb.1Ig protein is unlikely to be toxic to humans and has a low potential for allergenicity. This general conclusion is supported for eCry1Gb.1Ig by acute oral toxicity studies, which showed no toxicity to CD–1 mice after exposure to two oral doses totaling 2,000 mg/kg. Therefore, the protein is unlikely to be toxic to mammals at a level above maximum possible dietary exposures that are reasonably anticipated from consumption of the crop expressing the PIP. In addition, bioinformatic searches using the amino acid sequence of the protein showed no biologically relevant matches to known toxins. Similarly, data and information provided by the petitioner demonstrated that the likelihood that eCry1Gb.1Ig is a food allergen is minimal. The eCry1Gb.1Ig protein was not found to share amino acid sequence homology with known allergens, was rapidly digested in simulated gastric fluids, did not exhibit resistance to heat treatment, and was not found to be glycosylated. As such, there is no indication that eCry1Gb.1Ig protein would elicit dietary allergic reactions.

Exposure to eCry1Gb.1Ig through the dietary route is expected to occur through ingestion of corn plants expressing the protein. However, exposure to this protein is not expected to result in a human health risk given the lack of oral toxicity and allergenicity as described above. Oral exposure from ingestion of drinking water is unlikely because the eCry1Gb.1Ig protein is expressed within the plant cells, and as such is susceptible to degradation by environmental conditions and microbial activity. In the unlikely event that eCry1Gb.1Ig protein were to enter drinking water, exposure to this protein would not be expected to result in a human health risk given the lack of oral toxicity and allergenicity as described above.

As a PIP, eCry1Gb.1Ig is contained within the plant cells; therefore, non-occupational and residential exposure is considered to be negligible.

Although FFDCA section 408(b)(2)(C) provides for an additional tenfold margin of safety for infants and children in the case of threshold effects, EPA has determined that there are no such effects due to the lack of toxicity and allergenicity of eCry1Gb.1Ig protein. As a result, an additional margin of safety for the protection of infants and children is unnecessary.

B. Analytical Enforcement Methodology

An analytical method is not required for eCry1Gb.1Ig protein because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation. However, the petitioner developed an immunoassay method for detection of the eCry1Gb.1Ig protein in MZIR260 corn tissues.

C. Response to Comments

EPA received two comments during the public comment period for the notice of filing. Both commenters urged the Agency to assess the long-term effects of *Bt* PIPs and genetically modified plants on human health. In response, EPA notes that pesticides derived from *Bt,* including microbial and PIP applications, have a long history of safe use for over 50 years in agriculture, and no naturally occurring Cry protein from *Bt* has been identified as a known mammalian toxin or allergen to date. Further, the Agency has conducted a comprehensive human health risk assessment for the eCry1Gb.1Ig protein and, as described in this Unit III and in the Human Health Risk Assessment, no adverse effects of concern have been identified.

One commenter also raised concerns about whether approval of eCry1Gb.1Ig would ''compromise the precautionary principle that . . . approvals often move forward before comprehensive, independent studies have fully evaluated the cumulative exposure risks or potential synergistic effects of multiple pesticide residues.'' EPA follows a well-established risk evaluation process for pesticides (*https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/overview-risk-assessment-pesticide-program*). As described in this Unit III and in the Human Health Risk Assessment, EPA does consider cumulative and aggregate exposures, including potential impacts on sensitive subpopulations. Pesticides with dietary exposure must meet the safety standard under section 408 of the FFDCA that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' As described in this Unit III, EPA has determined that

the eCry1Gb.1Ig protein meets the FFDCA standard.

The commenter also raised concerns about ecological consequences for pollinators, soil, and water systems. Such considerations are not relevant to the Agency's evaluation of safety under the FFDCA standard, which requires the Agency to evaluate the potential harms to human health, not effects on the environment. However, ecological risks are evaluated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The ecological risk assessment for the eCry1Gb.1Ig protein is posted in the docket for the FIFRA registration action, docket ID number EPA–HQ–OPP–2025–0048, at *https://www.regulations.gov,* and it details the Agency's conclusions of a lack of risk of the eCry1Gb.1Ig protein to pollinators and the lack of environmental persistence of the protein in soil and water systems.

D. Conclusion

Based upon its evaluation described above and in the Human Health Risk Assessment, which concluded that eCry1Gb.1Ig protein residues in or on corn are not toxic or allergenic to mammals, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children from aggregate exposure to residues of *Bacillus thuringiensis* eCry1Gb.1Ig protein. Therefore, an exemption from the requirement of a tolerance is established for residues of *Bacillus thuringiensis* eCry1Gb.1Ig protein in or on the food and feed commodities of corn, field; corn, sweet; and corn, pop when used as a plant-incorporated protectant in corn.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/regulations/and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review

This action is exempt from review under Executive Order 12866 (58 FR 51735, October 4, 1993), because it establishes or modifies a pesticide tolerance or a tolerance exemption under FFDCA section 408 in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 (90 FR 9065, February 6, 2025) does not apply because actions that establish a tolerance or tolerance exemption under FFDCA section 408 are exempted from review under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA, 44 U.S.C. 3501 *et seq.,* because it does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA, 5 U.S.C. 601 *et seq.* The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule is not subject to the APA but is subject to FFDCA section 408(d), which does not require notice and comment rulemaking to take this action in response to a petition.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more (in 1995 dollars and adjusted annually for inflation) as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local or Tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866, and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

However, EPA's 2026 *Policy on Children's Health* applies to this action. This rule finalizes an exemption from the requirement of a tolerance under the FFDCA, which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .'' (FFDCA 408(b)(2)(C)). The Agency's consideration is documented in the pesticide-specific review documents, located in the applicable docket at *https://www.regulations.gov.*

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211 (66 FR 28355) (May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer Advancement Act (NTTAA)

This action does not involve technical standards that would require Agency consideration under NTTAA section 12(d), 15 U.S.C. 272.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and EPA will submit a rule report to each House of Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 174

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 2, 2026.

Edward Messina

Director, Office of Pesticide Programs.

For the reasons set forth in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 174—PROCEDURES AND REQUIREMENTS FOR PLANT-INCORPORATED PROTECTANTS

■ 1. The authority citation for part 174 continues to read as follows:

Authority: 7 U.S.C. 136–136y; 21 U.S.C. 321(q), 346a and 371.

Subpart W—Tolerances and Tolerance Exemptions

■ 2. Add § 174.560 to Subpart W to read as follows:

§ 174.560 *Bacillus thuringiensis* eCry1Gb.1Ig protein; exemption from the requirement of a tolerance.

Residues of *Bacillus thuringiensis* eCry1Gb.1Ig protein in or on the food and feed commodities of corn, field; corn, sweet; and corn, pop are exempt from the requirement of a tolerance when used as a plant-incorporated protectant in corn.

[FR Doc. 2026–16120 Filed 8–6–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2026–0629; FRL–13511–01–OCSPP]

2-Propenoic Acid, 2-Methyl-, Telomer With 1-Dodecanethiol, and 2-Methyloxirane Polymer With Oxirane Monoether With 1,2-Propanediol Mono(2-Methyl-2-Propenoate) in Pesticide Formulations; Exemption From the Requirement for a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate) (CAS Reg. No 1186225–21–7) when used as an inert ingredient in a pesticide chemical formulation. Spring Regulatory Sciences on behalf of Clariant Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate) on food or feed commodities when used in accordance with these exemptions.

DATES: This regulation is effective August 7, 2026. Objections and requests for hearings must be received on or before October 6, 2026 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of this document).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2026–0629, is available online at *https://www.regulations.gov.* Additional information about dockets generally, along with instructions for visiting the docket in-person, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Smith, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460–0001; main telephone number: (202) 566–1030; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive but rather provides a guide to help readers determine whether this document applies to them.

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is EPA's authority for taking this action?

EPA is issuing this rulemaking under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. FFDCA section 408(c)(2)(A)(i) allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' FFDCA section 408(c)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that the Agency consider, among other things, ''available information concerning the cumulative effects of a particular pesticide's residues'' and ''other substances that have a common mechanism of toxicity.''

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on that objection to any aspect of this regulation and may also request a hearing on those objections. If you fail to file an objection to the final rule within the time period specified in the final rule, you will have waived the right to raise any issues resolved in the final rule. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify the docket ID number EPA–HQ–OPP–2026–0629 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before October 6, 2026.

EPA's Administrative Law Judges Division (ALJD), in which the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in other procedural rules governing those

proceedings. *See* ''Order Urging Electronic Filing and Service,'' dated December 3, 2025, which can be found at *https://www.epa.gov/system/files/documents/2025-12/2025-12-03-order-urging-electronic-filing-and-service.pdf.* Although EPA's regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the ALJD electronically, a person should utilize the ALJD e-filing system at *https://yosemite.epa.gov/oa/eab/eab-alj_upload.nsf.*

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute. If you wish to include CBI in your request, please follow the applicable instructions at *https://www.epa.gov/dockets/commenting-epa-dockets#rules* and clearly mark the information that you claim to be CBI. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice.

II. Petition for Exemption

In the **Federal Register** of June 15, 2026 (91 FR 35936) (FRL–13201–02–OCSPP), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–12631) by Spring Regulatory Sciences on behalf of Clariant Corporation, 500 East Morehead, Charlotte, NC 28202. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate) (CAS Reg. No 1186225–21–7). That document included a summary of the petition prepared by Spring Regulatory Sciences on behalf of Clariant Corporation, the petitioner, which is available in the docket.

There were no comments received in response to the notice of filing.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Final Tolerance Actions

A. Aggregate Risk Assessment and Determination of Safety

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate) including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate) follows.

B. Low Risk Polymer Criteria

In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate) conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition at least two of the atomic elements carbon, hydrogen, nitrogen, oxygen, silicon, and sulfur.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize. An available biodegradation study supports that 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate) is not readily biodegradable (MRID 52685001).

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 Daltons.

7. The polymer does not contain certain perfluoroalkyl moieties consisting of a CF3- or longer chain length as listed in 40 CFR 723.250(d)(6).

Additionally, the polymer also meets as required the exemption criteria: specified in 40 CFR 723.250(e).

The polymer's number average MW of 3300 Daltons is greater than 1,000 and less than 10,000 Daltons. The polymer contains less than 10% oligomeric material below MW 500 and less than

25% oligomeric material below MW 1,000, and the polymer contains only reactive functional groups listed in 40 CFR 723.250(e)(1)(ii)(A).

Thus, 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate) meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate).

C. Exposure Assessment

For the purposes of assessing potential exposure under this exemption, EPA considered that 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate) could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate) is 3,300 Daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate) conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect public health.

D. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate) to share a common mechanism of toxicity with any other substances, and 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate) does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance exemption, therefore, EPA has assumed that 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate) does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

E. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate), EPA has not used a safety factor analysis to assess the risk. For the same reasons no additional safety factor is needed for assessing risk to infants and children.

F. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate).

G. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

H. Conclusion

Accordingly, EPA finds that exempting residues of 2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate) from the requirement of a tolerance will be safe.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/regulations/and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review

This action is exempt from review under Executive Order 12866 (58 FR 51735, October 4, 1993), because it establishes or modifies a pesticide tolerance or a tolerance exemption under FFDCA section 408 in response to a petition submitted to the Agency. The Office of Management and Budget has exempted these types of actions from review under Executive Order 12866.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 (90 FR 9065, February 6, 2025) does not apply because actions that establish a tolerance under FFDCA section 408 are exempted from review under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA 44 U.S.C. 3501 *et seq.,* because it does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA, 5 U.S.C. 601 *et seq*. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule is not subject to the APA but is subject to FFDCA section 408(d), which does not require notice and comment rulemaking to take this action in response to a petition.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more (in 1995 dollars and adjusted annually for inflation) as described in UMRA, 2 U.S.C. 1531–1538 and does

not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866, and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

However, EPA's 2026 *Policy on Children's Health* applies to this action.

This rule finalizes tolerance actions under the FFDCA, which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .'' (FFDCA 408(b)(2)(C)). The Agency's consideration is documented in the pesticide-specific registration review documents, located in the applicable docket at *https://www.regulations.gov.*

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211 (66 FR 28355) (May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer Advancement Act (NTTAA)

This action does not involve technical standards that would require Agency consideration under NTTAA section 12(d), 15 U.S.C. 272.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 3, 2026.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

For the reasons stated in the preamble, 40 CFR chapter I is amended as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Amend § 180.960 by adding the polymer ''2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate), minimum number average molecular weight 3300 Daltons'' in alphabetical order to table 1 to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

TABLE 1 TO § 180.960

Polymer	CAS No.
* * * * * * *	
2-propenoic acid, 2-methyl-, telomer with 1-dodecanethiol, and 2-methyloxirane polymer with oxirane monoether with 1,2-propanediol mono(2-methyl-2-propenoate), minimum number average molecular weight 3300 Daltons	1186225–21–7
* * * * * * *	

[FR Doc. 2026–16123 Filed 8–6–26; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 73

[AU Docket No. 26–105; DA 26–798; FR ID 360879]

Auction of FM Broadcasting Construction Permits Scheduled for February 2, 2027; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 114

AGENCY: Federal Communications Commission.

ACTION: Final action; requirements and procedures.

SUMMARY: This document summarizes the procedures, deadlines, and upfront payment and minimum opening bid amounts for the upcoming auction of FM broadcast construction permits. The *Auction 114 Procedures Public Notice* summarized here provides details regarding the procedures, terms, conditions, dates, and deadlines governing participation in Auction 114 bidding, as well as overview of the post-auction application and payment processes.

DATES: Applications to participate in Auction 114 must be submitted prior to 6:00 p.m. Eastern Time (ET) on September 30, 2026. Upfront payments for Auction 114 must be received prior to 6:00 p.m. ET on December 3, 2026. Bidding in Auction 114 is scheduled to start on February 2, 2027.

FOR FURTHER INFORMATION CONTACT:

General Auction 114 Information: FCC Auctions Hotline at (888) 225–5322, option two; or (717) 338–2868; or *auction114@fcc.gov.*

Auction 114 Legal Information: Lyndsey Grunewald at (202) 418–0660, *Lyndsey.Grunewald@fcc.gov.*

Licensing Information: James Bradshaw at (202) 418–2700, *Rodolfo.Bonacci@fcc.gov,* Rodolfo Banacci at (202) 418–2700, Lisa Scanlan at (202) 418–2700, *Lisa.Scanlan@fcc.gov,* or Ariane Rangel at (202) 418–2700, *Ariane.Rangel@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the document in AU Docket No. 26–105, DA 26–798 released on July 31, 2026 (*Auction 114 Procedures Public Notice*). The *Auction 114 Procedures Public Notice* includes the following attachment: Attachment A, Construction Permits in Auction 114. The complete text of the *Auction 114 Procedures Public Notice,* including its attachment, is available on the Commission's website at *www.fcc.gov/auction/114* or by using the search function for AU Docket No. 26–105 on the Commission's Electronic Comment Filing System (ECFS) web page at *www.fcc.gov/ecfs.* 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 and Governmental Affairs Bureau at (202) 418–0530.

I. General Information

A. Introduction

1. In the *Auction 114 Procedures Public Notice,* the Office of Economics and Analytics (OEA) and the Media Bureau (MB) establish the procedures and minimum opening bid amounts to be used for Auction 114, an auction of FM broadcast construction permits.

2. Bidding in this auction is scheduled to start on [[February 2, 2027]]. Auction 114 will be conducted using a simultaneous multiple-round auction format. The *Auction 114 Procedures Public Notice* provides details of the procedures, terms, conditions, dates, and deadlines governing participation in Auction 114 bidding, as well as an overview of the post-auction application and payment processes.

B. Background and Relevant Authority

3. On May 11, 2026, OEA and MB released the *Auction 114 Comment Public Notice,* 91 FR 27887 (May 15, 2026), seeking comment on competitive bidding procedures and minimum opening bid amounts to be used in Auction 114. Three parties filed comments to the *Auction 114 Comment Public Notice.* In the *Auction 114 Procedures Public Notice,* OEA and MB resolve all open issues raised in the *Auction 114 Comment Public Notice.* Auction 114 will proceed pursuant to the procedures described in the *Auction 114 Procedures Public Notice,* which have been adopted in accordance with 47 U.S.C. 309(j)(3), as amended (the Act).

4. Other Commission rules and decisions provide the underlying authority for the procedures OEA and MB adopt for Auction 114. Auction 114 applicants must familiarize themselves thoroughly with the Commission's general competitive bidding rules, including Commission decisions in proceedings regarding competitive bidding procedures, application requirements, and obligations of Commission licensees. Potential applicants should also familiarize themselves with the Commission's FM broadcast service and competitive bidding requirements contained in part 73 of the Commission's rules, as well as Commission orders concerning competitive bidding for broadcast construction permits. Applicants must also be thoroughly familiar with the procedures, terms, and conditions contained in the *Auction 114 Procedures Public Notice* and any future public notices that may be released in this proceeding.

5. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in its public notices at any time and will issue public notices to convey any new or supplemental information to applicants. It is the responsibility of all applicants to remain current with all Commission rules and with all public notices pertaining to this auction.

C. Construction Permits Offered in Auction 114

6. Auction 114 will offer 132 construction permits in the FM broadcast service, which are listed in Attachment A to the *Auction 114 Procedures Public Notice.* The construction permits to be auctioned are for 132 new FM allotments, including 33 construction permits that were offered but not sold in prior auctions. These construction permits are for vacant FM allotments reflecting FM channels added to the Table of FM Allotments, pursuant to the Commission's established rulemaking procedures, and assigned at the indicated communities.

7. Pursuant to the policies established in the *Broadcast Competitive Bidding Order,* 63 FR 48615 (September 11, 1998), 78 FR 18527 (March 27, 2013), an applicant seeking to participate in Auction 114 may select on its short-form application (FCC Form 175) any FM construction permit listed in Attachment A. An applicant may submit a set of preferred site coordinates as an alternative to the reference coordinates for the vacant FM allotment upon which the applicant intends to bid. Detailed instructions for specifying preferred site coordinates in an FCC Form 175 for a specific FM allotment are provided in the Auction 114 FCC Form 175 Filing Instructions. Consistent with the Commission's approach in previous broadcast service auctions, when two or more short-form applications are submitted specifying the same FM allotment in Auction 114, mutual exclusivity exists for auction purposes, and that construction permit must be awarded by competitive bidding procedures. Once mutual exclusivity exists for auction purposes, even if only

one applicant is qualified to bid for a particular construction permit, that applicant is required to submit a bid in order to obtain the construction permit.

8. OEA and MB note that Attachment A to the *Auction 114 Procedures Public Notice* reflects a change to the allotment coordinates for MM–FM1193–C3, Battlement Mesa, Colorado, Channel 275C3, from those that were listed in Attachment A to the *Auction 114 Comment Public Notice.* MB staff granted station KSPN–FM's (Facility ID No. 43884, Aspen, Colorado) minor modification application on May 29, 2026. The application was short-spaced to the Battlement Mesa, Colorado vacant allotment (as previously listed), and thus, KSPN–FM proposed a change in the vacant allotment coordinates in order to be fully spaced. KSPN–FM's application was filed on May 8, 2026, before the release of the *Auction 114 Rulemaking Freeze Public Notice,* DA 26–445 (May 11, 2026). The new Battlement Mesa, Colorado, allotment coordinates—39 degrees 27 minutes 18 seconds North Latitude, 107 degrees 59 minutes 0 seconds West Longitude—are listed in Attachment A to the *Auctions 114 Procedures Public Notice.*

9. In response to the *Auction 114 Comment Public Notice,* three commenters—SSR Communications (SSR), Tracy K. Wood (Wood), and William Erickson (Erickson)—request that additional construction permits be added to the inventory for Auction 114.

10. *Enterprise, Utah Allotment:* SSR requests that the Commission include the newly allotted FM Channel 265C3 at Enterprise, Utah (Enterprise), stating that the inclusion would serve the public interest.

11. OEA and MB decline to add the Enterprise allotment to the Auction 114 inventory. The Report and Order granting allocation of this channel became effective on June 8, 2026, 91 FR 23172 (April 30, 2026). Therefore, the Enterprise allotment was not yet effective when staff compiled the inventory, nor was it effective when OEA and MB released the *Auction 114 Comment Public Notice* on May 11, 2026. OEA and MB anticipate that it will be included in the inventory of a future auction of FM broadcast permits.

12. *Other Vacant Allotments:* SSR also requests that additional allotments listed in two Various Location Orders from 2023 and 2024, 88 FR 12258 (February 27, 2023), 89 FR 20340 (March 22, 2024), be added to the Auction 114 inventory.

13. OEA and MB decline to add any additional allotments from SSR's referenced Various Location Orders. The list of vacant allotments is constantly changing based on an ongoing process of allotment ''drop-in'' rulemakings and license cancellation and allotment reinstatement proceedings. Due to practical and technical limitations, including staff resources, OEA and MB are unable to offer every vacant FM channel designated in the Table of FM Allotments each time an auction of FM construction permits is announced. MB staff assess a variety of factors in compiling the auction inventory. For example, to the extent possible, OEA and MB attempt to include allotments in a variety of states and thus avoid an auction inventory that is unevenly concentrated in the same geographic location. OEA and MB anticipate that the additional vacant allotments that SSR requested will be included in an upcoming auction of FM broadcast permits.

14. *Lindsay, California and Independence, Oregon Allotments:* Wood requests that the Auction 114 construction permit inventory include FM allotments at Lindsay, California, Channel 277B1 (Lindsay), and Independence, Oregon, Channel 274C0 (Independence).

15. OEA and MB decline to add these two FM allotments to the Auction 114 inventory. These two allotments were not initially included in the Auction 114 inventory because they each had engineering defects, and thus were not rule-compliant when staff was compiling the inventory. These technical issues precluded reinstating the respective channels to the Table of FM Allotments, which in turn, precluded the vacant channels from being included in the auction inventory. OEA and MB anticipate that they will be included in the inventory in an upcoming auction of FM broadcast permits.

16. *Whitehall, Michigan Allotment:* Erickson argues that the Whitehall, Michigan, Channel 248A (Whitehall) FM allotment should be added to the Auction 114 inventory list because Whitehall lacks any other service. Erickson also asserts that the Commission should include all vacant FM frequencies.

17. The Whitehall allotment is not ripe to be included in the Auction 114 inventory. After an authorization has been surrendered or cancelled, the channel must be reinstated to the Table of FM Allotments. MB staff's engineering review indicates that the now-vacant Whitehall FM allotment requires a channel change in order to achieve a fully spaced, rule-compliant site. A Report and Order that effects this channel change has not yet been released. Accordingly, OEA and MB decline to add Whitehall to the Auction 114 inventory. It may be included in an upcoming FM auction, provided that the requisite rulemaking proceeding is final and the allotment has been reinstated.

18. For the reasons described herein, OEA and MB conclude that it is not in the public interest to include additional allotments in the inventory for this auction and therefore decline to add all vacant allotments in response to SSR's request.

D. Auction Specifics

1. Auction Title and Start Date

19. The auction of FM broadcast construction permits is referred to as ''Auction 114.'' Bidding in Auction 114 will begin on February 2, 2027. Pre-bidding dates and deadlines are listed in the Auction Dates and Deadlines section.

20. The initial schedule for bidding rounds in Auction 114 will be announced by public notice at least one week before the bidding begins. Unless otherwise announced, bidding on all construction permits will be conducted on each business day until bidding has stopped on all construction permits.

2. Auction Dates and Deadlines

21. The following dates and deadlines apply to Auction 114:

Auction Application Tutorial Available (via internet)—by [[August 21, 2026]]
Short-Form Application (FCC Form 175)
Filing Window Opens—[[September 14, 2026]], 12:00 p.m. Eastern Time (ET)
Short-Form Application (FCC Form 175)
Filing Deadline—[[September 30, 2026]], 6:00 p.m. ET
Upfront Payments (via wire transfer)—[[December 3, 2026]], 6:00 p.m. ET
Bidding Tutorial Available (via internet)—No later than [[January 6, 2027]]
Mock Auction—[[January 29, 2027]]
Auction Bidding Begins—[[February 2, 2027]]

3. Auction Delay, Suspension, or Cancellation

22. OEA and MB adopt their proposal that at any time before or during the bidding process, OEA and MB may delay, suspend, or cancel bidding in Auction 114 in the event of a natural disaster, technical obstacle, network interruption, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of

competitive bidding. This approach has proven effective in resolving exigent circumstances in previous auctions, and OEA and MB find no reason to depart from it here. OEA and MB will notify participants of any such delay, suspension, or cancellation by public notice and/or through the announcement function in the FCC Auction Bidding System (bidding system). If the bidding is delayed or suspended, OEA and MB may, in their sole discretion, elect to resume the auction starting from the beginning of the current round or from some previous round, or cancel the auction in its entirety. OEA and MB emphasize that they will exercise the authority to delay, suspend, or cancel bidding in Auction 114 solely at their own discretion.

4. Requirements for Participation

23. Those wishing to participate in Auction 114 must:

- Submit a short-form application (FCC Form 175) electronically prior to 6:00 p.m. ET on [[September 30, 2026]], following the filing procedures and other instructions set forth in the *Auction 114 Procedures Public Notice* and the Auction 114 FCC Form 175 Instructions;
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6:00 p.m. ET on [[December 3, 2026]], following the procedures and instructions set forth in the *Auction 114 Procedures Public Notice;* and
- Comply with all provisions outlined in the *Auction 114 Procedures Public Notice* and applicable Commission rules.

E. Education Materials

24. Before the opening of the short-form filing window for Auction 114, detailed educational information will be provided to potential participants in various formats on the Auction 114 website. Specifically, OEA and MB will provide educational materials on the pre-bidding processes in advance of the opening of the short-form application window, beginning with the Auction 114 FCC Form 175 Instructions, which will be posted at the same time as the *Auction 114 Procedures Public Notice.* These materials will be available in the Education section on the Auction 114 website at *www.fcc.gov/auction/114.* In addition, OEA and MB will provide an online application procedures tutorial for the auction, covering information on pre-bidding preparation, completing short-form applications, and the application review process.

25. For the first time in a broadcast auction, applicants will use the Commission's Auction Application System (AAS) to file applications to participate in Auction 114. Applicants should carefully review both the Auction 114 application tutorial and the Auction 114 FCC Form 175 Instructions, paying close attention to any departures from previous application processes as a result of the use of the AAS for Auction 114.

26. Additionally, in advance of the start of the mock auction, OEA and MB will provide educational materials on the bidding procedures for Auction 114, including a user guide for the bidding system and an online bidding procedures tutorial. These materials will provide detailed information on bidding features specific to the simultaneous multiple-round auction format. Accordingly, the educational materials will be released as soon as reasonably possible in order to provide qualified bidders with time to review them and ask questions of Commission staff before bidding begins.

27. OEA and MB believe that parties interested in participating in Auction 114 will find the interactive, online tutorials an efficient and effective way to further their understanding of the application and bidding processes. The online tutorials will allow viewers to navigate the presentation outline, review written notes, and listen to audio of the notes. Additional features of these web-based tools include links to auction-specific Commission releases, email links for contacting Commission staff, and screen shots of the online auction application and bidding systems. The online tutorials will be accessible in the Education section on the Auction 114 website at *www.fcc.gov/auction/114.* Once posted, the tutorials will remain continuously accessible.

II. Pre–Bidding Activities and Considerations

A. Due Diligence

28. OEA and MB remind each potential bidder that it is solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the construction permit(s) it is seeking in this auction. *The FCC makes no representations or warranties about the use of this spectrum or these construction permits for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC permittee in a broadcast service, subject to certain conditions and regulations. This includes the established authority of the Commission to alter the terms of existing licenses by rulemaking, which is equally applicable to licenses awarded by auction. An FCC auction does not constitute an endorsement by the FCC of any particular service, technology, or product, nor does an FCC construction permit or license constitute a guarantee of business success.*

29. An applicant should perform its due diligence research and analysis before proceeding, as it would with any new business venture. In particular, OEA and MB strongly encourage each potential bidder to perform technical analyses and/or refresh its previous analyses to assure itself that, should it become a winning bidder for any Auction 114 construction permit, it will be able to build and operate facilities that will fully comply with all applicable technical and legal requirements. OEA and MB strongly encourage each applicant to inspect any prospective transmitter sites located in, or near, the service area for which it plans to bid, to confirm the availability of such sites, and to familiarize itself with the Commission's rules regarding any applicable federal, state, and local requirements.

30. OEA and MB strongly encourage each applicant to continue to conduct its own research throughout Auction 114 in order to determine the existence of pending or future administrative or judicial proceedings that might affect its decision to continue participating in the auction. Each Auction 114 applicant is responsible for assessing the likelihood of the various possible outcomes and for considering the potential impact on construction permits available in this auction. The due diligence considerations mentioned in the *Auction 114 Procedures Public Notice* do not comprise an exhaustive list of steps that should be undertaken prior to participating in this auction. As always, the burden is on the potential bidder to determine how much research to undertake, depending upon specific facts and circumstances related to its interests.

31. *Applicants are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of the construction permits available in Auction 114.* Each potential bidder is responsible for undertaking research to ensure that any permits won in this auction will be suitable for its business plans and needs. Each potential bidder must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

32. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third-party databases, including, for example, court docketing systems. To the extent the Commission's databases may not include all information deemed necessary or desirable by an applicant, it must obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into its databases.

B. Environmental Review Requirements

33. Permittees or licensees must comply with the Commission's rules for environmental review under the National Environmental Policy Act, the National Historic Preservation Act, and other federal environmental statutes. When constructing a broadcast facility, the permittee or licensee must comply with the Commission's environmental rules for each such facility. These environmental rules require, among other things, that the permittee or licensee consult with expert agencies having environmental responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the U.S. Army Corps of Engineers, and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). In assessing the effect of facility construction on historic properties, the permittee or licensee must follow the provisions of the FCC's Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process. The permittee or licensee must prepare environmental assessments for any facility that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species, or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. In addition, the permittee or licensee must prepare environmental assessments for facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission. In August 2025, the Commission released the *Modernizing the Commission's National Environmental Policy Act Rules NPRM,* 90 FR 40295 (August 19, 2025), to consider updates to its rules implementing NEPA. Potential bidders in Auction 114 should be mindful that if the Commission amends its NEPA rules, broadcast permittees and licensees will be subject to the amended rules.

C. Short-Form Applications Due Prior to 6:00 p.m. ET on [[September 30, 2026]]

34. In order to be eligible to bid in Auction 114, an applicant must first submit a short-form application (FCC Form 175) via the Auction Application Portal (AAP) in the AAS, following the instructions set forth in the Auction 114 FCC Form 175 Instructions. The short-form application will become available with the opening of the initial filing window and must be submitted prior to 6:00 p.m. ET on [[September 30, 2026]]. *Late applications will not be accepted.* No application fee is required for the short-form application at the time of filing.

35. Applications may be filed at any time beginning at 12:00 p.m. ET on [[September 14, 2026]], until the filing window closes at 6:00 p.m. ET on [[September 30, 2026]]. Applicants are strongly encouraged to file early and are responsible for allowing adequate time to file their applications. There are no limits or restrictions on the number of times an application can be updated or amended until the initial filing deadline on [[September 30, 2026]].

36. An applicant must always click on the CERTIFY & SUBMIT button on the *Certify & Submit* screen to successfully submit its FCC Form 175 and any modifications; otherwise, the application, or changes to the application, will not be received or reviewed by Commission staff. Additional information about accessing, completing, and viewing the FCC Form 175 is included in the Auction 114 FCC Form 175 Instructions. Applicants requiring technical assistance should contact FCC Auctions Technical Support using the contact information provided in Section VII.D. ''Contact Information,'' below. In order to provide better service to the public, all calls to Technical Support are recorded.

D. Application Processing and Minor Modifications

1. Public Notice of Applicant's Initial Application Status and Opportunity for Minor Modifications

37. After the deadline for filing short-form applications for Auction 114, Commission staff will review all timely submitted applications to determine whether each applicant has complied with the application requirements and provided all information concerning its qualifications for bidding. After this review is completed, OEA and MB will issue a public notice announcing applicants' initial application status, identifying (1) those that are complete; (2) those that are rejected; and (3) those that are incomplete or deficient because of minor defects that may be corrected. The *Auction 114 Procedures Public Notice* also will establish an application resubmission filing window, during which an applicant may make permissible minor modifications to its application to address identified deficiencies. The public notice will include the deadline for resubmitting corrected applications, and a paper copy will be sent by overnight delivery to the contact address listed in the FCC Form 175 for each applicant. In addition, each applicant with an incomplete application will be sent information on the nature of the deficiencies in its application, along with the name and phone number of a Commission staff member who can answer questions specific to the application. To become a qualified bidder, an applicant must have a complete application (*i.e.,* have timely corrected any identified deficiencies) and make a timely and sufficient upfront payment.

38. After the initial application filing deadline on [[September 30, 2026]], applicants can make only minor modifications to their short-form applications. Major modifications (*e.g.,* change of permit selection, change in ownership that would constitute an assignment or transfer of control of the applicant, change in the required certifications, change in applicant's legal classification that results in a change in control, or change to claim eligibility for a higher bidding credit) will not be permitted. If an amendment reporting changes is a ''major amendment,'' as described in 47 CFR 1.2105(b)(2), the major amendment will not be accepted and may result in the dismissal of the application. After the deadline for resubmitting corrected applications, an applicant will have no further opportunity to cure any deficiencies in its application or provide any additional information that may affect Commission staff's ultimate determination of whether and to what extent the applicant is qualified to participate in Auction 114 and whether the applicant may be eligible to pursue any bidding credit claim.

39. Commission staff will communicate only with an applicant's contact person or certifying official, as designated on the short-form application, unless the applicant's certifying official or contact person notifies the Commission in writing that another representative is authorized to

speak on behalf of the applicant. Authorizations may be sent by email to *auction114@fcc.gov.*

2. Public Notice of Applicant's Final Application Status

40. After Commission staff review resubmitted applications for Auction 114 and evaluate upfront payment submissions, Commission staff will release a public notice identifying applicants that have become qualified bidders. A *Qualified Bidders Public Notice* will be issued before bidding in the auction begins. Qualified bidders are those applicants with a submitted short-form application that is deemed timely filed and complete, and that have made a timely and sufficient upfront payment (as described herein).

E. Upfront Payments

41. After completing its short-form application, an applicant will have access to an electronic blank version of the FCC Form 159. In order to be eligible to bid in this auction, a sufficient upfront payment and a complete and accurate FCC Remittance Advice Form (FCC Form 159, February 2003 edition) must be received prior to 6:00 p.m. ET on [[December 3, 2026]]. An accurate and complete FCC Form 159 must accompany each payment. Proper completion of this form is critical to ensuring correct crediting of upfront payments. Payers are responsible for ensuring that all information entered on the FCC Form 159, including payment amounts, is accurate. Instructions for completing FCC Form 159 for Auction 114 are provided below.

1. Making Upfront Payments by Wire Transfer

42. All upfront payments for Auction 114 must be transmitted by electronic wire transfer directly from a bank or other financial institution to the proper account at the U.S. Treasury. Wire transfer payments for Auction 114 must be received prior to 6:00 p.m. ET on [[December 3, 2026]]. No other payment method is acceptable. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules and other specific bank wire transfer requirements, such as an in-person written request before a specified time of day) with their bankers several days before they plan to make the wire transfer, and must allow sufficient time for the transfer to be initiated and completed before the deadline. The following information will be needed:

Routing Number: 021030004
Receiving Bank: TREAS NYC, 33 Liberty Street, New York, NY 10045
BENEFICIARY: FCC, 45 L Street NE, 4th Floor, Washington, DC 20554
ACCOUNT NUMBER: 827000001001
Originating Bank Information (OBI Field): (Skip one space between each information item)
''AUCTIONPAY''
APPLICANT FCC REGISTRATION NUMBER (FRN): (use the same FRN as used on the applicant's FCC Form 159, block 21)
PAYMENT TYPE CODE: (same as FCC Form 159, block 24A: ''U114'')

Note: The beneficiary account number is specific to the upfront payments for Auction 114. Do not use a beneficiary account number from a previous auction.

43. At least one hour before placing the order for the wire transfer (but on the same business day), applicants must print and fax a completed FCC Form 159 (Revised 2/03) to the FCC at (202) 418–2843. Alternatively, the completed form can be scanned and sent as an attachment to an email to *RROGWireFaxes@fcc.gov.* On the fax cover sheet or in the email subject header, write ''Wire Transfer—Auction Payment for Auction 114.'' To meet the upfront payment deadline, an applicant's payment must be credited to the Commission's account for Auction 114 before the deadline.

44. Each applicant is responsible for ensuring timely submission of its upfront payment and for timely filing of an accurate and complete FCC Form 159. An applicant should coordinate with its financial institution well ahead of the due date regarding its wire transfer and allow sufficient time for the transfer to be initiated and completed prior to the deadline. The Commission repeatedly has cautioned auction participants about the importance of planning ahead to prepare for unforeseen last-minute difficulties in making payments by wire transfer. Each applicant is responsible for obtaining confirmation from its financial institution that its wire transfer to U.S. Treasury was successful and from Commission staff that its upfront payment was timely received and that it was deposited into the proper account. As a regulatory requirement, the U.S. Treasury screens all payments from all financial institutions before deposits are made available to specified accounts. If wires are suspended, the U.S. Treasury may direct questions regarding any transfer to the financial institution initiating the wire. Each applicant must take care to assure that any questions directed to its financial institution(s) are addressed promptly. To receive confirmation from Commission staff requesting receipt and deposit of wire transfers, contact Scott Radcliffe of the Office of Managing Director's Revenue & Receivables Operations Group/Auctions at (202) 418–7518, or Theresa Meeks at (202) 418–2945.

45. Please note the following information regarding upfront payments:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.
- Upfront payments for Auction 114 go to an account number different from the accounts used in previous FCC auctions.

46. Failure to deliver a sufficient upfront payment as instructed herein by the 6:00 p.m. ET deadline on [[December 3, 2026]], will result in dismissal of the short-form application and disqualification from participation in the auction.

2. Completing and Submitting FCC Form 159

47. The following information supplements the standard instructions for FCC Form 159 (Revised 2/03) and is provided to help ensure the correct completion of FCC Form 159 for upfront payments for Auction 114. Applicants need to complete FCC Form 159 carefully because:

- Mistakes may affect bidding eligibility; and
- Lack of consistency between information provided in FCC Form 159 (Revised 2/03), FCC Form 175, and correspondence about an application may cause processing delays.

48. Therefore, appropriate cross-references between the FCC Form 159 Remittance Advice and the FCC Form 175 are described below.

Block No.	Required information
1	LOCKBOX #—Leave Blank.
2	Payer Name—Enter the name of the person or company making the payment. If the applicant itself is the payer, this entry would be the same name as in FCC Form 175.
3	Total Amount Paid—Enter the amount of the upfront payment associated with the FCC Form 159 (Revised 2/03).

Block No.	Required information
4–8	Street Address, City, State, ZIP Code—Enter the street mailing address (not post office box number) where mail should be sent to the payer. If the applicant is the payer, these entries would be the same as FCC Form 175 from the Applicant Information section.
9	Daytime Telephone Number—Enter the telephone number of a person knowledgeable about this upfront payment.
10	Country Code—For addresses outside the United States, enter the appropriate postal country code (available from the Mailing Requirements Department of the U.S. Postal Service).
11	Payer FRN—Enter the payer's 10-digit FCC Registration Number (FRN) registered in the Commission Registration System (CORES).
21	Applicant FRN (Complete only if applicant is different than payer)—Enter the applicant's 10-digit FRN registered in CORES.
24A	Payment Type Code—Enter "U114".
25A	Quantity—Enter the number "1".
26A	Fee Due—Amount of Upfront Payment.
27A	Total Fee—Will be the same amount as 26A.
28A	FCC Code 1—Enter the number "114" (indicating Auction 114).

Notes:
- Do not use Remittance Advice (Continuation Sheet), FCC Form 159–C, for upfront payments.
- If the applicant is different from the payer, complete blocks 13 through 21 for the applicant, using the same information shown on FCC Form 175. Otherwise leave them blank.
- No signature is required on FCC Form 159 for auction payments.
- Because credit card payments will not be accepted for upfront payments for an auction, leave Section E blank.

3. Upfront Payments and Bidding Eligibility

49. An upfront payment is a refundable deposit made by each applicant seeking to participate in bidding to establish its eligibility to bid on construction permits. Upfront payments that are related to the specific construction permits being auctioned protect against frivolous or insincere bidding, and provide the Commission with a source of funds from which to collect payments owed at the close of bidding. In the *Auction 114 Comment Public Notice,* OEA and MB proposed that applicants be required to submit upfront payments as a prerequisite to becoming qualified to bid and proposed an upfront payment amount for each construction permit, taking into account various factors related to the efficiency of the auction process and the potential value of similar construction permits, and sought comment on the upfront payment amounts. OEA and MB received no comments on these proposals and adopt the upfront payment requirement and upfront payment amounts as proposed.

50. An applicant must make an upfront payment sufficient to obtain bidding eligibility on the construction permits on which it will bid. OEA and MB proposed in the *Auction 114 Comment Public Notice* that the amount of the upfront payment would determine a bidder's initial bidding eligibility, the maximum number of bidding units on which a bidder may place bids in any single round. Under that proposal, in order to bid on a particular construction permit, a qualified bidder must have selected the construction permit on its FCC Form 175 and must have a current eligibility level that meets or exceeds the number of bidding units assigned to that construction permit. *At a minimum, therefore, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the construction permits selected on its FCC Form 175, or else the applicant will not be qualified to participate in the auction.* An applicant does not have to make an upfront payment to cover all construction permits the applicant selected on its FCC Form 175, but only enough to cover the maximum number of bidding units that are associated with construction permits on which they wish to place bids and hold provisionally winning bids in any given round. The total upfront payment does not affect the total dollar amount the bidder may bid on any given construction permit.

51. OEA and MB received no comments on the proposal that the upfront payment amount would determine a bidder's initial eligibility and to assign each construction permit a specific number of bidding units, equal to one bidding unit per dollar of the upfront payment listed in Attachment A. Therefore, OEA and MB adopt this proposal. Each applicant's upfront payment amount will determine that bidder's initial bidding eligibility.

52. In calculating its upfront payment amount, an applicant must determine the *maximum* number of bidding units on which it may wish to be active (bid on or hold provisionally winning bids on) in any single round, and submit an upfront payment amount covering that number of bidding units. In order to make this calculation, an applicant should add together the bidding units for all construction permits on which it seeks to be active in any given round. *Applicants should check their calculations carefully, as there is no provision for increasing a bidder's eligibility after the upfront payment deadline.*

EXAMPLE—UPFRONT PAYMENTS, BIDDING ELIGIBILITY, AND BIDDING FLEXIBILITY

Construction permit	Market name	Bidding units	Upfront payment
MM–FM1228–A	Keeseville, NY	25,000	$25,000
MM–FM1232–A	Wayne, OK	10,000	10,000

If a bidder wishes to bid on both construction permits in a round, it must have selected both on its FCC Form 175 and purchased at least 35,000 bidding units (25,000 + 10,000) of bidding eligibility. If it only wishes to bid on one, but not both, purchasing 25,000 bidding units would meet the eligibility requirement for either construction permit. The bidder would be able to bid on either construction permit, but not both at the same time. If the bidder purchased only 10,000 bidding units, the bidder would have enough eligibility for the Wayne, OK construction permit but not for the Keeseville, NY construction permit.

53. An applicant that is a former defaulter, as described in more detail below, must pay an upfront payment 50% greater than that required of an applicant that is not a former defaulter. For purposes of this rule, defaults and delinquencies of the applicant itself and its controlling interests are included. If an applicant is a former defaulter, it must calculate its upfront payment for all of its selected construction permits by multiplying the number of bidding units on which it wishes to be active (bid on or hold provisionally winning bids on) during a given round by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit.

F. Auction Registration

54. All qualified bidders for Auction 114 are automatically registered for the auction. Registration materials will be distributed prior to the auction by overnight delivery. The mailing will be sent only to the contact person at the contact address listed in the FCC Form 175 and will include the RSA SecurID® tokens (RSA tokens) that will be required to place bids, the web address and instructions for accessing and logging in to the bidding system, FCC assigned User ID for each authorized bidder, and the Auction Bidder Line phone number.

55. Qualified bidders that do not receive this registration mailing will not be able to submit bids. Therefore, if this mailing is not received by the contact representative for a qualified bidder by noon on [[Wednesday, January 27, 2027]], call the Auctions Hotline at (717) 338–2868. Receipt of this registration mailing is critical to participating in the auction, and each qualified bidder is responsible for ensuring it has received all of the registration materials.

56. In the event that an RSA token is lost or damaged, only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's short-form application may request replacements. To request replacement, call the Auction Bidder Line at the telephone number provided in the registration materials or the Auctions Hotline at (717) 338–2868.

G. Remote Electronic Bidding via the Bidding System

57. Bidders will be able to participate in Auction 114 over the internet using the bidding system. In addition, bidders will have the option of placing bids by telephone through a dedicated auction bidder line. Please note that telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. The length of a call to place a telephonic bid may vary; please allow a minimum of 10 minutes. The toll-free telephone number for the auction bidder line will be provided to qualified bidders prior to the start of bidding in the auction.

58. Only qualified bidders are permitted to bid. Each authorized bidder must have his or her own RSA token, which the Commission will provide at no charge. Each applicant that is deemed to be a qualified bidder will be issued three RSA tokens. A bidder cannot bid without his or her RSA token. In order to access the bidding function of the bidding system, bidders must be logged in during the bidding round using the passcode generated by the RSA token and a personal identification number (PIN) created by the bidder. For security purposes, the RSA tokens and a telephone number for bidding questions are only mailed to the contact person at the contact address listed on the FCC Form 175. Each RSA token is tailored to a specific auction. RSA tokens issued for other auctions or obtained from a source other than the FCC will not work for Auction 114. Please note that the RSA tokens can be recycled, and the Commission requests that bidders return the tokens to the FCC. Pre-addressed envelopes will be provided to return the tokens once the auction has ended.

59. The Commission makes no warranties whatsoever, and shall not be deemed to have made any warranties, with respect to the bidding system, including any implied warranties of merchantability or fitness for a particular purpose. In no event shall the Commission, or any of its officers, employees, or agents, be liable for any damages whatsoever (including, but not limited to, loss of business profits, business interruption, loss of use, loss of revenue, loss of business information, or any other direct, indirect, or consequential damages) arising out of or relating to the existence, furnishing, functioning, or use of the bidding system. Moreover, no obligation or liability will arise out of the Commission's technical, programming, or other advice or service provided in connection with the bidding system.

60. To the extent an issue arises with the bidding system itself, the Commission will take all appropriate measures to resolve such issues quickly and equitably. Should an issue arise that is outside the bidding system or attributable to a bidder, including, but not limited to, a bidder's hardware, software, or internet access problem that prevents the bidder from submitting a bid prior to the end of a round, the Commission shall have no obligation to resolve or remedy such an issue on behalf of the bidder. Similarly, if an issue arises due to bidder error using the bidding system, the Commission shall have no obligation to resolve or remedy such an issue on behalf of the bidder. Accordingly, after the close of a bidding round, the results of bid processing will not be altered absent evidence of any failure in the bidding system.

H. Mock Auction

61. All qualified bidders will be eligible to participate in a mock auction. The mock auction, which will begin on [[January 29, 2027]], will enable bidders to become familiar with the bidding system and to practice submitting bids prior to the auction. OEA and MB recommend that all qualified bidders, including all their authorized bidders, participate to ensure that they can log in to the bidding system and gain experience with the bidding procedures. Participating in the mock auction may reduce the likelihood of a bidder making a mistake during the auction. Details regarding the mock auction will be announced in the *Qualified Bidders Public Notice* for Auction 114.

I. Fraud Alert

62. As is the case with many business investment opportunities, some unscrupulous parties may attempt to use Auction 114 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a ''cold call'' from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example, by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of investment is less than $25,000.
- The sales representative makes verbal representations that: (a) the Internal Revenue Service, Federal Trade Commission (FTC), Securities and Exchange Commission (SEC), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often

include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

63. Information about deceptive telemarketing investment schemes is available from the FCC as well as the FTC and SEC. Additional sources of information for potential bidders and investors may be obtained from the following sources:

- the FCC's Consumer Call Center at (888) 225–5322 or by visiting *www.fcc.gov/general/frauds-scams-and-alerts-guides*
- the FTC at (877) FTC–HELP ((877) 382–4357) or by visiting *www.consumer.ftc.gov/articles/0238-investment-risks*
- the SEC at (800) 732–0330 or by visiting *www.sec.gov/investor.*

64. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Consumer League's Fraud project at *https://fraud.org/* or (202) 835–3323, Ext. 815.

III. Short-Form Application Contents and Certifications

A. General Information Regarding Short-Form Applications

65. An application to participate in Auction 114, referred to as a short-form application or FCC Form 175, provides information that the Commission uses to determine whether the applicant is legally, technically, and financially qualified to participate in Commission auctions for licenses or permits. The short-form application is the first part of the Commission's two-phased auction application process. In the first phase, parties desiring to participate in the auction must file a streamlined, short-form application in which they certify under penalty of perjury as to their qualifications. Eligibility to participate in bidding is based on the applicant's short-form application and certifications, and on its upfront payment. After bidding closes, in the second phase of the process, each winning bidder in Auction 114 must file a more comprehensive post-auction, long-form application (FCC Form 2100, Schedule 301–FM) in MB's Licensing and Management System (LMS) for each construction permit it wins in the auction. OEA and MB remind applicants that being deemed qualified to bid in Auction 114 does not constitute a determination that a party is qualified to hold a Commission license or is eligible for a new entrant bidding credit.

66. A party seeking a construction permit available in Auction 114 must file an FCC Form 175 electronically via the AAP in the AAS prior to 6:00 p.m. ET on [[September 30, 2026]], following the procedures prescribed in the Auction 114 FCC Form 175 Instructions. In order to access the AAP to create a new short-form application for an applicant, or take any other action on an auction application, an individual must have an FCC Username account in the Commission Registration System (CORES) that is associated with the applicant's FRN and has been assigned the appropriate Auctions Permissions in the AAP. The AAS includes security features, including the use of multifactor authentication and Auctions Permissions, that must be set-up before you can create a short-form application. OEA and MB encourage individuals who expect to work on a short-form application on behalf of an applicant to take the steps necessary to access the AAP and obtain Auction Permission for the applicant's FRN prior to the opening of the filing window.

67. OEA and MB describe more fully herein the information disclosures and certifications required in the short-form application.

68. An Auction 114 applicant bears full responsibility for submitting an accurate, complete, and timely short-form application. Pursuant to the Commission's competitive bidding rules, an applicant must make a series of certifications under penalty of perjury on its FCC Form 175 related to the information provided in its application and its participation in the auction, and an applicant must confirm that it is legally, technically, financially, and otherwise qualified to hold a license. If an applicant claims eligibility for a bidding credit, then the information provided in its short-form application will be used to determine whether the applicant appears to be eligible for the claimed bidding credit. An applicant's eligibility for a claimed bidding credit is verified after bidding concludes, based on an evaluation of the winning bidder's post-auction long-form application. As discussed herein, each participant in Auction 114 must also certify that it has read the *Auction 114 Procedures Public Notice* and familiarized itself both with the auction procedures and with the requirements for obtaining a construction permit and operating facilities in the FM broadcast service. If an Auction 114 applicant fails to make the required certifications in its FCC Form 175 by the filing deadline, then its application will be deemed unacceptable for filing and cannot be corrected after the filing deadline. Applicants filing a short-form application are subject to the Commission's rules prohibiting certain communications beginning at the deadline for filing, as described below.

69. Each applicant should note that submission of a short-form application (and any amendments thereto) constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

70. Applicants are cautioned that, because the required information submitted in FCC Form 175 bears on each applicant's qualifications, requests for confidential treatment will not be routinely granted. The Commission generally has held that it may publicly release confidential business information where the party has put that information at issue in a Commission proceeding or where the Commission has identified a compelling public interest in disclosing the information.

71. An applicant must designate between one and three individuals as authorized bidders in its FCC Form 175. The Commission's rules prohibit an individual from serving as an authorized bidder for more than one auction applicant.

72. No individual or entity may file more than one short-form application or have a controlling interest in more than one short-form application. If a party submits multiple short-form applications for an auction, then only one application may be the basis for that party to become qualified to bid in that auction.

73. Similarly, and consistent with the Commission's general prohibition of joint bidding agreements, a party is generally permitted to participate in a Commission auction only through a single bidding entity. Accordingly, the filing of applications in Auction 114 by multiple entities controlled by the same individual or set of individuals generally will not be permitted. Consistent with this restriction, a broadcaster interested in bidding on more than one construction permit cannot use two or more subsidiary entities to bid separately on construction permits in separate markets, regardless of whether each subsidiary were to select different construction permits on its short-form application. Likewise, if an entity, individual, or set of individuals hold

controlling interests in multiple entities that are interested in participating in Auction 114, regardless of whether those entities have other, non-shared controlling or non-controlling interests, those entities must participate in the auction through a single bidding entity and only that bidding entity may file a short-form application. As noted by the Commission in adopting the prohibition of applications by commonly controlled entities, this rule, in conjunction with the prohibition against joint bidding agreements, protects the competitiveness of the Commission's auctions.

74. As discussed herein, after the initial short-form application filing deadline, Commission staff will review all timely submitted applications for Auction 114 to determine whether each application complies with the application requirements and whether it has provided all required information concerning the applicant's qualifications for bidding. After this review is completed, a public notice will be released announcing the status of applications and identifying the applications that are complete, rejected, and those that are incomplete because of minor defects that may be corrected. The *Auction 114 Procedures Public Notice* also will establish an application resubmission filing window, during which an applicant may make permissible minor modifications to its application to address identified deficiencies. The public notice will include the deadline for resubmitting modified applications. To become a qualified bidder, an applicant must have a complete application (*i.e.,* have timely corrected any identified deficiencies) and make a timely and sufficient upfront payment. Qualified bidders will be identified by public notice at least 10 days prior to the mock auction.

75. OEA and MB discuss herein additional details regarding certain information required to be submitted in the short-form application. An applicant should consult the Commission's rules to ensure that, in addition to the materials described herein, all required information is included in its short-form application. To the extent the information in the *Auction 114 Procedures Public Notice* does not address a potential applicant's specific operating structure, or if the applicant needs additional information or guidance concerning the following disclosure requirements, the applicant should review the educational materials for Auction 114 in the Education section on the Auction 114 website at *www.fcc.gov/auction/114* and use the contact information provided in the *Auction 114 Procedures Public Notice* to consult with Commission staff to better understand the information it must submit in its short-form application.

B. Certification of Notice of Auction 114 Requirements and Procedures

76. For the reasons set forth in the *Auction 114 Comment Public Notice,* OEA and MB adopt the proposal to require any applicant seeking to participate in Auction 114 to certify in its short-form application, under penalty of perjury, that it has read the *Auction 114 Procedures Public Notice* adopting procedures for Auction 114 and that it has familiarized itself with these procedures and with the requirements for obtaining a construction permit for an FM broadcast station. OEA and MB received no comment on the proposal.

77. This certification is designed to bolster applicants' efforts to educate themselves about the procedures for auction participation and to ensure that, prior to submitting their short-form applications, applicants understand their obligation to stay abreast of relevant information. Familiarity with the Commission's rules and procedures governing Auction 114 may also help bidders avoid the consequences to them associated with defaults, which also cause harm to other applicants and the public by reducing the efficiency of the auction process and reducing the likelihood that the construction permits will be assigned to the bidder that values it the most. This certification, along with the other certifications required pursuant to 47 CFR 1.2105(a), will promote the submission of applications that meet the Commission's requirements, thereby leading to a more efficient application process.

78. A substantively similar requirement was instituted for Auctions 110, 108, 112, and 113. This requirement furthers a long-standing policy under which the Commission expressly places a burden upon each applicant to be thoroughly familiar with the procedures, terms, and conditions contained in the relevant Procedures Public Notice and any future public notices that may be released in the auction proceeding. While the certification OEA and MB add refers to information regarding auction procedures and licensing that is available at the time of certification, potential auction applicants are on notice from the *Auction 114 Procedures Public Notice* that their educational efforts must continue even after their short-form applications are filed. Commission staff routinely makes available detailed educational materials, such as interactive, online tutorials, to enhance interested parties' comprehension of the pre-bidding and bidding processes and to help applicants minimize their need to engage outside engineers, legal counsel, or other auction experts.

79. For these reasons, OEA and MB will require each Auction 114 applicant to certify as follows in its short-form application: that the applicant has read the public notice adopting procedures for the auction and that it has familiarized itself both with the auction procedures and with the requirements for obtaining a construction permit for an FM broadcast station.

80. An applicant must provide this certification under penalty of perjury, consistent with 47 CFR 1.2105(a). This certification must be provided in addition to the certifications already required under 47 CFR 1.2105. As with the other certifications required in the short-form application, an applicant's failure to make this certification in its FCC Form 175 by the [[September 30, 2026]], short-form filing deadline will render its application unacceptable for filing, and its application will be dismissed with prejudice.

C. Authorized Bidders

81. An applicant must designate at least one authorized bidder, and no more than three, in its FCC Form 175. The Commission's rules prohibit an individual from serving as an authorized bidder for more than one auction applicant or being listed as an authorized bidder in more than one short-form application.

82. To access the bidding system, each authorized bidder must have an FCC Username account that is associated with the applicant's FRN in CORES. Each authorized bidder must use its own unique FCC Username to access the bidding system. The applicant must provide the authorized bidder's FCC Username as the email address for that authorized bidder in its FCC Form 175. OEA and MB will withhold these email addresses from public disclosure. If an applicant does not provide an FCC Username that is associated with the applicant's FRN for an authorized bidder in its FCC Form 175, that bidder will be unable to place or submit bids. For further details, applicants should refer to the Auction 114 FCC Form 175 Instructions.

D. Permit Selection

83. An applicant must select on its FCC Form 175 all of the construction permits on which it may want to bid from the list of available permits. An applicant must carefully review and

verify its construction permit selections before the deadline for submitting the FCC Form 175 because those selections cannot be changed after the initial short-form application filing deadline. An applicant is not required to place bids on any of the permits it selects, but the bidding system will not accept bids for any permit that the applicant did not select in its FCC Form 175.

E. Disclosure of Agreements and Bidding Arrangements

84. An applicant must provide, in its short-form application, a brief description of, and identify each party to, any partnership, joint venture, consortium, or other agreements, arrangements, or understandings of any kind relating to the FM construction permits being auctioned, including any agreement that addresses or communicates directly or indirectly bids (including specific prices), bidding strategies (including the specific construction permit(s) on which to bid or not to bid), or the post-auction market structure, to which the applicant, or any party that controls or is controlled by the applicant, is a party. In connection with the agreement disclosure requirement, the applicant must certify under penalty of perjury in its FCC Form 175 that it has described, and identified each party to, any such agreements, arrangements, or understandings to which it (or any party that controls it or that it controls) is a party. An auction applicant that enters into any agreement during an auction that relates to the permits being auctioned is subject to the same disclosure obligations it would have for agreements existing at the short-form application filing deadline, and it must maintain the accuracy and completeness of the information in its pending application.

85. For purposes of making the required agreement disclosures on the short-form application, if parties agree in principle on all material terms prior to the application filing deadline, then each party to the agreement that is submitting an application must provide a brief description of, and identify the other party or parties to, the agreement on its respective FCC Form 175, even if the agreement has not been reduced to writing. Parties that have not agreed in principle by the short-form application filing deadline should not describe, or include the names of parties to, the discussions on their applications.

86. The Commission's rules generally prohibit joint bidding and other arrangements involving auction applicants (including any party that controls, or is controlled by, such applicants). For purposes of this prohibition, a joint bidding arrangement includes arrangements relating to the permits being auctioned that address or communicate, directly or indirectly, bidding at the auction, bidding strategies, including arrangements regarding price or the specific permits on which to bid, and any such arrangements relating to the post-auction market structure.

87. To implement the prohibition on joint bidding arrangements, the Commission's rules require each applicant to certify in its short-form application that it has disclosed any arrangements or understandings of any kind relating to the permits or licenses being auctioned to which it (or any party that controls or is controlled by it) is a party. The applicant must also certify that it (or any party that controls or is controlled by it) has not entered and will not enter into any arrangement or understanding of any kind relating directly or indirectly to bidding at auction with, among others, any other applicant.

88. Although the Commission's rules do not prohibit auction applicants from communicating about matters that are within the scope of an excepted agreement that has been disclosed in an FCC Form 175, the Commission reminds applicants that certain discussions or exchanges could nonetheless touch upon impermissible subject matters, and that compliance with the Commission's rules will not insulate a party from enforcement of the antitrust laws.

89. Applicants should bear in mind that a winning bidder will be required to disclose in its post-auction long-form application (FCC Form 2100, Schedule 301–FM) the specific terms, conditions, and parties involved in any agreement relating to the construction permits being auctioned into which it had entered prior to the time bidding was completed. This applies to any settlement agreement, joint venture, partnership, or other agreement, arrangement, or understanding of any kind entered into relating to the competitive bidding process, including any agreements relating to the construction permits being auctioned that address or communicate directly or indirectly bids (including specific prices), bidding strategies (including the specific permits on which to bid or not to bid), or the post-auction market structure, to which the applicant, or any party that controls or is controlled by the applicant, is a party.

F. Ownership Disclosure Requirements

90. Each applicant must comply with the ownership disclosure requirements and provide information required by 47 CFR 1.2105 and 1.2112. Specifically, an applicant must fully disclose information regarding the real party or parties-in-interest in the applicant or application and the ownership structure of the applicant, including both direct and indirect ownership interests of 10% or more, as prescribed in 47 CFR 1.2105 and 1.2112. Each applicant is responsible for ensuring that information submitted in its short-form application is complete and accurate.

G. Foreign Ownership Disclosure Requirements

91. 47 U.S.C. 310 requires the Commission to review foreign investment in broadcast station licenses and imposes specific restrictions on who may hold certain types of broadcast licenses. When completing a short-form application, an applicant must disclose information concerning its foreign ownership. In addition, if an applicant's foreign ownership exceeds the benchmark set forth in 47 U.S.C. 310(b)(4), then it may seek to participate in Auction 114 only if it has filed a 47 U.S.C. 310(b)(4) petition for declaratory ruling with the Commission prior to the short-form application filing deadline.

92. When submitting its short-form application, an applicant must certify that, as of the filing deadline, the applicant is in compliance with the foreign ownership restrictions in 47 U.S.C. 310, is in compliance with the terms and conditions of a 47 U.S.C. 310(b)(4) declaratory ruling granted by the Commission, or has filed a petition for declaratory ruling requesting Commission approval to exceed the foreign ownership benchmark in 47 U.S.C. 310(b)(4) that is pending before the Commission. An applicant with foreign ownership that necessitates a 47 U.S.C. 310(b)(4) declaratory ruling must submit as an attachment to its short-form application a copy of its pending petition for declaratory ruling or a citation to its previously granted declaratory ruling, whichever is applicable. In addition, if the applicant has been granted a 47 U.S.C. 310(b)(4) declaratory ruling, it must indicate in its short-form application whether the applicant remains in compliance with the terms and conditions of that declaratory ruling. Such an applicant must also indicate in its short-form application whether the facts upon which its declaratory ruling was based have changed and, if they have, the applicant must explain any such changes and whether and how the applicant remains in compliance with its declaratory ruling.Similarly, anapplicant whose petition for

declaratory ruling is pending before the Commission must indicate in its short-form application whether the fact scontained in its petition have changed since it was filed and, if they have, the applicant must explain any such changes and indicate whether the pending petition has been amended to reflect such changes. Additional information concerning foreign ownership disclosure requirements is provided in the Auction 114 FCC Form 175 Instructions.

H. New Entrant Bidding Credit

93. To promote the objectives of 47 U.S.C. 309(j) and further its long-standing commitment to the diversification of broadcast facility ownership, the Commission provides a tiered new entrant bidding credit for broadcast auction applicants with no, or very few, other media interests.

94. Applicants that qualify for the new entrant bidding credit are eligible for a bidding credit in this auction that represents the amount by which a bidder's winning bid is discounted. Eligibility for the new entrant bidding credit must be specified in an applicant's short-form application, which establishes that applicant's maximum bidding credit eligibility for Auction 114. The size of a new entrant bidding credit depends on the number of ownership interests in other media of mass communications that are attributable to the bidder-entity and its attributable interest-holders:

- A 35% bidding credit will be given to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, has no attributable interest in any other media of mass communications, as defined in 47 CFR 73.5008;
- A 25% bidding credit will be given to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, has an attributable interest in no more than three mass media facilities, as defined in 47 CFR 73.5008;
- No bidding credit will be given if any of the commonly owned mass media facilities serve the ''same area'' as the broadcast permit proposed in the auction, as defined in 47 CFR 73.5007(b), or if the winning bidder, and/or any individual or entity with an attributable interest in the winning bidder, has attributable interests in more than three mass media facilities. For purposes of determining whether a broadcast permit offered in this auction is in the ''same area'' as an applicant's existing mass media facilities, the coverage area of the to-be-auctioned facility is calculated using maximum class facilities at the FM allotment reference coordinates specified in Attachment A, not based on any applicant-specified preferred site coordinates for FM allotments.

95. Bidding credits are not cumulative; qualifying applicants receive either the 25% or the 35% bidding credit, but not both.

96. The interests of the applicant, and of any individuals or entities with an attributable interest in the applicant, in other media of mass communications are considered when determining an applicant's eligibility for the new entrant bidding credit. Attributable interests are defined in 47 CFR 73.3555 and note 2 of that section. The bidder's attributable interests, and thus its maximum new entrant bidding credit eligibility, are determined as of the short-form application filing deadline, which for Auction 114 is [[September 30, 2026]]. An applicant intending to divest a media interest or make any other ownership change, such as resignation of positional interests (officer or director) in order to avoid attribution for purposes of qualifying for the new entrant bidding credit, must have consummated such divestment transactions or have completed such ownership changes by no later than the FCC Form 175 filing deadline. Each prospective bidder is reminded, however, that events occurring after the short-form application filing deadline, such as the acquisition of attributable interests in media of mass communications, may cause diminishment or loss of the bidding credit and must be reported immediately.

97. Under broadcast attribution rules, those entities or individuals with an attributable interest in a bidder include:

- all officers and directors of a corporate bidder;
- any owner of 5% or more of the voting stock of a corporate bidder;
- all general partners and limited partners of a partnership bidder, unless the limited partners are sufficiently insulated; and
- all members of a limited liability company, unless sufficiently insulated.

98. In cases where an applicant's spouse or close family member holds other media interests, such interests are not automatically attributable to the bidder. The Commission decides attribution issues in this context based on certain factors traditionally considered relevant.

99. In the *New Entrant Bidding Credit Reconsideration Order,* 64 FR 44856 (August 18, 1999), the Commission further refined the eligibility standards for the new entrant bidding credit, judging it appropriate to attribute the media interests held by very substantial investors in, or creditors of, an applicant claiming new entrant status. Specifically, the attributable mass media interests held by an individual or entity with an equity and/or debt interest in an applicant shall be attributed to that bidder for purposes of determining its eligibility for the new entrant bidding credit, if the equity and debt interests, in the aggregate, exceed 33% of the total asset value of the applicant, even if such an interest is non-voting.

100. In the *Diversification Order,* 76 FR 7719 (February 11, 2011), the Commission relaxed the equity/debt plus attribution standard, to allow for higher investment opportunities in entities meeting the definition of ''eligible entities.'' An ''eligible entity'' is defined in Note 2(i) of 47 CFR 73.3555. Pursuant to the *Diversification Order,* the Commission will allow the holder of an equity or debt interest in the applicant to exceed the above-noted 33% threshold without triggering attribution provided (1) the combined equity and debt in the ''eligible entity'' is less than 50%; or (2) the total debt in the ''eligible entity'' does not exceed 80% of the asset value, and the interest holder does not hold any equity interest, option, or promise to acquire an equity interest in the ''eligible entity'' or any related entity.

101. Generally, media interests will be attributable for purposes of the new entrant bidding credit to the same extent that such other media interests are considered attributable for purposes of the broadcast multiple ownership rules. Attributable interests held by a winning bidder in existing low power television, television translator, or FM translator facilities, however, will not be counted among the applicant's other mass media interests in determining its eligibility for a new entrant bidding credit. A medium of mass communications is defined in 47 CFR 73.5008(b). Full service noncommercial educational stations, on both reserved and non-reserved channels, are included among ''media of mass communications'' as defined in 47 CFR 73.5008(b).

1. Application Requirements

102. In addition to the ownership information required pursuant to 47 CFR 1.2105 and 1.2112, applicants seeking a new entrant bidding credit are required to establish on their short-form applications that they satisfy the eligibility requirements to qualify for the bidding credit. In those cases, a certification under penalty of perjury must be provided in completing the

short-form application. An applicant claiming that it qualifies for a 35% new entrant bidding credit must certify that neither it nor any of its attributable interest holders has any attributable interests in any other media of mass communications. An applicant claiming that it qualifies for a 25% new entrant bidding credit must certify that neither it nor any of its attributable interest holders has any attributable interests in more than three media of mass communications, and must identify and describe such media of mass communications.

2. Unjust Enrichment

103. Applicants should note that unjust enrichment provisions apply to a winning bidder that utilizes a bidding credit and subsequently seeks to assign or transfer control of its license or construction permit to an entity not qualifying for the same level of bidding credit.

I. Provisions Regarding Former and Current Defaulters

104. Pursuant to the rules governing competitive bidding, each applicant must make certifications regarding whether it is a current or former defaulter or delinquent. A current defaulter or delinquent is not eligible to participate in Auction 114, but a former defaulter or delinquent may participate so long as it is otherwise qualified and makes an upfront payment that is 50% more than would otherwise be necessary. Accordingly, each applicant must certify under penalty of perjury on its FCC Form 175 that it, its affiliates, its controlling interests, and the affiliates of its controlling interests are not in default on any payment for a Commission construction permit or license (including down payments) and that they are not delinquent on any non-tax debt owed to any Federal agency. Additionally, an applicant must certify under penalty of perjury whether it (along with its controlling interests) has ever been in default on any payment for a Commission construction permit or license (including down payments) or has ever been delinquent on any non-tax debt owed to any Federal agency, subject to the exclusions described below. For purposes of making these certifications, the term ''controlling interest'' is defined in 47 CFR 1.2105(a)(4)(i).

105. Under the Commission's rule regarding short-form applications by former defaulters, an applicant is considered a ''former defaulter'' or a ''former delinquent'' when, as of the application filing deadline, the applicant or any of its controlling interests has defaulted on any Commission construction permit or license or has been delinquent on any non-tax debt owed to any Federal agency, but has since remedied all such defaults and cured all the outstanding non-tax delinquencies. For purposes of the certification under 47 CFR 1.2105(a)(2)(xii), the applicant may exclude from consideration any cured default on a Commission construction permit or license or cured delinquency on a non-tax debt owed to a Federal agency for which any of the following criteria are met: (1) the notice of the final payment deadline or delinquency was received more than seven years before the short-form application filing deadline, (2) the default or delinquency amounted to less than $100,000, (3) the default or delinquency was paid within two quarters (*i.e.,* six months) after receiving the notice of the final payment deadline or delinquency, or (4) the default or delinquency was the subject of a legal or arbitration proceeding and was cured upon resolution of the proceeding. With respect to the first exclusion, notice to a debtor may include notice of a final payment deadline or notice of delinquency and may be express or implied depending on the origin of any Federal non-tax debt giving rise to a default or delinquency. Additionally, for the third exclusion, the date of receipt of the notice of a final default deadline or delinquency by the intended party or debtor will be used for purposes of verifying receipt of notice.

106. In addition to the *Auction 114 Procedures Public Notice,* applicants are encouraged to review previous guidance on default and delinquency disclosure requirements in the context of the auction short-form application process. Parties are also encouraged to consult with Auctions Division staff if they have any questions about default and delinquency disclosure requirements.

107. The Commission considers outstanding debts owed to the United States Government, in any amount, to be a serious matter. The Commission adopted rules, including a provision referred to as the ''red light rule,'' that implement its obligations under the Debt Collection Improvement Act of 1996, which governs the collection of debts owed to the United States. Under the red light rule, applications and other requests for benefits filed by parties that have outstanding debts owed to the Commission will not be processed. When adopting that rule, the Commission explicitly declared, however, that its competitive bidding rules ''are not affected'' by the red light rule. As a consequence, the Commission's adoption of the red light rule does not alter the applicability of any of its competitive bidding rules, including the provisions and certifications of 47 CFR 1.2105 and 1.2106, with regard to current and former defaults or delinquencies.

108. OEA and MB remind each applicant, however, that the Commission's Red Light Display System, which provides information regarding debts currently owed to the Commission, may not be determinative of an auction applicant's ability to comply with the default and delinquency disclosure requirements of 47 CFR 1.2105. Thus, while the red light rule ultimately may prevent the processing of long-form applications by auction winners, an auction applicant's lack of current ''red light'' status is not necessarily determinative of its eligibility to participate in an auction (or whether it may be subject to an increased upfront payment obligation). Moreover, a prospective applicant in Auction 114 should note that any long-form applications filed after the close of bidding will be reviewed for compliance with the Commission's red light rule, and such review may result in the dismissal of a winning bidder's long-form application. OEA and MB encourage each applicant to carefully review all records and other available Federal agency databases and information sources to determine whether the applicant, or any of its affiliates, or any of its controlling interests, or any of the affiliates of its controlling interests, currently owes or was ever delinquent in the payment of non-tax debt owed to any Federal agency.

J. Noncommercial Educational Status Election

109. In the *NCE Second Report and Order,* 68 FR 26220 (May 15, 2003), the Commission held that applications for noncommercial educational (NCE) radio stations on non-reserved spectrum, filed during an auction filing window, will be returned as unacceptable for filing if mutually exclusive with any application for a commercial station. Accordingly, if an FCC Form 175 filed during the Auction 114 filing window identifying the application's proposed station as noncommercial educational is mutually exclusive with any application filed during that window for a commercial station, the NCE application will be returned as unacceptable for filing and the applicant will not be provided with any further opportunity to become eligible to bid in this auction. For this reason, each prospective applicant in this auction should consider carefully

whether it wishes to propose NCE operation for any FM station acquired in this auction. This NCE election cannot be reversed after the initial application filing deadline.

K. Modifications to FCC Form 175

1. Duty To Maintain Accuracy and Completeness of FCC Form 175

110. Pursuant to 47 CFR 1.65, each applicant has a continuing obligation to maintain the accuracy and completeness of information furnished in its pending application to participate in Auction 114. Consistent with the requirements for prior broadcast auctions, an applicant for Auction 114 must furnish additional or corrected information to the Commission within five business days after a significant occurrence, or amend its FCC Form 175 no more than five business days after the applicant becomes aware of the need for the amendment. In accordance with the Commission's rules, an applicant's obligation to make modifications to a pending auction application in order to provide additional or corrected information continues beyond the five-day period, even if the report is not made within the five-day period. An applicant is obligated to amend its pending application even if a reported change may result in the dismissal of the application because it is subsequently determined to be a major modification.

2. Modifying an FCC Form 175

111. As noted above, a party seeking to participate in Auction 114 must file an FCC Form 175 electronically via the AAP in the AAS. During the initial filing window, an applicant will be able to make any necessary modifications to its FCC Form 175 in the AAP. An applicant that has certified and submitted its FCC Form 175 before the close of the initial filing window may continue to make modifications as often as necessary until the close of that window; however, the applicant must re-certify and re-submit its FCC Form 175 before the close of the initial filing window to confirm and effect its latest application changes. After each submission, a confirmation page will be displayed stating the submission time and submission date.

112. An applicant will also be allowed to modify its FCC Form 175 in the AAP, except for certain fields, during the resubmission filing window and after the release of the public notice announcing the qualified bidders for an auction. During these times, if an applicant needs to make permissible minor changes to its FCC Form 175 or must make changes in order to maintain the accuracy and completeness of its application pursuant to 47 CFR 1.65 and 1.2105(b)(4), then it must make the change(s) in the AAP and re-certify and re-submit its application to confirm and effect the change(s).

113. An applicant's ability to modify its FCC Form 175 in the AAP will be limited between the closing of the initial filing window and the opening of the application resubmission filing window, and between the closing of the resubmission filing window and the release of the public notice announcing the qualified bidders for an auction. During these periods, an applicant will be able to view its submitted application, but will be permitted to modify only the applicant's address, responsible party address, and contact information (*e.g.,* name, address, telephone number) in the AAP. An applicant will not be able to modify any other pages of the FCC Form 175 in the AAP during these periods. If, during these periods, an applicant needs to make other permissible minor changes to its FCC Form 175, or changes to maintain the accuracy and completeness of its application pursuant to 47 CFR 1.65 and 1.2105(b)(4), then the applicant must submit a letter briefly summarizing the changes to its FCC Form 175 via email to *auction114@fcc.gov*. The email summarizing the changes must include a subject line referring to Auction 114 and the name of the applicant, for example, ''Re: Changes to Auction 114 Auction Application of XYZ Corp.'' Any attachments to the email must be formatted as Adobe® Acrobat® (PDF) or Microsoft® Word documents. An applicant that submits its changes in this manner must subsequently modify, certify, and submit its FCC Form 175 electronically in the AAP once it is again open and available to applicants.

114. Applicants should also note that even at times when the AAP is open and available to applicants, the system will not allow an applicant to make certain other permissible changes itself (*e.g.,* correcting a misstatement of the applicant's legal classification). If an applicant needs to make a permissible minor change of this nature, then it must submit a written request by email to the Auctions Division Chief, via *auction114@fcc.gov,* requesting that the Commission manually make the change on the applicant's behalf. Once Commission staff has informed the applicant that the change has been made in the AAP, the applicant must then re-certify and re-submit its FCC Form 175 in the AAP to confirm and effect the change(s).

115. As with filing the FCC Form 175, any amendment(s) to the application and related statements of fact must be certified by an authorized representative of the applicant with authority to bind the applicant. Applicants should note that submission of any such amendment or related statement of fact constitutes a representation by the person certifying that he or she is an authorized representative with such authority and that the contents of the amendment or statement of fact are true and correct.

116. Applicants must not submit application-specific material through the Commission's Electronic Comment Filing System. Further, as discussed herein, parties submitting information related to their applications should use caution to ensure that their submissions do not contain confidential information or communicate information that would violate 47 CFR 1.2105(c) or the limited information procedures adopted for Auction 114. An applicant seeking to submit, outside the AAP, information that might reflect non-public information, such as an applicant's permit selection(s), upfront payment amount, or bidding eligibility, should consider including in its email a request that the filing or portions of the filing be withheld from public inspection until the end of the prohibition on certain communications pursuant to 47 CFR 1.2105(c).

117. Questions about FCC Form 175 amendments should be directed to the Auctions Division at *auction114@fcc.gov* or (202) 418–0660.

IV. Information Procedures and Prohibited Communications

A. Information Procedures During the Auction Process

118. Consistent with past practice in most recent Commission spectrum auctions, OEA and MB adopt the proposal to limit information available in Auction 114 in order to discourage unproductive and anti-competitive strategic behavior. Accordingly, OEA and MB will not identify bidders placing particular bids until after the bidding has closed. While OEA and MB generally make available to the public information provided in each applicant's short-form application following an initial review by Commission staff, OEA and MB will not make public until after bidding has closed: (1) the construction permits that an applicant selects for bidding in its short-form application, (2) the amount of any upfront payment made by or on behalf of an applicant, (3) any applicant's bidding eligibility, and (4) any other bidding-related information

that might reveal the identity of the bidder placing a bid. An applicant in a broadcast auction that is seeking a new entrant bidding credit and has an attributable interest in no more than three mass media facilities is required to disclose those facilities in its short-form application and to indicate whether any such facility is in the ''same area'' as the permit(s) selected in its short-form application. Because this information could reveal the permits selected by an applicant, we will also not make public, until after bidding has closed, any applicant's response to the question of whether a disclosed existing mass media facility is in the ''same area'' as a selected permit.

119. The limited information procedures used in past auctions have helped safeguard against potential anticompetitive behavior such as retaliatory bidding and collusion. One commenter, Mr. Tracy K. Wood, objects to the use of anonymous bidding on the basis that each bidder needs to know the ''capabilities and motivations'' of other bidders in order to plan its own bidding strategy. In furtherance of this goal, Mr. Wood proposes that OEA and MB provide full bidding information about each bidder, including the construction permits selected by the bidder on its short-form application and its bidding eligibility at the end of each round, while replacing the bidder's name with a pseudonym to hide its identity. Mr. Wood also suggests providing a mechanism for a bidder to signal to other bidders when it is done bidding on an item and would like to be outbid.

120. OEA and MB find that Mr. Wood's proposals would enable the very types of anti-competitive strategic bidding behavior that the limited information procedures are intended to prevent. Bidder identities, even when the bidder is given a pseudonym, allow bidders to send messages with their bids, making tacit collusion easier. For example, if two bidders at the start of the auction see that they are competing for the same two permits, they can use bid increments to tacitly indicate which permit they value more. In this way, the two bidders divide the two permits, and do so at a lower price than they would have had they each bid against one another based on their respective valuations for each permit. Likewise, the mechanism that Mr. Wood proposes, by which a bidder can signal to other bidders when itis done bidding on a permit and would like to be outbid, would facilitate collusion by providing another channel through which bidders can message one another during bidding. The longstanding limited information procedures for Commission auctions, in combination with the prohibited communications rule, are generally designed to deter collusion and other types of undesirable strategic bidding, to ensure that auction participants bid in a straightforward manner, and that the licenses or permits are won by the bidder that values them the most. Therefore, OEA and MB decline to adopt Mr. Wood's proposals. On the whole, the competitive benefits associated with limiting information disclosure support adoption of such procedures and outweigh any perceived benefits of full disclosure.

121. Under the limited information procedures (sometimes also referred to as anonymous bidding) OEA and MB adopt herein, after the close of each round of bidding in Auction 114, they will make public for each permit the current provisionally winning bid amount, the minimum acceptable bid amount for the following round, and the number of new bids placed on the permit during the round. These reports will be publicly accessible.

122. Throughout the auction, OEA and MB will provide bidders with secure access to certain non-public bidding information while bidding is ongoing. For example, bidders will be able to view their own level of eligibility during the auction.

123. After the close of bidding, bidders' permit selections, upfront payment amounts, bidding eligibility, bids, and other bidding-related information will be made publicly available.

124. OEA and MB warn applicants that direct or indirect communication to other applicants or the public disclosure of non-public information (*e.g.,* reductions in eligibility, identities of bidders) could violate the Commission's rule prohibiting certain communications. Therefore, to the extent an applicant believes that such a disclosure is required by law or regulation, including regulations issued by the SEC, OEA and MB strongly urge that the applicant consult with Commission staff in the Auctions Division before making such disclosure.

B. Prohibited Communications and Compliance With Antitrust Laws

125. The rules prohibiting certain communications set forth in 47 CFR 1.2105(c) and 73.5002(d) apply to each ''applicant'' in Auction 114. 47 CFR 1.2105(c)(1) provides that, subject to specified exceptions, after the deadline for filing a short-form application, all applicants are prohibited from cooperating or collaborating with respect to, communicating with or disclosing, to each other in any manner the substance of their own, or each other's, or any other applicant's bids or bidding strategies (including post-auction market structure), or discussing or negotiating settlement agreements, until after the down payment deadline.

1. Entities Subject to 47 CFR 1.2105(c)

126. An ''applicant'' for purposes of this rule includes all ''controlling interests'' in the entity submitting the short-form application, as well as all holders of interests amounting to 10% or more of the entity (including institutional investors and asset management companies), and all officers and directors of that entity. Under 47 CFR 1.2105(c), a party that submits an application becomes an ''applicant'' under the rule at the short-form application filing deadline, and that status does not change based on later developments, including failure to become a qualified bidder.

2. Prohibition Applies Until Down Payment Deadline

127. The prohibition in 47 CFR 1.2105(c) on certain communications begins at an auction's short-form application filing deadline and ends at the auction's down payment deadline after the auction closes, which will be announced in a future public notice. To be clear, communications that occur even after bidding has ended and the auction has closed, but before the down payment deadline, are still subject to 47 CFR 1.2105(c).

3. Scope of Prohibition on Certain Communications; Prohibition on Joint Bidding Agreements

128. 47 CFR 1.2105(c) prohibits certain communications between applicants for an auction, regardless of whether the applicants seek permits in the same geographic area or market. The rule also prohibits any ''joint bidding arrangements,'' including arrangements relating to the permits being auctioned that address or communicate, directly or indirectly, bidding at the auction, bidding strategies, including arrangements regarding price or the specific permits on which to bid, and any such arrangements relating to the post-auction market structure. The rule allows for limited exceptions for communications within the scope of any arrangement consistent with the exclusion from the Commission's rule prohibiting joint bidding, provided such arrangement is disclosed on the applicant's short-form application. Applicants may communicate pursuant to any pre-existing agreements, arrangements, or understandings relating to the permits being auctioned

that are solely operational or that provide for the transfer or assignment of permits, provided that such agreements, arrangements, or understandings are disclosed on their application and do not both relate to the permits at auction and address or communicate bids (including amounts), bidding strategies, or the particular permits on which to bid or the post-auction market structure.

129. In addition to express statements of bids and bidding strategies, the prohibition against communicating ''in any manner'' includes public disclosures as well as private communications and indirect or implicit communications. Consequently, an applicant must take care to determine whether its auction-related communications may reach another applicant.

130. Parties subject to 47 CFR 1.2105(c) should take special care in circumstances where their officers, directors, and employees may receive information directly or indirectly relating to any applicant's bids or bidding strategies, even if the officers, directors, or employees are not involved in their company's participation in the auction or if the information received is wholly unsolicited. Such information may be deemed to have been received by the applicant under certain circumstances. For example, Commission staff have found that, where an individual serves as an officer and director for two or more applicants, the bids and bidding strategies of one applicant are presumed to be conveyed to the other applicant through the shared officer, which creates an apparent violation of the rule.

131. Subject to the limited exceptions for communications within the scope of any arrangement consistent with the exclusion from the Commission's rule prohibiting joint bidding, 47 CFR 1.2105(c)(1) prohibits applicants from communicating with specified other parties only with respect to ''their own, or each other's, or any other applicant's bids or bidding strategies.'' The *Prohibited Communications Guidance Public Notice,* 80 FR 63215 (October 19, 2015), released in advance of the Broadcast Incentive Auction (Auction 1000) reviewed the scope of the prohibition generally, as well as specific variations on the prohibition that were unique to Auction 1000. As the Commission explained therein, a communication conveying ''bids or bidding strategies (including post-auction market structure)'' must also relate to the ''[permits] being auctioned'' in order to be covered by the prohibition. Thus, the prohibition is limited in scope and does not apply to all communications between or among the specified parties. The Commission consistently has made clear that application of the rule prohibiting communications has never required total suspension of essential ongoing business. Entities subject to the prohibition may negotiate agreements during the prohibition period, provided that the communications involved do not relate to both: (1) the licenses or permits being auctioned and (2) bids or bidding strategies or post-auction market structure.

132. Accordingly, business discussions and negotiations that are unrelated to bidding in Auction 114 and that do not convey information about the bids or bidding strategies of an applicant, including the post-auction market structure, are not prohibited by the rule. Moreover, not all auction-related information is covered by the prohibition. For example, communicating merely whether a party has or has not applied to participate in Auction 114 will not violate the rule. In contrast, communicating, among other things, how a party will participate, including whether or not a party plans to submit an upfront payment and the upfront payment amount, specific bid amounts, and/or whether or not the party is placing or intends to place bids, would convey bids or bidding strategies and would be prohibited.

133. While 47 CFR 1.2105(c) does not prohibit business discussions and negotiations among auction applicants that are unrelated to the auction, each applicant must remain vigilant not to communicate, directly or indirectly, information that affects, or could affect, bids or bidding strategies. Certain discussions, even if they do not directly address the permits offered in Auction 114, still might touch upon subject areas that relate to bids and bidding strategies or to post-auction market structure, which could convey price or geographic information related to bidding strategies. Such subject areas include, but are not limited to, management, sales, local marketing agreements, and other transactional agreements.

134. OEA and MB caution applicants that bids or bidding strategies may be communicated outside situations that involve one party subject to the prohibition communicating privately and directly with another such party. For example, the Commission has warned that prohibited ''communications concerning bids and bidding strategies may include communications regarding capital calls or requests for additional funds in support of bids or bidding strategies to the extent such communications convey information concerning the bids and bidding strategies directly or indirectly.'' Moreover, the Commission found a violation of the rule against prohibited communications when an applicant used the Commission's bidding system to disclose ''its bidding strategy in a manner that explicitly invited other auction participants to cooperate and collaborate . . . in specific markets,'' and it has placed auction participants on notice that the use of its bidding system ''to disclose market information to competitors will not be tolerated and will subject bidders to sanctions.''

135. Likewise, when completing a short-form application, each applicant should avoid any statements or disclosures that may violate 47 CFR 1.2105(c), particularly in light of the limited information procedures in effect for Auction 114. Specifically, an applicant should avoid including any information in its short-form application that might convey information regarding its permit selections, such as referring to certain markets when describing agreements, including any information in application attachments that will be publicly available that may otherwise disclose the applicant's permit selections, or using applicant names that refer to permits being offered.

136. Applicants also should be mindful that communicating non-public application or bidding information publicly or privately to another applicant may violate 47 CFR 1.2105(c) even though that information subsequently may be made public during later periods of the application or bidding processes.

4. Communicating With Third Parties

137. 47 CFR 1.2105(c) does not prohibit an applicant from communicating bids or bidding strategies to a third party, such as a consultant or consulting firm, counsel, or lender. An applicant should take appropriate steps, however, to ensure that any third party it employs for advice pertaining to its bids or bidding strategies does not become a conduit for prohibited communications to other specified parties, as that would violate the rule. For example, an applicant might require a third party, such as a lender, to sign a non-disclosure agreement before the applicant communicates any information regarding bids or bidding strategy to the third party. Within third-party firms, separate individual employees, such as attorneys or auction consultants, may advise individual applicants on bids or bidding strategies, as long as such firms implement firewalls and other

compliance procedures that prevent such individuals from communicating the bids or bidding strategies of one applicant to other individuals representing separate applicants. Although firewalls and/or other procedures should be used, their existence is not an absolute defense to liability for violating the rule.

138. As the Commission has noted in other spectrum auctions, in the case of an individual, the objective precautionary measure of a firewall is not available. As a result, an individual that is privy to bids or bidding information of more than one applicant presents a greater risk of becoming a conduit for a prohibited communication. OEA and MB will take the same approach to interpreting the prohibited communications rule in Auction 114. OEA and MB emphasize that whether a prohibited communication has taken place in a given case will depend on all the pertinent facts, including who possessed what information, what information was conveyed to whom, and the course of bidding in the auction.

139. OEA and MB remind potential applicants that they may discuss the short-form application or bids for specific permits with the counsel, consultant, or expert of their choice *before* the short-form application deadline. Furthermore, the same third-party individual could continue to give advice after the short-form application deadline regarding the application, provided that no information pertaining to bids or bidding strategies, including permits selected on the short-form application, is conveyed to that individual from any of the applicants the individual advises. OEA and MB remind potential applicants, however, that no person may serve as an authorized bidder for more than one applicant in Auction 114.

140. Applicants also should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become conduits for the communication of prohibited bidding information. For example, even though communicating that it has applied to participate in this auction will not violate the rule, an applicant's statement to the press or a statement on social media that it intends to stop bidding or does not intend to bid at all in an auction could give rise to a finding of a 47 CFR 1.2105 violation. Similarly, an applicant's public statement of intent not to place bids during bidding in Auction 114 could also violate the rule.

5. 47 CFR 1.2405(c) Certifications

141. By electronically submitting its FCC Form 175, each applicant for Auction 114 certifies its compliance with 47 CFR 1.2105(c) and 73.5002(d). If an applicant has a non-controlling interest with respect to more than one application, then the applicant must certify that it has established internal control procedures to preclude any person acting on behalf of the applicant from possessing information about the bids or bidding strategies of more than one applicant or communicating such information with respect to either applicant to another person acting on behalf of and possessing such information regarding another applicant. The mere filing of a certifying statement as part of an application, however, will not outweigh specific evidence that a prohibited communication has occurred, nor will it preclude the initiation of an investigation when warranted. Any applicant found to have violated these communication prohibitions may be subject to sanctions.

6. Duty To Report Prohibited Communications

142. 47 CFR 1.2105(c)(4) requires that any applicant that makes or receives a communication that appears to violate 47 CFR 1.2105(c) must report such communication in writing to the Commission immediately, and in no case later than five business days after the communication occurs. Each applicant's obligation to report any such communication continues beyond the five-day period after the communication is made, even if the report is not made within the five-day period.

7. Procedures for Reporting Prohibited Communications

143. A party reporting any information or communication pursuant to 47 CFR 1.65(a), 1.2105(a)(2), or 1.2105(c)(4) must take care to ensure that any report of a prohibited communication does not itself give rise to a violation of 47 CFR 1.2105(c). For example, a party's report of a prohibited communication could violate the rule by communicating prohibited information to other parties specified under the rule through the use of Commission filing procedures that allow such materials to be made available for public inspection.

144. An applicant must file only a single report concerning a prohibited communication and must file that report with the Commission personnel expressly charged with administering the Commission's auctions. This rule is designed to minimize the risk of inadvertent dissemination of information in such reports. Any reports required by 47 CFR 1.2105(c) must be filed consistent with the instructions set forth in the *Auction 114 Procedures Public Notice.* For Auction 114, such reports must be submitted to the Chief of the Auctions Division, Office of Economics and Analytics, by email to *auction114@fcc.gov.* If you have any questions about filing such a report, contact Auctions Division staff at *auction114@fcc.gov* or (202) 418–0660 for further guidance.

145. Given the potential competitive sensitivity of public disclosure of information in such a report, a party seeking to report such a prohibited communication should consider submitting its report with a request that the report or portions of the submission be withheld from public inspection by following the procedures specified in 47 CFR 0.459. OEA and MB encourage such parties to coordinate with the Auctions Division staff about the procedures for submitting such reports.

8. Additional Information Concerning Prohibition on Certain Communications in Commission Auctions

146. A summary listing of documents issued by the Commission and OEA/MB addressing the application of 47 CFR 1.2105(c) is available on the Commission's auction web page at *www.fcc.gov/summary-listing-documents-addressing-application-rule-prohibiting-certain-communications.*

9. Antitrust Laws

147. Regardless of compliance with the Commission's rules, applicants remain subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. Compliance with the disclosure requirements of 47 CFR 1.2105(c)(4) will not insulate a party from enforcement of the antitrust laws. For instance, a violation of the antitrust laws could arise out of actions taking place well before any party submits a short-form application. The Commission has cited a number of examples of potentially anticompetitive actions that would be prohibited under antitrust laws: for example, actual or potential competitors may not agree to divide territories in order to minimize competition, regardless of whether they split a market in which they both do business, or whether they merely reserve one market for one and another market for the other.

148. To the extent OEA and MB become aware of specific allegations that suggest that violations of the federal

antitrust laws may have occurred, they may refer such allegations to the United States Department of Justice for investigation. If an applicant is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process, then it may be subject to a forfeiture and may be prohibited from participating further in Auction 114 and in future auctions, among other sanctions.

V. Bidding

A. Auction Structure

1. Simultaneous Multiple-Round Auction

149. In the *Auction 114 Comment Public Notice,* OEA and MB proposed to auction all construction permits listed in Attachment A of the *Auction 114 Procedures Public Notice* in a single auction using the Commission's standard simultaneous multiple-round auction format. This type of auction offers every construction permit for bid at the same time and consists of successive bidding rounds in which qualified bidders may place bids on individual construction permits. OEA and MB received no comment on this proposal, and this proposal is adopted. Unless otherwise announced, bids will be accepted on all construction permits in each round of the auction until bidding stops on every construction permit.

2. FCC Auction Bidding System

150. All bidding will take place remotely either through the FCC Auction Bidding System (bidding system) or by telephonic bidding. Please note that telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. The length of a call to place a telephonic bid may vary; please allow a minimum of ten minutes.

151. An Auction 114 bidder's ability to bid on specific construction permits is determined by two factors: (1) the construction permits selected by that applicant in its FCC Form 175 and (2) the bidder's bidding eligibility measured in bidding units. The bidding system will allow bidders to submit bids on only those construction permits the bidder selected on its FCC Form 175.

152. In order to access the bidding function of the bidding system, bidders must be logged in during a bidding round using the passcode generated by the RSA token and a personal identification number (PIN) created by the bidder. Bidders are strongly encouraged to print their bid summary for each round after they have completed all of their activity for that round.

3. Availability of Bidding Information

153. As discussed herein, in the *Auction 114 Comment Public Notice,* OEA and MB proposed to employ limited information procedures for Auction 114, including limiting the availability of bidding information during the auction, and OEA and MB adopt that proposal here. Limited information about the results of a round will be made public after the conclusion of the round. Specifically, after a round closes, OEA and MB will make available for each construction permit its current provisionally winning bid amount, the minimum acceptable bid amount for the following round, and the number of new bids placed on the permit during the round. The reports will be publicly accessible. Moreover, after Auction 114 closes, OEA and MB will make available complete reports of all bids placed during each round of the auction, that include bidder identities.

154. As in past Commission spectrum auctions, bidders will have secure access to certain non-public bidding information while bidding is ongoing. Specifically, after each round ends, and before the next round begins, OEA and MB will make the following information available to individual bidders:

- The bidder's activity, based on all bids in the previous round; and
- Summary statistics of the bidder's bidding/bid-related actions in each round, including the construction permits on which it bid and the price it bid for each of those construction permits, the result of each of its bids, whether it has any provisionally winning bids, and remaining activity rule waivers.

155. As discussed more fully herein, limiting the availability of bidding information during the auction balances OEA's and MB's interest in providing bidders with sufficient information about the status of their own bids and bidding across all construction permits to allow them to bid confidently and effectively, while restricting the availability of information that may facilitate identification of bidders placing particular bids, which could potentially lead to undesirable strategic bidding.

4. Round Structure

156. The first round of bidding for Auction 114 will begin on [[Tuesday, February 2, 2027]]. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released at least one week before the start of bidding in the auction. Each bidding round is followed by the release of round results. Multiple bidding rounds may be conducted each day.

157. In the *Auction 114 Comment Public Notice,* OEA and MB proposed to retain the discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. OEA and MB received no comment on these proposals, and they adopt them for Auction 114. OEA and MB may change the amount of time for the bidding rounds, the amount of time between rounds, or the number of rounds per day, depending upon bidding activity and other factors, by prior announcement.

5. Eligibility and Activity Rules

158. As discussed herein, OEA and MB will use upfront payments to determine initial (maximum) bidding eligibility (as measured in bidding units) for Auction 114. The amount of the upfront payment submitted by a bidder determines initial bidding eligibility, the maximum number of bidding units on which a bidder may be active (bid or hold provisionally winning bids) in a given round. As noted herein, each construction permit is assigned a specific number of bidding units as listed in Attachment A to the *Auction 114 Comment Public Notice.* Bidding units assigned to each construction permit do not change as prices rise during the auction. Upfront payments are not attributed to specific construction permits. Rather, a bidder may place bids on any of the construction permits selected on its FCC Form 175 as long as the total number of bidding units associated with those construction permits does not exceed the bidder's current eligibility. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount, an applicant must determine the maximum number of bidding units on which it may wish to bid or hold provisionally winning bids in any single round, and submit an upfront payment amount covering that total number of bidding units. At a minimum, an applicant's upfront payment must cover the bidding units for at least one of the construction permits it selected on its short-form application. The total upfront payment does not affect the total dollar amount a bidder may bid on any given

construction permit. OEA and MB received no comments on the bidding eligibility proposals, and these proposals are adopted.

159. To ensure that an auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. Bidders are required to be active (bid or hold provisionally winning bids) on a specified percentage of their current bidding eligibility during each round of the auction. A bidder's activity level in a round is the sum of the bidding units associated with construction permits covered by the bidder's new bids in the current round and provisionally winning bids from the previous round. The minimum required activity is expressed as a percentage of the bidder's current eligibility. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a reduction in the bidder's eligibility, possibly curtailing or eliminating the bidder's ability to place additional bids in the auction.

160. In the *Auction 114 Comment Public Notice,* OEA and MB proposed that in each bidding round, a bidder seeking to maintain its current bidding eligibility be required to be active on 100% of its bidding eligibility. No commentors objected to this proposal, and OEA and MB adopt it for Auction 114.

6. Activity Rule Waivers

161. In the *Auction 114 Comment Public Notice,* OEA and MB proposed that each bidder in the auction be provided with three activity rule waivers, which are principally a mechanism for a bidder to avoid the loss of bidding eligibility in the event that exigent circumstances prevent it from bidding in a particular round. OEA and MB received no comments on this issue.

162. Therefore, OEA and MB adopt this proposal to provide bidders with three activity rule waivers. Use of an activity rule waiver preserves the bidder's eligibility despite its activity in the current round being below the required minimum activity level. An activity rule waiver applies to an entire round of bidding and not to a particular construction permit. A bidder may use an activity rule waiver in any round of the auction as long as the bidder has not used all of its waivers.

163. The bidding system will assume that a bidder that does not meet the activity requirement would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver at the end of any bidding round in which a bidder's activity level is below the minimum required unless (1) the bidder has no activity rule waiver remaining, or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, therefore meeting the activity requirement. If the bidder has no waivers remaining and does not satisfy the required activity level, the bidder's current eligibility will be permanently reduced, possibly curtailing or eliminating the ability to place additional bids in the auction.

164. A bidder with insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding round by using the *reduce eligibility* function in the bidding system. In this case, the bidder's eligibility would be permanently reduced to bring it into compliance with the activity rule described above. Reducing eligibility is an irreversible action once the round has closed, and a bidder cannot regain its lost bidding eligibility.

7. Auction Stopping Rule

165. For Auction 114, OEA and MB proposed to employ a simultaneous stopping rule approach, which means all construction permits remain available for bidding until bidding stops on every construction permit. Specifically, bidding will close on all construction permits after the first round in which no bidder submits any new bid on a construction permit for which the bidder is not the provisionally winning bidder. OEA and MB received no comments on these proposals and adopt the proposed stopping rule.

166. OEA and MB also proposed in the *Auction 114 Comment Public Notice* to retain discretion to attempt to change the pace of the auction in certain circumstances, for example, where the auction is proceeding unusually slowly or quickly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time or will close prematurely. For example, OEA and MB may adjust the pace of the auction by changing the number of bidding rounds per day and/or the minimum acceptable bids. OEA and MB proposed to retain the discretion to exercise any of these options with or without prior announcement during the auction. OEA and MB received no comments on this proposal, and adopt it for Auction 114.

8. Auction Delay, Suspension, or Cancellation

167. In the *Auction 114 Comment Public Notice,* OEA and MB proposed that, by public notice or by announcement through the bidding system, they may delay, suspend, or cancel bidding in the auction in the event of natural disaster, technical obstacle, network interruption, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. OEA and MB received no comment on this issue.

168. Because this approach has proven effective in resolving exigent circumstances in previous auctions, OEA and MB adopt these proposals regarding auction delay, suspension, or cancellation. By public notice or by announcement through the bidding system, OEA and MB may delay, suspend, or cancel bidding in the auction in the event of natural disaster, technical obstacle, network interruption, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. In such cases, OEA and MB, in their sole discretion, may elect to resume the auction starting from the beginning of the current round or from some previous round, or cancel the auction in its entirety. OEA and MB emphasize that they will exercise this authority solely at their discretion.

B. Bidding Procedures

1. Minimum Opening Bids and Acceptable Bid Amounts

169. 47 U.S.C. 309(j) calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when applications for FCC licenses or construction permits are subject to auction (*i.e.,* because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest. Consistent with this mandate, the Commission directed that, prior to the start of each auction, comment be sought on the use of a minimum opening bid and/or reserve price.

170. In the *Auction 114 Comment Public Notice,* OEA and MB proposed not establishing separate reserve prices for the construction permits in Auction 114. OEA and MB received no comment on this proposal and adopt it for Auction 114. The *Auction 114 Comment*

Public Notice did, however, propose to establish minimum opening bids for each construction permit, reasoning that a minimum opening bid, which has been used in other auctions, is an effective tool for accelerating the competitive bidding process. A minimum opening bid was proposed for each permit by taking into consideration the type of service and class of facility offered, market size, population covered by the proposed broadcast facility, and recent broadcast transaction data.

171. SSR suggests that OEA and MB revisit the minimum opening bids proposed in the *Auction 114 Comment Public Notice* for six FM allotments located on the island of Kauai, Hawaii. SSR asserts that ''the three Kauai FM Class A allotments each carry minimum opening bids that exceed the opening bids assigned to [the] three Kauai FM Class C3 allotments, notwithstanding the substantially greater facilities and service potential associated with the Class C3 channels.'' OEA and MB disagree that there is greater service potential associated with the Class C3 allotments than there is with the three Class A allotments. The three Class A allotments, in fact, cover substantially higher service populations than the three Class C3 allotments, and the proposed minimum opening bids for those licenses accounted for this. OEA and MB disagree, therefore, with SSR's suggestion that the minimum opening bids proposed for these six allotments are inconsistent. As a result, and because OEA and MB received no other comments on their proposed minimum opening bids, OEA and MB adopt the minimum opening bid amounts proposed in the *Auction 114 Comment Public Notice.* The specific minimum opening bid and upfront payment amounts for each construction permit are set forth in Attachment A to the *Auction 114 Procedures Public Notice.*

172. In the *Auction 114 Comment Public Notice,* OEA and MB proposed that in each round a qualified bidder will be able to place a bid on a given construction permit in any of up to nine different amounts. Under the proposal, the bidding system interface will list the nine acceptable bid amounts for each construction permit. OEA and MB received no comments on this proposal, and adopt it as proposed.

173. In the *Auction 114 Comment Public Notice,* OEA and MB proposed to use a minimum acceptable bid increment percentage of 10% to calculate the first of the acceptable bid amounts. This means that the minimum acceptable bid amount for a construction permit will be approximately 10% greater than the provisionally winning bid amount for the construction permit. To calculate the eight additional acceptable bid amounts, OEA and MB proposed in the *Auction 114 Comment Public Notice* to use an additional bid increment percentage of 5%. OEA and MB did not receive any comments on these proposals to use 10% and 5% respectively in their calculation of nine acceptable bid amounts for each construction permit. OEA's and MB's experience in previous broadcast auctions assures them that a minimum acceptable bid increment percentage of 10% and an additional bid increment percentage of 5% are sufficient to ensure active bidding. Therefore, OEA and MB will begin the auction with a minimum acceptable bid increment percentage of 10% and an additional bid increment percentage of 5%.

174. In Auction 114, the minimum acceptable bid amount for a construction permit will be equal to its minimum opening bid amount until there is a provisionally winning bid for the construction permit. After there is a provisionally winning bid for a construction permit, the minimum acceptable bid amount will be calculated by multiplying the provisionally winning bid amount by one plus the minimum acceptable bid percentage—*i.e.,* provisionally winning bid amount * 1.10, rounded up.

175. In Auction 114, the bidding system will calculate the eight additional bid amounts by multiplying the minimum acceptable bid amount by the additional bid increment percentage of 5%, and that result (rounded up) is the additional increment amount. The first additional acceptable bid amount equals the minimum acceptable bid amount plus the additional increment amount. The second additional acceptable bid amount equals the minimum acceptable bid amount plus two times the additional increment amount; the third additional acceptable bid amount is the minimum acceptable bid amount plus three times the additional increment amount; etc. Because the additional bid increment percentage is 5%, the calculation of the additional increment amount is (minimum acceptable bid amount) * (0.05), rounded up. The first additional acceptable bid amount equals (minimum acceptable bid amount) + (additional increment amount); the second additional acceptable bid amount equals (minimum acceptable bid amount) + (2*(additional increment amount)); the third additional acceptable bid amount equals (minimum acceptable bid amount) + (3*(additional increment amount)); etc.

176. In the *Auction 114 Comment Public Notice,* OEA and MB proposed to retain the discretion to change the minimum acceptable bid increment percentage, the additional bid increment percentage, and the number of acceptable bid amounts if OEA and MB determine that circumstances so dictate, consistent with past practice. OEA and MB also proposed to retain the discretion to limit (a) the amount by which a minimum acceptable bid for a construction permit may increase compared with the corresponding provisionally winning bid, and (b) the additional increment amount. For example, OEA and MB could set a $1,000 limit on increases in minimum acceptable bid amounts over provisionally winning bids. Thus, if calculating a minimum acceptable bid using the minimum acceptable bid increment percentage results in a minimum acceptable bid amount that is $1,200 higher than the provisionally winning bid on a construction permit, the minimum acceptable bid amount would instead be capped at $1,000 above the provisionally winning bid.

177. OEA and MB received no comments on these proposals concerning changes of bid amounts, and adopt the discretion to utilize them. OEA and MB typically exercise this discretion based on their monitoring of ongoing bidding, and reserve such discretion for Auction 114. If OEA and MB exercise this discretion, they will alert bidders by announcement in the bidding system during the auction.

2. Provisionally Winning Bids

178. Consistent with practice in past auctions, the bidding system, at the end of each bidding round, will determine a provisionally winning bid for each construction permit based on the highest bid amount received for that permit. A provisionally winning bid will remain the provisionally winning bid until there is a higher bid on the same construction permit at the close of a subsequent round. Provisionally winning bids at the end of the auction become the winning bids.

179. The bidding system will assign a pseudo-random number to each bid submitted in the round. If identical high bid amounts are submitted on a construction permit in any given round (*i.e.,* tied bids), the tied bid with the lowest pseudo-random number wins the tiebreaker and becomes the provisionally winning bid. The remaining bidders, as well as the provisionally winning bidder, can submit higher bids in subsequent rounds. However, if the auction were to close with no other bids being placed,

the winning bidder would be the one that placed the provisionally winning bid. If the construction permit receives any bids in a subsequent round, the provisionally winning bid again will be determined by the highest bid amount received for the construction permit.

180. As a reminder, provisionally winning bids count toward activity for purposes of the activity rule.

3. Bid Removal

181. In the *Auction 114 Comment Public Notice,* OEA and MB explained bid removal procedures in the bidding system. Each qualified bidder has the option of removing any bids placed in a round provided that such bids are removed before the close of that bidding round. By removing a bid within a round, a bidder effectively ''unsubmits'' the bid. Removing a bid will affect a bidder's activity because a removed bid no longer counts toward bidding activity for the round. Once a round closes, a bidder may no longer remove a bid. As stated in the *Auction 114 Comment Public Notice,* bidders will not be able to withdraw any bid after the close of the round in which that bid was placed. Bidders are cautioned to select bid amounts carefully because no bid withdrawals will be allowed, even if a bid was mistakenly or erroneously made.

4. Bidding Results

182. After Auction 114 closes, OEA and MB will provide a means for the public to view and download reports of all bids placed during each round of the auction and all bid results, including bidder identities and bid amounts.

5. Auction Announcements

183. Commission staff will use auction announcements to report necessary information to bidders, such as schedule changes. All auction announcements will be available by clicking a link in the bidding system.

VI. Post-Auction Procedures

184. The public notice announcing the close of bidding and auction results will be released several days after bidding has ended in Auction 114. The *Auction 114 Closing Public Notice* will also establish the deadlines for submitting down payments, final payments, and the long-form applications (FCC Form 2100, Schedule 301–FM) for the auction.

A. Down Payments

185. The Commission's rules provide that, unless otherwise specified by public notice, within ten business days after release of the auction closing public notice for Auction 114, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission to 20% of the net amount of its winning bids (gross bids less any applicable new entrant bidding credits).

B. Final Payments

186. The Commission's rules provide that each winning bidder must submit the balance of the net amount of its winning bids within ten business days after the applicable deadline for submitting down payments.

C. Long-Form Applications

187. The Commission's rules provide that within thirty days following the close of bidding and notification to the winning bidders, unless a longer period is specified by public notice, each winning bidder must electronically submit a separate, properly completed long-form application for each permit won, and required exhibits, along with the applicable application filing fee. Winning bidders for FM construction permits will electronically file FCC Form 2100, Schedule 301–FM, in MB's Licensing and Management System (LMS), and required exhibits for each construction permit won through Auction 114. Each Auction 114 winning bidder must submit a consolidated long-form and short-form application filing fee with each separate long-form application. *See* 47 CFR 1.1104, Table 3. This consolidated application filing fee must be paid in addition to the winning bid amount. Winning bidders claiming new entrant status must include an exhibit demonstrating their eligibility for the bidding credit. Further instructions on these and other filing requirements will be provided to winning bidders in the auction closing public notice.

188. A winning bidder will be required to provide, as part of its long-form application, any agreement or arrangement it has entered into and a summary of the specific terms, conditions, and parties involved in any agreement it has entered into. This applies to any bidding consortia, joint venture, partnership, or agreement, understanding, or other arrangement entered into relating to the competitive bidding process, including any agreement relating to the post-auction market structure. Failure to comply with the Commission's rules can result in enforcement action.

D. Default and Disqualification

189. Any winning bidder that defaults or is disqualified after the close of the auction (*i.e.,* fails to remit the required down payment by the specified deadline, fails to submit a timely long-form application, fails to make full and timely final payment, or is otherwise disqualified) is liable for a default payment as described in 47 CFR 1.2104(g)(2). A default payment consists of a deficiency payment, equal to the difference between the amount of the Auction 114 bidder's winning bid and the amount of the winning bid the next time a construction permit covering the same spectrum is won in an auction, plus an additional payment equal to a percentage of the defaulter's bid or of the subsequent winning bid, whichever is less.

190. The percentage of the applicable bid to be assessed as an additional payment for defaults in a particular auction is established in advance of the auction. Accordingly, in the *Auction 114 Comment Public Notice,* OEA and MB proposed to set the additional default payment for this auction at 20% of the applicable bid. OEA and MB received no comments on this proposal, and it is therefore adopted for the reasons described in the *Auction 114 Comment Public Notice.*

191. Finally, in the event of a default, the Commission has the discretion to re-auction the construction permit or offer it to the next highest bidder (in descending order) at its final bid amount. In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing authorizations held by the applicant.

E. Refund of Remaining Upfront Payment Balance

192. If a bidder is due a refund, the bidder must request a refund in writing with the information listed below. All refunds of upfront payment balances will be returned to the payer of record as identified on the FCC Form 159, or on the wire transfer, unless the payer submits written authorization instructing otherwise. Bidders are encouraged to use the Refund icon found in the *Review or Modify Existing Applications* table on the *FRN Selection* screen in the AAP or the of the Refund Form link available on the *Auction Application Submit Confirmation* page in the AAP to access the form. After the required information is completed on the blank form, the form must be printed, signed, and submitted to the

Commission by email or fax as instructed below.

193. If you have selected not to access the Refund Form, the Commission is requesting that all information listed below be supplied in writing:

Name, address, contact and phone number of Bank

Routing Number (capable to accepting ACH payments)

Account Number to Credit

Name of Account Holder

FCC Registration Number (FRN)

All refund requests must be submitted to the Revenue & Receivables Operations Group/Auctions either by fax at (202) 418–2843 or by email to *RROGWireFaxes@fcc.gov.*

Note: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Scott Radcliffe at (202) 418–7518 or Theresa Meeks at (202) 418–2945.

VII. Procedures Matters

A. Paperwork Reduction Act

194. The Office of Management and Budget (OMB) has approved the information collections in the Application to Participate in an FCC Auction, FCC Form 175. The *Auction 114 Procedures Public Notice* does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. 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, Public Law 107–198. The Commission will be submitting a non-substantive change request to OMB concerning OMB 3060–0600 related to the certification requirement for Auction 114 applicants adopted herein, and the Commission will not require Auction 114 applicants to make this certification in FCC Form 175 until OMB has approved the non-substantive change request.

B. Congressional Review Act

195. The Commission has determined, and 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 *Auction 114 Procedures Public Notice* to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

C. Final Regulatory Flexibility Analysis

196. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission incorporated Initial Regulatory Flexibility Analyses (IRFAs) in the *Broadcast Competitive Bidding Notice* released in November 1997, and other Commission Notice of Proposed Rulemakings (collectively, *Competitive Bidding NPRMs*) pursuant to which Auction 114 will be conducted. Final Regulatory Flexibility Analyses (FRFAs) likewise were prepared in the *Broadcast Competitive Bidding Order* and other Commission rulemaking orders (collectively, *Competitive Bidding Orders*) pursuant to which Auction 114 will be conducted. In this proceeding, OEA and MB incorporated those prior FRFAs in an IRFA in the *Auction 114 Comment Public Notice,* and sought written public comment on the proposals in the *Auction 114 Comment Public Notice,* including comment on the IRFA. No comments were filed addressing the IRFA. This FRFA supplements the FRFAs in the *Competitive Bidding Orders,* and reflects the actions taken in the *Auction 114 Procedures Public Notice,* which establishes the procedures to be used for Auction 114. This FRFA conforms to the RFA, and it (or summaries thereof) will be published in the **Federal Register**.

197. *Need for, and Objectives of, the Public Notice.* The *Auction 114 Procedures Public Notice* implements auction procedures for those entities that seek to bid in Auction 114 to acquire construction permits for FM broadcast stations. The *Auction 114 Procedures Public Notice* resolves all open issues, and addresses comments filed in response to the *Auction 114 Comment Public Notice.* The *Auction 114 Procedures Public Notice* adopts procedural rules and terms and conditions governing Auction 114, and the post-auction application and payment processes, as well as sets the minimum opening bid amounts for each of the FM broadcast construction permits that are subject to being assigned by competitive bidding.

198. To promote the efficient and fair administration of the competitive bidding process for all Auction 114 participants, including small entities, the *Auction 114 Procedures Public Notice* adopts the following procedures:

- A requirement that any applicant seeking to participate in Auction 114 certify in its short-form application, under penalty of perjury, that it has read the public notice adopting procedures for Auction 114 and that it has familiarized itself with those procedures and the requirements for obtaining a construction permit for an FM station;
- Use of anonymous bidding/limited information procedures, which the Commission will not make public until after bidding has closed: (1) the permits that an applicant selects for bidding in its short-form application; (2) the amount of any upfront payment made by or on behalf of an applicant; (3) any applicant's bidding eligibility; and (4) any other bidding-related information that might reveal the identity of the bidder placing a bid;
- Establishment of an additional default payment of 20% under 47 CFR 1.2104(g)(2) in the event a winning bidder defaults or is disqualified after the auction closes;
- Use of a simultaneous multiple-round auction format, consisting of sequential bidding rounds with a simultaneous stopping rule;
- Provision of delegated authority to OEA, in conjunction with MB, to exercise its discretion to delay, suspend, or cancel bidding in Auction 114 for any reason that affects the ability of the competitive bidding process to be conducted fairly and efficiently;
- Retention by OEA of discretion to adjust the bidding schedule in order to manage the pace of Auction 114;
- Adoption of a specific minimum opening bid amount, a specific number of bidding units, and a specific upfront payment amount for each construction permit to be offered in this auction;
- Establishment of a bidder's initial bidding eligibility in bidding units based on that bidder's upfront payment;
- Establishment of an activity rule requiring the bidder to be active on 100% of its bidding eligibility in each bidding round;
- Provision of three activity waivers for each bidder to allow it to preserve eligibility during the course of the auction;
- Use of minimum acceptable bid amounts and additional bid increments, along with a proposed methodology for calculating such amounts, while retaining discretion to change the methodology if circumstances dictate; and
- A procedure for breaking ties if identical high bid amounts are submitted on a construction permit in a given round.

199. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.* No comments were filed addressing the impact of the procedures and policies on small entities.

200. *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 comment filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed procedures as a result of those comments. The Chief Counsel did not file any comments in response to the procedures proposed in the *Auction 114 Comment Public Notice.*

201. *Description and Estimate of the Number of Small Entities to Which the Procedures Will Apply.* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the adopted rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 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.

202. OEA's and MB's actions, over time, may affect small entities that are not easily categorized at present. OEA and MB therefore describe three broad groups of small entities that could be directly affected by their actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, ''small organizations'' are not-for-profit enterprises that are independently owned and operated and not dominant in their field. While OEA and MB 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, OEA and MB estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

203. The specific competitive bidding procedures and minimum opening bid amounts described in the *Auction 114 Procedures Public Notice* will affect all applicants participating in Auction 114. The number of entities that may apply to participate in Auction 114 is unknown. Based on the number of applicants in prior FM auctions, OEA and MB estimate that the number of applicants for Auction 114 may range from approximately 130 to 260. This estimate is based on the number of applicants who filed short-form applications to participate in previous open auctions of FM construction permits held to date, an average of 1.7 short-form applications were filed per construction permit offered, with a median of 1.2 applications per permit. The actual number of applicants for Auction 114 could vary significantly as any individual's or entity's decision to participate may be affected by a number of factors beyond the Commission's control.

204. The procedures adopted in the *Auction 114 Procedures Public Notice* will apply to small entities in the industries identified in the chart in Table 1 by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard and in the chart in Table 2. Where available, OEA and MB also provide additional information regarding the number of potentially affected entities in the industries identified in Tables 1 and 2.

TABLE 1—2022 U.S. CENSUS BUREAU DATA BY NAICS CODE

Regulated industry	NAICS code	SBA size standard (million)	Total firms	Total small firms	% Small firms
Radio Broadcasting Stations	516110	$47	2,616	2,136	81.65

Affected Entities in this industry include FM Translator Stations and Low Power FM Stations, Educational Broadcasting Services (Radio), Low Power FM Stations, NCE and Public Broadcast Stations (Radio).

TABLE 2—BROADCAST ENTITY DATA

Broadcast station owners (as of August 8, 2025)	SBA size standard ($47 million)		
Affected entity	Number commercial licensed	Small firms	% Small entities
Radio Stations (AM & FM) Groups	2,881	2,863	99.38

As of December 31, 2025, there were 4,342 licensed commercial AM radio stations and 6,589 licensed commercial FM radio stations, for a combined total of 10,931 commercial radio stations. There were 4,755 licensed noncommercial (NCE) FM radio stations, 1,994 low power FM (LPFM) stations, and 8,867 FM translators and boosters. Additionally, there were 1,389 licensed commercial television stations, 388 licensed noncommercial educational (NCE) television stations, 397 Class A TV stations, 1,760 LPTV stations and 3,092 TV translator stations.

205. *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.

206. For Auction 114, no new reporting, recordkeeping, or other compliance requirements for small entities or other auction applicants were proposed. Moreover, complying with the adopted procedures should not require small entities to hire professionals to participate, given that the procedures are consistent with existing Commission procedures used in prior FM broadcast auctions and new participants will have numerous resources available to them at no cost from the Commission. The Commission designed the auction application process itself to minimize reporting and compliance requirements for applicants, including small business applicants, and the *Auction 114 Procedures Public Notice* remains consistent with this approach. For example, in the first part of the Commission's two-phased auction application process, parties desiring to participate in an auction file streamlined, short-form applications in which they certify under penalty of perjury as to their qualifications, and to having reviewed the *Auction 114 Procedures Public Notice.* Eligibility to participate in bidding is based on an applicant's short-form application and certifications, as well as remittance of a timely and sufficient upfront payment. In the second phase of the process, winning bidders file a more comprehensive long-form application. Thus, an applicant that fails to become a winning bidder does not need to file a long-form application or provide the additional showings and more detailed demonstrations required of a winning bidder, thereby saving small entities and other applicants the time and expense associated with unnecessary filings.

207. Auction 114 applicants, including small entities, will become qualified to bid in Auction 114 only if they comply with the following: (1) submission of a short-form application that is timely and is found to be substantially complete, and (2) timely submission of a sufficient upfront payment for at least one of the construction permits that the applicant selected on its FCC Form 175. In accordance with the terms of 47 CFR 1.2105(b)(2), an applicant whose application is found to contain deficiencies will have a limited opportunity to bring its application into compliance with the Commission's competitive bidding rules during a resubmission window. In addition, each Auction 114 applicant must maintain the accuracy of its previously filed short-form application electronically using the FCC Auction Application Portal (AAP) in the Auction Application System (AAS).

208. In the second phase of the process, there are additional compliance requirements only applicable to winning bidders. As with other winning bidders, any small entity that is a winning bidder will be required to comply with the terms of the following rules, among others: (1) 47 CFR 1.2107(b), by submitting as a down payment within 10 business days after release of the auction closing public notice sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission for Auction 114 to 20% of the amount of its winning bid or bids; (2) 47 CFR 1.2109(a), by submitting within 10 business days after the down payment deadline the balance of the amount for each of its winning bids; and (3) 47 CFR 73.5005(a), by electronically filing a properly completed long-form application and required exhibits for each construction permit won through Auction 114.

209. Further, as required by 47 CFR 1.2105(c), reports concerning prohibited communications must be filed with the Chief of the Auctions Division, as detailed in the *Auction 114 Procedures Public Notice.*

210. *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.''

211. OEA and MB intend that the procedures adopted in the *Auction 114 Procedures Public Notice,* meant to facilitate participation in Auction 114, will result in both operational and administrative cost savings for small entities and other auction participants. Most of the processes and procedures adopted for Auction 114 are consistent with existing Commission policies and procedures used in prior FM broadcast auctions. Thus, some small entities may already be familiar with such procedures and have the processes and procedures in place to facilitate compliance and minimize their costs to comply. All auction participants, including small entities and those that may be new to the Commission's auction process, will have access to numerous resources that will be available at no cost from the Commission. For example, small entities and other auction participants will be provided with various materials on the pre-bidding process in advance of the short-form application filing window, which include step-by-step instructions on how to complete the short-form application (FCC Form 175). Moreover, the Commission has taken steps to ensure that the AAS is simple to use, and that FCC Form 175 is easy to complete. In addition to the educational materials, small entities and other would-be participants will have access to Commission personnel to help guide their participation in Auction 114, which should help facilitate participation without the need to hire professionals.

212. The Commission also offers a wide variety of free educational materials, demonstrations, and other information and resources regarding the bidding system that will be used in Auction 114. In addition, the Commission, prior to the beginning of bidding in this auction, will hold a mock auction to allow qualified bidders the opportunity to familiarize themselves with both the processes and systems that will be used in Auction 114. During the auction, participants will be able to access and participate in bidding via the internet using a web-based system, or telephonically, providing two cost-effective methods of participation and avoiding the cost of travel for in-person participation. Further, small entities as well as other auction participants will be able to avail themselves of a telephone hotline for assistance with auction processes and procedures as well as a technical support telephone hotline to assist with issues such as access to or navigation on AAS and use of the FCC's auction bidding system. These mechanisms are made available to facilitate participation by all qualified bidders and may result in significant cost savings for small business entities that utilize these mechanisms. These resources, coupled with the description and communication of the bidding procedures before bidding begins in Auction 114, should ensure that the auction will be administered predictably, efficiently and fairly, thus providing certainty for small entities as well as other auction participants.

213. Alternatively, throughout this proceeding, OEA and MB considered various processes and procedures beyond those discussed above but determined that their approach here minimizes significant economic impact to small entities as much as possible.

Moreover, OEA and MB note that commenters did not object to the proposals OEA and MB discuss above, nor did they suggest other types of resources or materials the Commission could provide beyond those OEA and MB offered.

214. *Report to Congress.* The Commission will send a copy of the *Auction 114 Procedures Public Notice,* including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Auction 114 Procedures Public Notice,* including this FRFA to the Chief Counsel for Advocacy of the SBA and will publish a copy of the *Auction 114 Procedures Public Notice* and this FRFA (or summaries thereof) in the **Federal Register**.

Federal Communications Commission.

Gary Michaels,

Senior Deputy Chief, Auctions Division, Office of Economics and Analytics.

[FR Doc. 2026–16133 Filed 8–6–26; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107, 171, 172, and 173

[Docket No. PHMSA–2025–0105 (HM–268Q)]

RIN 2137–AG19

Hazardous Materials: Allowing Fireworks Certification Agencies (FCAs) To Approve Professional Fireworks

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule expands the authority of a Fireworks Certification Agency (FCA) to obtain the ability to approve fireworks constructed to certain requirements. These amendments will streamline PHMSA's fireworks approval process and provide the industry with improved regulatory flexibility.

DATES: This final rule is effective September 8, 2026.

The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of September 8, 2026.

FOR FURTHER INFORMATION CONTACT: Eugenio Cardez, Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration (PHMSA), 1200 New Jersey Avenue SE, Washington, DC 20590, 202–366–8553, *eugenio.cardez@dot.gov.*

I. PHMSA Action

A. What action is PHMSA taking in this Final Rule?

PHMSA is expanding the authority of an FCA to obtain the ability to approve fireworks constructed to the requirements of APA 87–1A *Standard for the Construction, Classification, Approval, and Transportation of Consumer Fireworks* to include those fireworks constructed to meet the requirements of APA 87–1B, *Standard for the Construction, Classification, Approval, and Transportation of Display Fireworks,* and APA 87–1C, *Standard for the Construction, Classification, Approval, and Transportation of Entertainment Industry and Technical (EI&T) Pyrotechnics.* To accommodate the expansion of fireworks approvals under all three APA 87–1 standards, PHMSA is amending the following provisions in the Hazardous Materials Regulations (HMR; 49 CFR parts 171 to 180):

- 49 CFR part 107: PHMSA is revising the references to include all three APA 87–1 standards.
- 49 CFR part 171: PHMSA is revising the definition for ''FC number'' and adding a reference to § 173.65 to the APA publications in § 171.7(f).
- 49 CFR part 172: PHMSA is revising Special Provision 200 to state that fireworks, pyrotechnic devices, or fuses may be certified for transportation by a DOT-approved FCA in accordance with the provisions of 49 CFR 173.65. PHMSA is revising three proper shipping name entries in the Hazardous Material Table (HMT) to reference the revised Special Provision 200. PHMSA is making conforming amendments to 49 CFR 172.320.
- 49 CFR part 173: PHMSA is revising 49 CFR 173.64 to reference provisions applicable to FCAs and revising 49 CFR 173.65 to retitle the provision and facilitate the approval of professional fireworks by FCAs.

B. Does this action apply to me?

Effective 30 days after publication of this final rule, FCAs subject to 49 CFR 107.402 will have the ability to obtain the authority to approve fireworks constructed to the APA 87–1B and APA 87–1C standards in addition to the currently authorized APA 87–1A standard. Currently, FCAs only have the authority to certify fireworks constructed to the APA 87–1A standard. After the effective date of this final rule, FCAs may also seek approval from PHMSA to certify fireworks constructed to the APA 87–1B and APA 87–1C standards.

C. Why is PHMSA taking this action?

PHMSA is taking this action in response to commenter feedback to provide fireworks manufacturers the flexibility to choose between either paying FCAs for expedited review and certification or relying on PHMSA's free—but sometimes longer—approval process. These amendments streamline PHMSA's fireworks approval process and provide the industry with greater regulatory flexibility. PHMSA finds these revisions will not have any adverse impact on safety.

II. Summary of Comments Received in Response to the Notice of Proposed Rulemaking

PHMSA published a notice of proposed rulemaking (NPRM), cited as *HM–268Q,* to gather feedback on expanding an FCA's authority to approve fireworks constructed to the APA 87–1B and APA 87–1C standards.[1] Please refer to the NPRM for background and discussion of the proposed change.

The following table alphabetically lists commenters to the NPRM:

Commenter name	Docket No.
American Pyrotechnics Association	PHMSA–2025–0105–0003
Council on Safe Transportation of Hazardous Articles, Inc. (COSTHA)	PHMSA–2025–0105–0010
Dangerous Goods Advisory Council (DGAC)	PHMSA–2025–0105–0012
National Fireworks Association	PHMSA–2025–0105–0009
Next FX, Inc	PHMSA–2025–0105–0008
Phantom Fireworks Companies	PHMSA–2025–0105–0013
Precocious Pyrotechnics Inc	PHMSA–2025–0105–0005

[1] 90 FR 28534 (Jul. 1, 2025).

Commenter name	Docket No.
Pyrotechnique by Grucci Inc.	PHMSA–2025–0105–0004
Pyrotek Special Effects Inc.	PHMSA–2025–0105–0002
Ralph Santore & Sons, Inc.	PHMSA–2025–0105–0011
Tassilo Baur	PHMSA–2025–0105–0014
Tian Cheng Pyrotechnics Laboratory	PHMSA–2025–0105–0007

All commenters supported allowing FCAs to approve fireworks constructed to the APA 87–1B and APA 87–1C standards. However, some commenters had additional questions or concerns regarding this expansion.

First, Phantom Fireworks Companies conditioned its support on PHMSA ''withdraw[ing] all existing UN0336 1.4G Professional Use approvals, eliminat[ing] the classification altogether and begin[ning] an earnest enforcement effort against the sale of overloaded illegal explosives disguised as 1.4G consumer fireworks and the sale of UN0336 1.4G Professional Use products in consumer fireworks showrooms and stores.'' PHMSA acknowledges Phantom Fireworks Companies' concerns and clarifies here in the preamble that PHMSA currently does not authorize FCAs to issue approvals classifying articles as ''UN0336, Fireworks, 1.4G'' [for professional use only]. Nonetheless, based on this comment, PHMSA will further revise 49 CFR 173.65 in this final rule by adding a new paragraph (a)(5) that will explicitly state that FCAs are not authorized to issue approvals under APA 87–1C classifying articles as ''UN0336, Fireworks, 1.4G'' [for professional use only]. Lastly, PHMSA will potentially address this issue in a future rulemaking. PHMSA has received a petition for rulemaking requesting that the HMR be updated to incorporate by reference (IBR) the 2024 version of the APA 87–1C standard, which eliminates the ''UN0336, Fireworks, 1.4G'' [for professional use only] classification altogether.[2]

Second, PHMSA received comments from Tian Cheng Pyrotechnics Laboratory requesting that PHMSA establish a special communication channel for FCAs that approve 1.3G fireworks to receive technical advice from PHMSA. PHMSA acknowledges Tian Cheng Pyrotechnics Laboratory's comments and always welcomes direct contact with the FCAs on any issue they are encountering. PHMSA also holds yearly meetings to address concerns from authorized FCAs and will continue to do so in order to provide further technical support for the approval of fireworks and related devices constructed to the APA 87–1B and APA 87–1C standards.

Separately, PHMSA notes the NPRM inadvertently proposed to revise the HMT entry for ''UN0430, Articles, pyrotechnic'' (to include revised Special Provision 200) instead of revising the HMT entry ''UN0101, Fuse, non-detonating.'' In this final rule, PHMSA is correcting this error by amending the UN0101 HMT entry. PHMSA further notes that the proposed changes to 49 CFR 107.402 are being revised to address the inadvertent inclusion of UN0101 as part of the APA 87–1C standard. UN0101 is associated with the APA 87–1B standard, not the APA 87–1C standard. Lastly, PHMSA is clarifying the manufacturer certification requirement in 49 CFR 173.64(a)(3) for duplicate FCA applications to apply to all APA standards, not only APA 87–1A.

For these reasons, PHMSA is publishing this final rule to allow FCAs to approve fireworks constructed to the APA 87–1B and APA 87–1C standards. PHMSA finds these revisions will not have any adverse impact on safety.

III. Incorporation by Reference Discussion Under 1 CFR Part 51

According to the Office of Management and Budget (OMB), Circular A–119, ''*Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities,*'' government agencies must use voluntary consensus standards wherever practical in the development of regulations.

PHMSA currently incorporates by reference into the HMR all or parts of numerous standards and specifications developed and published by standard development organizations (SDO). In general, SDOs accredited as voluntary consensus standards bodies develop, establish, or coordinate technical standards using agreed-upon procedures and update and revise their published standards every two to five years to reflect modern technology and best technical practices. The National Technology Transfer and Advancement Act of 1995 (NTTAA; Pub. L. 104–113) directs Federal agencies to use standards developed by voluntary consensus standards bodies in lieu of government-written standards whenever possible. The OMB issued Circular A–119, Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities, to implement section 12(d) of the NTTAA relative to the utilization of consensus technical standards by Federal agencies.[3] This circular provides guidance for agencies participating in voluntary consensus standards bodies and describes procedures for satisfying the reporting requirements in the NTTAA.

PHMSA is responsible for determining which standards currently referenced in the HMR should be updated, revised, or removed, and which standards should be added to the HMR, under the NTTAA and OMB Circular A–119. Revisions to materials incorporated by reference in the HMR are handled via the rulemaking process, which allows for the public and regulated entities to provide input. During the rulemaking process, PHMSA must also obtain approval from the Office of the Federal Register to incorporate by reference any new materials. The Office of the Federal Register issued a rulemaking that revised 1 CFR 51.5 to require that an agency detail in the preamble of a rulemaking the ways the materials it proposes to incorporate by reference are reasonably available to interested parties, or how the agency worked to make those materials reasonably available to interested parties.[4]

In this final rule, PHMSA is adding a reference to § 173.65 to the already incorporated by reference APA publications in § 171.7(f)(2) and (3) titled ''APA 87–1B: Standard for the Construction, Classification, Approval, and Transportation of Display Fireworks'' and ''APA 87–1C: Standard for the Construction, Classification, Approval, and Transportation of Entertainment Industry and Technical (EI&T) Pyrotechnics.'' The APA offers these standards for free on their website at *https://www.americanpyro.com/.*

[2] American Pyrotechnics Association (APA) Petition for Rulemaking (P–1802) (Apr. 23, 2025), available at: *https://www.regulations.gov/docket/PHMSA-2025-0045.*

[3] 81 FR 4673 (Jan. 27, 2016).

[4] See ''Incorporation by Reference,'' 79 FR 66267, 66278 (Nov. 7, 2014).

IV. Regulatory Analysis and Notices

A. Legal Authority

This final rule is published under the authority of the Secretary of Transportation as set forth in the Federal Hazardous Materials Transportation Laws (49 U.S.C. 5101 *et seq.*) and delegated to the PHMSA Administrator pursuant to 49 CFR 1.97.

B. Executive Order 12866; Regulatory Planning and Review

Executive Order (E.O.) 12866 (*Regulatory Planning and Review*), as implemented by 49 CFR part 5, subpart B, 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.'' [5] In arriving at those conclusions, E.O. 12866 requires that agencies should consider ''both quantifiable measures . . . and qualitative measures of costs and benefits that are difficult to quantify'' and ''maximize net benefits . . . unless a statute requires another regulatory approach.'' E.O. 12866 also requires that ''agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating.'' Pursuant to 49 CFR part 5, subpart B, PHMSA and other Operating Administrations must generally choose the ''least costly regulatory alternative that achieves the relevant objectives'' unless required by law or compelling safety need. In addition, 49 CFR part 5, subpart B specifies that regulations should generally ''not be issued unless their benefits are expected to exceed their costs.''

E.O. 12866 and 49 CFR part 5, subpart B also require that PHMSA 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 final rule is not a significant regulatory action pursuant to E.O. 12866 and has not been designated as a ''major rule'' as defined by the Congressional Review Act (5 U.S.C. 801 *et seq.*).

PHMSA has complied with the requirements in E.O. 12866 as implemented by 49 CFR part 5, subpart B and determined that this final rule will result in cost savings by providing industry with more options for the expedited processing of display and technical fireworks. PHMSA finds those cost savings will also result in reduced costs for the public to whom those entities may generally transfer a portion of their compliance costs.

C. Executive Orders 14192 and 14219

PHMSA has determined that this final rule is an E.O. 14192 (*Unleashing Prosperity Through Deregulation*) deregulatory action.[6] PHMSA finds the total costs of the final rule on the regulated community will be less than zero. This final rule does not implicate any of the factors identified in section 2(a) of E.O. 14219 (*Ensuring Lawful Governance*) indicative of a regulation that is ''unlawful . . . [or] that undermine[s] the national interest.'' [7]

D. Energy-Related Executive Orders 13211, 14154, and 14156

PHMSA has analyzed this final rule in accordance with the principles and criteria contained in E.O. 14156 (*Declaring a National Energy Emergency*) and E.O. 14154 (*Unleashing American Energy*). The President has declared a national emergency to address America's inadequate energy development production, transportation, refining, and generation capacity, and asserted a Federal policy to unleash American energy by ensuring access to abundant supplies of reliable, affordable energy from, *inter alia,* the removal of ''undue burden[s]'' on the identification, development, or use of domestic energy resources. PHMSA finds this final rule to be consistent with E.O. 14156 and E.O. 14154 because it will not hinder or unduly burden the transportation or production of energy or energy-related products.

In addition, this final rule is not a ''significant energy action'' under E.O. 13211 (*Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*), which requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' [8] Because this final rule is not a significant action under E.O. 12866, it will not have a significant adverse effect on supply, distribution, or energy use; accordingly, OIRA has not designated this final rule as a significant energy action.

E. Executive Order 13132: Federalism

PHMSA analyzed this final rule in accordance with the principles and criteria contained in E.O. 13132 (*Federalism*) and the Presidential Memorandum (*Preemption*) published in the **Federal Register** on May 22, 2009.[9] E.O. 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may have ''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.'' The Federal Hazardous Materials Transportation Laws contain an express preemption provision at 49 U.S.C. 5125(b) that preempts State, local, and Tribal requirements on certain covered subjects, unless the non-Federal requirements are ''substantively the same'' as the Federal requirements, including the following:

(1) The designation, description, and classification of hazardous material;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(3) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; and

(5) The design, manufacture, fabrication, inspection, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.

This final rule addresses items covered in Paragraph (1) above and would preempt State, local, and Tribal requirements not meeting the ''substantively the same'' standard. Though the final rule may (when finalized) operate to preempt some State requirements, it would not impose any regulation that has substantial direct effects on the States, the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government. The preemptive effect of the regulatory amendments in this final rule is limited to the minimum level necessary to achieve the objectives of the Federal Hazardous Materials Transportation laws. Therefore, the consultation and funding requirements of E.O. 13132 do not apply.

[5] 58 FR 51735 (Oct. 4, 1993); 91 FR 22431 (Apr. 27, 2026); DOT Order 2100.7 (*Ensuring Reliance Upon Sound Economic Analysis in Department of Transportation Policies, Programs, and Activities*); *see also* DOT Order 2100.6B (*Policies and Procedures for Rulemakings*).

[6] 90 FR 9065 (Feb. 6, 2025).

[7] 90 FR 10583 (Feb. 25, 2025).

[8] 66 FR 28355 (May 22, 2001).

[9] 64 FR 43255 (Aug. 10, 1999); 74 FR 24693 (May 22, 2009).

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires Federal agencies to conduct a Final Regulatory Flexibility Analysis (FRFA) for a final rule that has been subject to notice-and-comment rulemaking under the APA unless the agency head certifies that the final rule will not have a significant economic impact on a substantial number of small entities. E.O. 13272 (*Proper Consideration of Small Entities in Agency Rulemaking*) obliges agencies to establish procedures promoting compliance with the Regulatory Flexibility Act.[10] DOT posts information on a dedicated web page to help small businesses understand and navigate Federal regulatory processes.[11] PHMSA developed this final rule in accordance with E.O. 13272 and DOT implementing guidance to ensure compliance with the Regulatory Flexibility Act. The final rule will reduce burdens. Therefore, PHMSA certifies the final rule does not have a significant impact on a substantial number of small entities.

G. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act (UMRA, 2 U.S.C. 1501 *et seq.*) requires agencies to assess the effects of Federal regulatory actions on State, local, and Tribal governments, and the private sector. For any proposed or final rule that includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate of $100 million or more (in 1996 dollars) in any given year, the agency must prepare, among other things, a written statement that qualitatively and quantitatively assesses the costs and benefits of the Federal mandate.

This final rule does not impose unfunded mandates under UMRA because it does not result in costs of $100 million or more (in 1996 dollars) per year for either State, local, or Tribal governments, or to the private sector.

H. National Environmental Policy Act

PHMSA has analyzed this rule pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and determined it is categorically excluded under 23 CFR 771.117(c)(20), which applies to the promulgation of rules, regulations, and directives. Under Section 9 of DOT Order 5610.1D, PHMSA may apply a categorical exclusion (CE) established in another Operating Administration's procedures. PHMSA followed the requirements outlined in DOT Order 5610.1D to apply the Federal Highway Administration's CE to this deregulatory action. PHMSA has determined no unusual circumstances are present under 23 CFR 771.117(b). PHMSA's Categorical Exclusion Determination memo for this action is available on PHMSA's website.[12]

I. Executive Order 13175

PHMSA analyzed this final rule according to the principles and criteria in E.O. 13175 (*Consultation and Coordination with Indian Tribal Governments*) and DOT Order 5301.1A (*Department of Transportation Tribal Consultation Policies and Procedures*).[13] E.O. 13175 requires agencies to assure meaningful and timely input from Tribal government representatives in the development of rules that significantly or uniquely affect Tribal communities by imposing ''substantial direct compliance costs'' or ''substantial direct effects'' on such communities or the relationship or distribution of power between the Federal Government and Tribes.

PHMSA assessed the impact of the final rule and determined that it would not significantly or uniquely affect Tribal communities or Indian Tribal governments. The rulemaking's regulatory amendments have a broad, national scope; therefore, this final rule will not significantly or uniquely affect Tribal communities, much less impose substantial compliance costs on Tribal governments or mandate Tribal action. For these reasons, PHMSA has concluded that the funding and consultation requirements of E.O. 13175 and DOT Order 5301.1A do not apply.

J. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320.8(d) requires that PHMSA provide interested members of the public and affected agencies with an opportunity to comment on information collection and recordkeeping requests. This rulemaking will not create, amend, or rescind any existing information collections.

K. Executive Order 13609 and International Trade Analysis

E.O. 13609 (*Promoting International Regulatory Cooperation*) requires agencies to consider whether the impacts associated with significant variations between domestic and international regulatory approaches are unnecessary or may impair the ability of American business to export and compete internationally.[14] In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

Similarly, 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 any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. For purposes of these requirements, Federal agencies may participate in the establishment of international standards, so long as the standards have a legitimate domestic objective, such as providing for safety, and do not operate to exclude 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.

PHMSA engages with international standards setting bodies to protect the safety of the American public. PHMSA has assessed the effects of the final rule and has determined that its regulatory amendments will not cause unnecessary obstacles to foreign trade.

L. Cybersecurity and Executive Order 14028

E.O. 14028 (*Improving the Nation's Cybersecurity*) directed the Federal Government to improve its efforts to identify, to deter, and to respond to ''persistent and increasingly sophisticated malicious cyber campaigns.'' [15] PHMSA has considered the effects of the final rule and has determined that its regulatory amendments will not materially affect the cybersecurity risk profile for affected entities.

[10] 67 FR 53461 (Aug. 16, 2002).

[11] DOT, *Rulemaking Requirements Related to Small Entities* (last accessed Sept. 3, 2024), available at: *https://www.transportation.gov/regulations/rulemaking-requirements-concerning-small-entities.*

[12] DOT, PHMSA, *Implementing Procedures* (Aug. 28, 2025), *https://www.phmsa.dot.gov/planning-and-analytics/environmental-analysis-and-compliance/implementing-procedures.*

[13] 65 FR 67249 (Nov. 9, 2000).

[14] 77 FR 26413 (May 4, 2012).

[15] 86 FR 26633 (May 17, 2021).

M. Privacy Act Statement

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to inform its rulemaking process better. 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 *http://www.dot.gov/privacy.* DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, or on DOT's website at *http://www.dot.gov/privacy.*

List of Subjects

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Incorporation by reference, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements.

In consideration of the foregoing, PHMSA amends 49 CFR Chapter I as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

■ 1. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410 Section 4; Pub. L. 104–121 Sections 212–213; Pub. L. 104–134 Section 31001; Pub. L. 114–74 Section 701 (28 U.S.C. 2461 note); 49 CFR 1.81 and 1.97; 33 U.S.C. 1321.

■ 2. In § 107.402, revise paragraph (d) to read as follows:

§ 107.402 Application for designation as a certification agency.

* * * * *

(d) *Fireworks Certification Agency.* A person must apply to, and be approved by, the Associate Administrator to act as a Fireworks Certification Agency before reviewing and certifying Division 1.4G consumer fireworks (UN0336) for compliance with the APA 87–1A standard, excluding appendices II through VI, or Division 1.3G display fireworks and fuses (UN0101 or UN0335) for compliance with the APA 87–1B standard, or Division 1.4G entertainment industry and technical pyrotechnics (UN0431) for compliance with the APA 87–1C standard, as specified in part 173 of this chapter. APA 87–1A, B, and C (the APA 87–1 standards) are incorporated by reference for use in part 173 of this chapter (see § 171.7 of this chapter for availability).

(1) *Fireworks Certification Agency applicant requirements.* The Fireworks Certification Agency applicant must—

(i) Be a U.S. resident, or for a non-U.S. resident, have a designated U.S. agent representative as specified in § 105.40 of this subchapter;

(ii) Employ personnel with work experience in manufacturing or testing of fireworks or explosives; or a combination of work experience in manufacturing or testing of fireworks or explosives and a degree in the physical sciences or engineering from an accredited university;

(iii) Have the ability to:

(A) Review design drawings, and applications to certify that they are in accordance with APA 87–1A, APA 87–1B, or APA 87–1C; and

(B) Verify that the applicant has certified the thermal stability test procedures and results.

(iv) Must be independent of and not owned by any fireworks, pyrotechnic devices, or fuses manufacturer, distributor, import or export company, or proprietorship.

(2) *Fireworks Certification Agency application submittal requirements.* In addition to the requirements of paragraphs (b) and (d)(1) of this section, the Fireworks Certification Agency application must include—

(i) Name, address, and country of each facility where Division 1.3G or 1.4G applications are reviewed and certified;

(ii) Which component of APA 87–1A, APA 87–1B, or APA 87–1C under which they want to be approved to certify.

(iii) A detailed description of the qualifications of each individual the applicant proposes to employ to review, and certify that the requirements specified by part 173 of this chapter and APA 87–1A, APA 87–1B, or APA 87–1C have been met;

(iv) Written operating procedures to be used by the Fireworks Certification Agency to review and certify that a Division 1.3G or 1.4G fireworks, pyrotechnic devices, or fuses application meets the requirements specified in the APA 87–1 standards;

(v) Name, address, and principal business activity of each person having any direct or indirect interest in the applicant greater than three percent and any direct or indirect ownership interest in each subsidiary or division of the applicant; and

(vi) A statement that the applicant will perform its functions independent of the manufacturers, transporters, importers, and owners of the fireworks, pyrotechnic devices, or fuses.

* * * * *

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 3. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410 section 4; Pub. L. 104–134, section 31001; Pub. L. 114–74 section 701 (28 U.S.C. 2461 note); 49 CFR 1.81 and 1.97.

■ 4. In § 171.7, revise paragraph (f) to read as follows:

§ 171.7 Reference material.

* * * * *

(f) *American Pyrotechnics Association* (APA), P.O. Box 30438, Bethesda, MD 20824; (301) 907–8181; *www.americanpyro.com.*

(1) APA 87–1A: Standard for the Construction, Classification, Approval and Transportation of Consumer Fireworks, final draft January 1, 2018 (excluding appendices II through VI), into §§ 173.59; 173.64; 173.65.

(2) APA 87–1B: Standard for the Construction, Classification, Approval, and Transportation of Display Fireworks, final draft January 1, 2018 (excluding appendices II through IV); into §§ 173.64; 173.65.

(3) APA 87–1C: Standard for the Construction, Classification, Approval, and Transportation of Entertainment Industry and Technical (EI&T) Pyrotechnics, final draft January 1, 2018 (excluding appendices II through IV); into §§ 173.64; 173.65.

* * * * *

■ 5. In § 171.8, revise the definition for ''FC number'' to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

FC number means a number preceded by the prefix ''FC'' assigned by a Fireworks Certification Agency to a firework, pyrotechnic device, or fuse that has been certified under the provisions of § 173.65 of this subchapter.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS

■ 6. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81, 1.96, and 1.97.

■ 7. In § 172.101, the Hazardous Materials Table is amended by revising entries under ''[REVISE]'' to read as follows:

§ 172.101 Hazardous Materials Table

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification No.	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.* * *)			(9) Quantity limitations (see §§ 173.27 and 175.75)		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	[REVISE]												
		*	*		*		*	*		*	*		
	Articles, pyrotechnic *for technical purposes.*	1.4G	UN0431	.....	1.4G	200,381	None	62	None	Forbidden	75kg	02	25
		*	*		*		*	*		*	*		
	Fireworks	1.3G	UN0335	.....	1.3G	108, 200	None	62	None	Forbidden	Forbidden	03	25
		*	*		*		*	*		*	*		
	Fuse, non-detonating *instantaneous or quickmatch.*	1.3G	UN0101	.....	1.3G	200	None	62	None	Forbidden	Forbidden	03	25
		*	*		*		*	*		*	*		

* * * * *

■ 8. In § 172.102, revise paragraph (c)(1) special provision 200 to read as follows:

§ 172.102 Special provisions.

* * * * *

(c) * * *

(1) * * *

200 Fireworks, pyrotechnic devices, or fuses may be certified for transportation by a DOT-approved Fireworks Certification Agency in accordance with the provisions of § 173.65 of this subchapter.

* * * * *

■ 9. In § 172.320, revise paragraph (b)(2) to read as follows:

§ 172.320 Explosive hazardous materials.

* * * * *

(b) * * *

(2) For fireworks, pyrotechnic devices, or fuses reviewed by a Fireworks Certification Agency approved in accordance with 49 CFR part 107 subpart E and certified in accordance with § 173.65, with the FC number assigned by a DOT-approved Fireworks Certification Agency.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

■ 10. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81, 1.96, and 1.97.

■ 11. In § 173.64, revise paragraph (a) introductory text and paragraph (a)(3) to read as follows:

§ 173.64 Exceptions for Division 1.3 and 1.4 fireworks.

(a) *Classification and approval.* Notwithstanding the requirements of § 173.56(b), Division 1.3 and 1.4 fireworks (see § 173.65 for provisions applicable to Fireworks Certification Agencies) may be classed and approved by the Associate Administrator without prior examination and offered for transportation if all of the following conditions are met:

* * * * *

(3) The manufacturer applies in writing to the Associate Administrator following the applicable requirements in APA 87–1A (IBR, see § 171.7 of this subchapter), APA 87–1B (IBR, see § 171.7 of this subchapter), and APA 87–1C (IBR, see § 171.7 of this subchapter) and is notified in writing by the Associate Administrator that the fireworks have been classed, approved, and assigned an EX number. Each application must be complete and include all relevant background data and copies of all applicable drawings, test results, and any other pertinent information on each device for which approval is being requested. The manufacturer must sign the application and certify that the device for which approval is requested conforms to the appropriate APA Standard, that the descriptions and technical information contained in the application are complete and accurate, and that no duplicate application has been submitted to a Fireworks Certification Agency. If the application is denied, the manufacturer will be notified in writing of the reasons for the denial. The Associate Administrator may require that the fireworks be examined by an agency listed in § 173.56(b)(1) of this part.

* * * * *

■ 12. Revise § 173.65 to read as follows:

§ 173.65 Exceptions for Division 1.3G or 1.4G fireworks, pyrotechnic devices, or fuses certification by a Fireworks Certification Agency.

(a) *Applicability.* Notwithstanding the requirements of §§ 173.56(b), 173.56(f), 173.56(i), and 173.64, Division 1.3G or 1.4G fireworks, pyrotechnic devices, or fuses may be offered for transportation provided the following conditions are met:

(1) The fireworks, pyrotechnic devices, or fuses are manufactured in accordance with the applicable requirements in APA 87–1A (IBR, see § 171.7 of this subchapter), APA 87–1B (IBR, see § 171.7 of this subchapter), and APA 87–1C (IBR, see § 171.7 of this subchapter), as appropriate;

(2) The device must pass a thermal stability test. The test must be performed by maintaining the device, or a representative prototype of the device, at a temperature of 75 °C (167 °F) for 48 consecutive hours. When a device contains more than one component, those components that could be in physical contact with each other in the finished device must be placed in contact with each other during the thermal stability test;

(3) The manufacturer of the firework, pyrotechnic device, or fuse applies in writing to a DOT-approved Fireworks Certification Agency, and is notified in writing by the DOT-approved Fireworks Certification Agency that the firework has been:

(i) Certified that it complies with the APA 87–1A, APA 87–1B, and APA 87–1C, as appropriate, and meets the requirements of this section; and

(ii) Assigned an FC number.

(4) The manufacturer's application must be complete and include:

(i) Detailed diagram of the device;

(ii) Complete list of the chemical compositions, formulations and quantities used in the device;

(iii) Results of the thermal stability test; and

(iv) Signed certification declaring that the device for which certification is requested conforms to the APA 87–1A, APA 87–1B, and APA 87–1C, as appropriate, that the descriptions and technical information contained in the application are complete and accurate, and that no duplicate applications have been submitted to PHMSA. If the application is denied, the Fireworks Certification Agency must notify the manufacturer in writing of the reasons for the denial. As detailed in the DOT-approval issued to the Fireworks Certification Agency, following the issuance of a denial from a Fireworks Certification Agency, a manufacturer may seek reconsideration from the Fireworks Certification Agency, or may appeal the reconsideration decision of the Fireworks Certification Agency to the PHMSA Administrator.

(5) Fireworks Certification Agencies are only permitted to authorize UN0431 Articles, pyrotechnic under APA 87–1C.

(b) *Recordkeeping requirements.* Following the certification of each firework, pyrotechnic device, or fuse as permitted by paragraph (a) of this section, the manufacturer and importer must maintain a paper record or an electronic image of the certificate, demonstrating compliance with this section. Each record must clearly provide the unique identifier assigned to the device and the Fireworks Certification Agency that certified the device. The record must be accessible at or through its principal place of business and be made available, upon request, to an authorized official of a Federal, State, or local government agency at a reasonable time and location. Copies of certification records must be maintained by each importer, manufacturer, or a foreign manufacturer's U.S. agent, for five (5) years after the device is imported. The certification record must be made available to a representative of PHMSA upon request.

Issued in Washington, DC, on August 4, 2026, under the authority delegated in 49 CFR 1.97.

Paul J. Roberti,

Administrator, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2026–16111 Filed 8–6–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[RTID 0648–XF951]

Pacific Halibut Fisheries of the West Coast; 2026 Catch Sharing Plan; Inseason Action; Correction

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

ACTION: Temporary rule; inseason adjustment; correction.

SUMMARY: NMFS is correcting a temporary rule for the Pacific halibut recreational fishery in the International Pacific Halibut Commission's (IPHC) regulatory Area 2A. The action added fishing dates in August and September in the Columbia River and Washington subareas. The dates listed under each subarea were incorrect.

DATES: Effective August 5, 2026 through September 30, 2026.

FOR FURTHER INFORMATION CONTACT: Joshua Lindsay, (213) 392–7410, or *Joshua.Lindsay@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Need for Correction

NMFS published a temporary rule on July 27, 2026, adding fishing dates in August and September in the IPHC regulatory Area 2A Columbia River and Washington subareas (91 FR 46866). The document contained incorrect dates for those subareas. These corrections are necessary to provide the correct information about the fishing days that are open to the recreational Pacific halibut fishery in Area 2A.

Classification

NMFS issues this action pursuant to the Northern Pacific Halibut Act of 1982. This action is taken under the regulatory authority at 50 CFR 300.63(c)(6) and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553 (b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. The Assistant Administrator for Fisheries determined there is good cause to waive prior notice and an opportunity for public comment on this action as notice and comment would be impracticable and contrary to public interest because this action simply corrects an error in the July 27, 2026, temporary rule (91 FR 46866). It is important that these errors be corrected as quickly as possible. Immediate correction of the error is necessary to prevent confusion among participants in the fishery and to ensure management of the fishery is consistent with both the Council's intent for regulations developed over two public meetings and the public's expectations based on recommendations made in the Council's Catch Sharing Plan, as well as outreach materials distributed by the State of Washington. Thus, delaying this correction to engage in notice-and-comment rulemaking would be contrary to the public interest.

There is good cause under 5. U.S.C. 553(d)(3) to waive the 30-day delay in effective date. For the same reasons stated above, the Assistant Administrator for Fisheries has determined good cause exists to find that the 30-day delay in effectiveness does not apply to this correcting amendment. Delaying effectiveness of these corrections would result in confusion among fishery participants and would therefore be contrary to the public interest. Without waiving the 30-day delay in effectiveness, this correction to the season dates would not be effective prior to August 8, the date that the Columbia River and Washington South Coast subareas were

intended to open under the temporary rule (91 FR 46866; July 27, 2026), or by August 16 when the temporary rule intended to open the Puget Sound and Washington North Coast subareas. The temporary rule inadvertently attributed the August 8 opening date to the Puget Sound and Washington North Coast subareas, and mistakenly listed August 16 as the opening date for the Columbia River and Washington South Coast subareas. The correct additional season dates should be implemented as originally planned to promote the optimal harvest of the subareas' annual allocations. It is therefore in the public's interest that this action not be delayed.

Corrections

In FR Doc. 2026–15093, published July 27, 2026, at 91 FR 46866, the following corrections are made:

1. On page 46867, in the first column, under the heading: *Washington Puget Sound and the U.S. Convention Waters in the Strait of Juan de Fuca (Puget Sound Subarea)* correct the second sentence to read as follows:

''Sufficient allocation remains for at least another full day of fishing; therefore, this action opens the Puget Sound subarea 7 days per week from August 16 through September 30, 2026, or until there is not sufficient allocation for another full day of fishing and the area is therefore closed.''

2. On page 46867, in the first column, under the heading: *Washington North Coast Subarea* correct the second sentence to read as follows:

''Sufficient allocation remains for at least another full day of fishing; therefore, this action opens the North Coast subarea 7 days per week from August 16 through September 30, 2026, or until there is not sufficient allocation for another full day of fishing and the area is therefore closed.''

3. On page 46867, in the first column, under the heading: *Washington South Coast Subarea* correct the second sentence to read as follows:

''Sufficient allocation remains for at least another full day of fishing; therefore, this action opens the South Coast subarea 7 days per week from August 8 through September 30, 2026, or until there is not sufficient allocation for another full day of fishing and the area is therefore closed.''

4. On page 46867, in the first and second columns, under the heading: *Columbia River Subarea* correct the second sentence to read as follows:

''Sufficient allocation remains for at least another full day of fishing; therefore, this action opens the Columbia River subarea 7 days per week from August 8 through September 30, 2026, or until there is not sufficient allocation for another full day of fishing and the area is therefore closed.''

Authority: 16 U.S.C. 773–773k.

Dated: August 5, 2026.

Shannon Bettridge,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–16181 Filed 8–5–26; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 260305–0066; RTID 0648–XF877]

Fisheries of the Exclusive Economic Zone Off Alaska; Reapportionment of Halibut Prohibited Species Catch Limits in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reapportioning the unused amounts of the Pacific cod Trawl Cooperative (PCTC) Program halibut prohibited species catch (PSC) limit to the Pacific cod trawl limited access catcher vessel sector C season in the Bering Sea and Aleutian Islands management area (BSAI).

DATES: Effective August 7, 2026, through 2400 hours, Alaska local time (A.l.t.), November 1, 2026.

FOR FURTHER INFORMATION CONTACT: Andrew Olson, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared and recommended by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2026 Pacific cod fishery halibut PSC limits specified for the PCTC Program A and B seasons (January 20–June 10) is 220 metric tons (mt) and for the trawl catcher vessel C season (June 10–November 1) it is 15 mt as established by the final 2026 and 2027 harvest specifications for groundfish in the BSAI (91 FR 11750, March 10, 2026). Halibut PSC limits for the Pacific cod fishery are apportioned between the PCTC Program, the trawl limited access catcher vessel sector C season, and American Fisheries Act catcher/processors as established under § 679.131(c). Any unused PCTC Program halibut PSC limits may be reapportioned to the trawl limited access catcher vessel sector C season under § 679.131(c)(3).

The Regional Administrator, Alaska Region, NMFS (Regional Administrator) has determined that during the A and B seasons 100 mt of halibut PSC limit apportioned to the PCTC Program was not caught. The B season closed on June 10, 2026. The Regional Administrator also determined that reallocating the PCTC Program's unused halibut PSC limit to the trawl limited access catcher vessel sector C season is appropriate. Therefore, in accordance with § 679.131(c)(3) and (h), NMFS reapportions 100 mt of the halibut PSC limit for the PCTC Program to the trawl limited access catcher vessel sector C season, which increases this sector's halibut PSC limit apportionment to 115 mt. This action is authorized by § 679.131(c)(3) and (h), which allows for unused halibut PSC limits to be reapportioned to the C season, and is necessary to account for the trawl catcher vessel sector's C season halibut PSC.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and from providing an accounting of the reapportionment of unused halibut PSC limits to the trawl limited access catcher vessel C season authorized under § 679.131. Without this authorized reapportionment, this could result in exceeding the halibut PSC limit for the trawl limited access catcher vessel sector. NMFS was unable to publish a notice providing time for public comment because the most recent relevant data for halibut PSC by those

sectors harvesting Pacific cod only became available as of August 4, 2026.

There is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date. This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 4, 2026.

Shannon Bettridge,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–16156 Filed 8–6–26; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 91, No. 151
Friday, August 7, 2026

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

GOVERNMENT ACCOUNTABILITY OFFICE

4 CFR Part 28

Personnel Appeals Board; Procedural Rules

AGENCY: Government Accountability Office Personnel Appeals Board.

ACTION: Proposed rule.

SUMMARY: The Government Accountability Office Personnel Appeals Board (PAB or Board) proposes several significant changes to its existing regulations to streamline and modernize case processing before the Board. The Board is codifying a process to submit pleadings and to execute service of process through electronic means. The Board will also begin requiring the submission of a petition form to ensure the Board is appraised of the crucial case-related information at the beginning of the case. The Board is also eliminating the automatic commencement of discovery upon the issuance of notice of petition to allow the Administrative Judge to tailor the process on a case-by-case basis. The Board is also beginning implementation of local rules for practice to aid pro se parties and legal practitioners who are unfamiliar with PAB processes. The local rules and petition form are available for viewing on the PAB website at *www.pab.gao.gov.* The Board is also proposing removal of §§ 28.46–28.50 relating to subpoenas issued by the Board. The Board has also clarified language related to issuing of stays of personnel actions. The Board has also clarified the class certification process. The General Accounting Office Personnel Act of 1980 provides authority to make these changes.

DATES: Comments must be received on or before September 8, 2026.

ADDRESSES: Comments may be submitted by any of the following methods:

Mail: Patricia Reardon-King, Clerk of the Board, Personnel Appeals Board, U.S. Government Accountability Office, Room 1566, 441 G Street NW, Washington, DC 20548.

E-Mail: pab@gao.gov, Subject: Personnel Appeals Board Proposed Rules 2026.

FOR FURTHER INFORMATION CONTACT: Kimberly McLeod, Executive Director, or Molly Dennison, Solicitor, 202–512–6137, *pab@gao.gov.*

SUPPLEMENTARY INFORMATION: The Government Accountability Office (GAO) is not subject to the Administrative Procedure Act and accordingly the PAB is not required by law to seek comments before issuing a final rule. The Board is authorized by Congress, pursuant to 31 U.S.C. 751–755, to hear and decide cases brought by GAO employees concerning various personnel matters, including adverse or performance-based actions, claims of discrimination, alleged prohibited personnel practices, and labor-management relations. The Board also exercises authority over GAO's Equal Employment Opportunity (EEO) process at the agency. The Board's procedural regulations applicable to GAO appear at 4 CFR parts 27 and 28. The Board is revising these regulations to maximize judicial economy, streamline processes and modernize litigation processes to provide to electronic means for communication, filing, and service.

List of Subjects in 4 CFR Part 28

Administrative procedure, Claims processing, Class certification, Government employees.

For the reasons stated in the summary, GAO proposes to amend 4 CFR part 28 as follows:

PART 28—GOVERNMENT ACCOUNTABILITY OFFICE PERSONNEL APPEALS BOARD; PROCEDURES APPLICABLE TO CLAIMS CONCERNING EMPLOYMENT PRACTICES AT THE GOVERNMENT ACCOUNTABILITY OFFICE

■ 1. The authority citation for part 28 continues to read as follows:

Authority: 31 U.S.C. 753.

■ 2. Amend § 28.4(b) by changing ''paper upon them and the notice or paper is served by mail, five (5) days shall be added to the prescribed period. Only two (2) days shall be added when a document is served by express mail or other form of expedited delivery.'' to ''document upon them and the notice is served electronically, the time shall be computed as described above in paragraph (a) of this section. If the notice is served'' and delete ''Only two (2) days shall be added when a document is served by express mail or other form of expedited delivery.''

■ 3. Amend § 28.4(d) by changing ''No written submission shall be accepted by the Clerk of the Board after 4 p.m., Monday through Friday'' to ''To compute a deadline date the Board will consider a day to end after 11:59 p.m. Eastern Time. Administrative Judges can choose to alter the applicable time zone at their discretion.''

■ 4. Amend § 28.8(a) by deleting the Board's Executive Director, Director of EEO Oversight, Solicitor.

■ 5. Amend § 28.9(b) by changing ''No pleading, motion or supporting memorandum filed with the Board shall exceed 60 pages, exclusive of attachments. The Board or the administrative judge may waive this limitation for good cause shown. Pleadings, motions and supporting memoranda, and attachments thereto, shall be on standard letter-size paper (8½ x 11).'' to ''All pleadings, motions or supporting memoranda filed with the Board shall comply with the formatting and organization requirements contained in the Board's Local Rules. The Board or the administrative judge may permit a deviation from the Local Rules upon a showing of good cause.''

■ 6. Amend § 28.11(b)(1) to remove the words ''30 days'' and add, in their place, the words ''45 days''.

■ 7. Amend § 28.11(b)(2) to remove the words ''30 days'' and add, in their place, the words ''45 days''.

■ 8. Amend § 28.11(b)(4) by revising paragraph (b)(4) to read as follows: ''Charges relating to continuing violations must be filed within 45 days of at least one act or incident contributing to the continuing violation.''

■ 9. Amend § 28.11(b) by adding paragraph (b)(5) to read as follows: ''Charges relating to unfair labor practices shall be filed in accordance with the rules set forth in § 28.121.''

■ 10. Amend § 28.11(c) by revising paragraph (c) to read as follows:

''How to file. Charges may be filed with the Office of General Counsel by email or by U.S. Mail.

(1) A charge may be filed by sending the charge as an attachment to an email

addressed to *pabogc@gao.gov.* When filed electronically, the filing date is the date and time the email is delivered to the *pabogc@gao.gov* mailbox.

(i) In the event a charge is mistakenly sent to the *pab@gao.gov* mailbox instead of the *pabogc@gao.gov* mailbox, the Office of General Counsel may treat the filing as if it had been sent to the *pabogc@gao.gov* mailbox for timeliness purposes.

(2) A charge may be filed by U.S. Mail addressed to the Office of General Counsel, Personnel Appeals Board, Room 1562, 441 G Street NW, Washington, DC 20548. When filed by mail, the postmark shall be the date of filing.''

■ 11. Amend § 28.11(d) by revising the introduction language to read as follows: ''What to file. A written charge must be filed with the Office of General Counsel. A charge may be submitted in any written form (Office of General Counsel charge form, letter, memorandum, etc.). The charging party should include in any charge the following information:''

■ 12. Amend § 28.11(d) by adding paragraph (d)(7)(i) to read as follows:

''An electronic filing may include any of the following forms of signature:

(A) An electronic signature using a government or other private secure electronic signature,

(B) Signer may type ''/s/'' followed by the typed name of the person, or

(C) A scanned pen/ink signature of the person signing the charge.''

■ 13. Amend § 28.11(e) to add the words ''Attorney's Fees'' as the paragraph heading.

■ 14. Amend § 28.18(b)(1) by changing ''paragraph'' to ''§ 28.18''.

■ 15. Amend § 28.18(b)(2) by changing ''paragraph'' to ''§ 28.18''.

■ 16. Amend § 28.18(b)(3) by changing ''paragraph'' to ''§ 28.18''.

■ 17. Amend § 28.18(c)(1) by changing ''A petition may be filed by hand delivery to the office of the Personnel Appeals Board, Room 1566, 441 G Street NW, Washington, DC 20548. It must be received by 4 p.m., Monday through Friday, on the date that it is filed.'' to ''Petitions shall conform to the specifications and instructions laid out in the Local Rules for the Personnel Appeals Board, which are posted and publicly available on the PAB's website (*https://www.pab.gao.gov*).''

■ 18. Amend § 28.18(c)(2) by changing ''A petition may be filed by mail addressed to the Personnel Appeals Board, Room 1566, 441 G Street NW, Washington, DC 20548. When filed by mail, the postmark shall be the date of filing for all submissions to the Board.'' to ''Generally, it is required for all parties to file electronically. However, the Board or administrative judge may permit an exception for good cause. A petition filed electronically must be filed in accordance with the Board's local rules.''

■ 19. Amend § 28.18(c) by adding subparagraph ''(3) A petition filed by mail shall be addressed to the Personnel Appeals Board, Room 1566, 441 G Street NW, Washington, DC 20548. When filed by mail, the postmark shall be the date of filing for all submissions to the Board and should contain a statement and any relevant documentation to demonstrate good cause for not filing electronically in accordance with paragraph (c)(2).''

■ 20. Amend § 28.18(d)(6) by adding '', and a designation of representative signed by the petitioner;'' after ''further stages of the matter''.

■ 21. Amend § 28.18(d)(7) by changing ''Signature of the petitioner or petitioner's representative'' ''Signature of the petitioner and petitioner's representative (if any), as directed by § 28.20; and''

■ 22. Amend § 28.18(d) by adding subsection (8) Any additional information directed by the Local Rules.

■ 23. Amend § 28.18(f) by adding changing ''*Non-EEO class actions.* One or more persons may file a petition as representatives of a class in any matter within the Board's jurisdiction. For the purpose of determining whether it is appropriate to treat a petition as a class action, the administrative judge will be guided, but not controlled, by the applicable provisions of the Federal Rules of Civil Procedure. See § 28.97 for EEO class actions.'' to ''*Non-EEO class actions.* One or more persons may file a petition as representatives of a class in any matter within the Board's jurisdiction except any class petition solely based upon claims of prohibited discrimination covered under § 28.95 shall be processed pursuant to the Special Procedures: Equal Employment Opportunity (EEO) Cases set forth under § 28.97.

■ 24. Add subsections to § 28.18(f)

(1) *Petition.* The judge will hear the case as a class petition if they find that a class petition is the fairest and most efficient way to adjudicate the petition, and that the representative of the parties will adequately protect the interests of all parties.

(2) *What to File.* In addition to the information required under § 28.18(d), any class petition shall:

(A) State clearly that it is being filed as a class petition.

(B) Set forth a description of the scope of the common class claims.

(C) Set forth an explanation as to whether and how the proposed class agent(s) are typical representatives of the common class claims.

(D) State whether the putative class includes persons covered by applicable collective bargaining agreements to which GAO is a party.

(E) State whether the proposed class requests a hearing on class certification.

(3) *Timing.* When a class petition is filed, the deadline to file individual petitions is tolled for the claims set forth under § 28.18(f)(2)(B). However, if the judge denies the class certification request, individuals affected by the decision may file individual petitions within 30 days following the date of the decision denying class certification. Each individual petitioner is responsible for keeping informed of the status of a class petition.

(4) *Notice.* The Clerk of the Board will publish notices of pending class certification upon receipt of a class petition.

(5) *Review.* A decision on a request to certify a class action petition is not reviewable pursuant to § 28.87(b) until the judge issues an initial decision under § 28.87(a).''

■ 25. Amend § 28.20 to delete ''Number of''

■ 26. Amend § 28.20(a) to change ''Number. One original and seven copies of all pleadings (see definition in § 28.3) must be filed with the Board. However, when before a single administrative judge, one original and three copies will be adequate unless informed otherwise.'' to ''Matters excluded from e-filing. E-filing is not required to File a request to hear a case as a class action or any opposition thereto e-filing may not be used to file a pleading that contains classified information. Refer to Local Rules for instructions on how to proceed if relevant case materials contain classified information.''

■ 27. Amend § 28.20(b)(1) by changing ''copies of a'' to ''the,'' deleting ''by mail and/or by facsimile.'' Change ''a service list indicating the names and addresses of the parties to the proceeding or their designated representatives.'' to ''an official Service List indicating the names, addresses, and email addresses of the parties to the proceeding and/or their designated representatives as they have been provided to the Board. The email address contained on the service list will be the party's registered email address for the duration of the case unless changed in accordance with paragraph (b)(2) of this section and the Board's local rules.''

■ 28. Amend § 28.20(b)(2) by changing ''mailing, by facsimile or by delivering personally,'' to ''email,'' changing ''a copy of the pleading to each party on the service list previously provided by

the Board. Each pleading must be accompanied by a certificate of service specifying how and when service was made. It shall be the duty of all parties to notify the Board and one another in writing of any changes in the names or addresses on the service list.'' to ''to the parties' and/or their representatives' registered email address as contained on the service list. Service shall be by email unless good cause has been shown and the administrative judge has granted a request to conduct service by mail. Each pleading must be accompanied by a certificate of service specifying how and when service was made. It shall be the duty of all parties to notify the Board and one another in writing of any changes in the names, addresses and email addresses on the service list.''

■ 29. Amend § 28.20(b) by adding subpart ''(3) The Board may serve documents via traditional means—postal mail, facsimile, commercial or personal delivery at its discretion. Parties and their representatives are responsible for ensuring that the Board always has their current postal mailing addresses, even when they are e-filers.''

■ 30. Amend § 28.20(d) by changing ''§ 28.9(b)'' to ''in the Board's local rules.''

■ 31. Amend § 28.20 by adding subparts ''(e) Signatures. (1) All filings must contain the signature of the filing party or the filing party's designated representative. (2) A filing made through a person's registered email address, authorized by that person and containing one of following methods listed will constitute a valid signature: (i) An electronic signature using a government or other private secure electronic signature, (ii) Signer may type ''/s/'' followed by the typed name of the person, or (iii) A scanned pen/ink signature of that person. (f) Date electronically filed documents are filed and served. (1) The date of filing for pleadings filed electronically is the date of the electronic submission. All pleadings filed electronically are time stamped with Eastern Time. (2) Documents issued by the Board are deemed received on the date of electronic transmission.''

■ 32. Amend § 28.21(b)(1) by changing ''An original and 3 copies of written motions shall be filed with the Clerk of the Board. An original and 3 copies of responses in opposition to written motions must be filed with the Clerk of the Board within 20 days of service of the motion unless the administrative judge requires a shorter time.'' to ''Motions shall be filed in accordance with § 28.20. Responses to written motions must be filed within 20 days of service of the motion unless the administrative judge requires a shorter time, or an extension has been requested and granted.''

■ 33. Amend § 28.21(b)(2) by changing ''When an action is before the full Board, an original and 7 copies of any motion shall be filed with the Clerk of the Board. An original and 7 copies of any responses in opposition to motions must be filed with the Clerk of the Board within 20 days of service of the motion unless the Board requires a shorter time.'' to ''A party filing a motion for extension of time, a motion for postponement of a hearing, or any other procedural motion must first contact the other party to determine whether there is any objection to the motion and must state in the motion whether the other party has any objection.''

■ 34. Amend § 28.21(b)(3) by changing ''A party filing a motion for extension of time, a motion for postponement of a hearing, or any other procedural motion must first contact the other party to determine whether there is any objection to the motion and must state in the motion whether the other party has any objection.'' to ''All written submissions shall be served simultaneously upon the other parties to the proceeding in accordance with § 28.20(b). A certificate of service must be attached stating the method of service and listing the parties served. Further submissions by either party may be filed only with the approval of the administrative judge or the full Board.''

■ 35. Amend § 28.21(b)(4) by changing ''No motions, responses or other submissions will be accepted for filing by the Clerk of the Board after 4 p.m., Monday through Friday. All written submissions shall be served simultaneously upon the other parties to the proceeding. A certificate of service must be attached showing service by mail, facsimile or personal delivery of the submission to the other parties. Further submissions by either party may be filed only with the approval of the administrative judge or full Board'' to ''All written motions and responses thereto shall include a proposed order, where applicable.''

■ 36. Amend § 28.21(b)(5) by changing ''All written motions and responses thereto shall include a proposed order, where applicable'' to ''Motions for extension of time will be granted only upon a showing of good cause.''

■ 37. Amend § 28.21(b)(6) by changing ''Motions for extension of time will be granted only upon a showing of good cause'' to ''Oral argument. The administrative judge may allow oral argument on the motion at his or her discretion.''

■ 38. Delete § 28.21(b)(7)

■ 39. Amend § 28.21(c)(3) by adding ''by the administrative judge'' after ''will be granted.''

■ 40. Amend § 28.25(a) by changing ''shall instead'' to ''shall also.''

■ 41. Amend § 28.42 by changing ''Discovery from a party. A party seeking discovery from another party shall initiate the process by serving a request for discovery on the other party'' to ''Seeking discovery generally. The administrative judge shall notify the parties of the right to seek discovery prior to the hearing and may issue such discovery orders as are appropriate. Both parties are entitled to reasonable development of evidence on matters relevant to the issues raised in the petition, but the administrative judge and/or the Board's Local Rules may limit the quantity and timing of discovery. Evidence may be developed through interrogatories, depositions, and requests for admissions, stipulations or production of documents. Examples of grounds for objection to produce evidence include requests for information that is readily available, irrelevant to the matter, overburdensome to produce, repetitious of previous requests, or protected by privilege.''

■ 42. Amend § 28.42(a)(2) by changing ''The notice shall: (i) Specify the time and place of the taking of the deposition; and (ii) Be served on the person to be deposed'' to ''The notice shall specify the time and place of the taking of the deposition; and''

■ 43. Amend § 28.42(a)(3) by adding ''or any Federal employee'' after ''GAO''.

■ 44. Amend § 28.42(b) by deleting ''When a party unable to obtain voluntary cooperation, the party may request that the administrative judge issue a subpoena by following the procedures set forth in § 28.46.''

■ 45. Amend § 28.42(d)(1) by changing ''Requests for discovery shall be served within 30 days after the service list is served by the Board on all parties'' to ''The administrative judge shall notify the parties of the commencement and time limits to initiate discovery.''

■ 46. Amend § 28.42(d)(2) by deleting ''Any discovery requests following the initial request shall be served within 10 days of the date of service of the prior response, unless otherwise directed.'' And deleting ''or in the subpoena,''.

■ 47. Amend § 28.42(d)(5) by changing ''judge, but no later than 65 days after the service of the notice of filing of a petition. A later date may be set by the administrative judge after due consideration of the particular situation including the dates for hearing set and closing of the case record.'' To ''judge.''

■ 48. Delete §§ 28.46 through 28.50 RESERVED.
■ 49. Amend § 28.56(b) by changing ''will be conducted as'' to ''is''.
■ 50. Amend § 28.56(c) by changing ''will be'' to ''are.''
■ 51. Amend § 28.56(d) by changing ''the original of each such exhibit to the court reporter, two copies to the administrative judge, plus one copy for each opposing party that is separately represented'' to ''their exhibits in accordance with the Board's Local Rules and the orders of the administrative judge.''
■ 52. Amend § 28.56(e) by changing ''bringing the proper number of copies of an exhibit to the hearing'' to ''for providing their own exhibits and complying with Board's Local Rules and the orders of the administrative judge.''
■ 53. Amend § 28.56(f) by changing ''in the lower right hand corner and the first page shall indicate the total number of pages in the exhibit. Multiple exhibits shall be indexed and tabbed'' to ''and formatted in accordance with the Board's Local Rules.''
■ 54. Amend § 28.56(g) by changing ''No later than the commencement of the hearing, each party shall submit to the administrative judge, to the court reporter, and to the opposing party (1) A typed list of the witnesses expected to be called to testify; and (2) a typed list of the acronyms (with definitions) expected to be used by the witnesses'' to ''Prior to commencement of the hearing and at the direction of the administrative judge, the parties shall submit to the administrative judge and to the opposing party: a list of witnesses they expect to call at hearing.''
■ 55. Amend § 28.60(a) by changing ''Principal briefs shall not exceed 60 pages and reply briefs 30 pages, exclusive of tables and pages limited only to quotations of statutes, rules, and the like. Motions to file extended briefs shall be granted only for good cause shown. Briefs in excess of 10 pages shall include an index and a table of authorities'' to ''Briefs shall conform to the length requirements contained in the Board's Local Rules unless otherwise directed by the administrative judge. Motions to file extended briefs shall be granted only for good cause shown.''
■ 56. Amend § 28.60(b) by changing ''Every brief must be easily readable. Pages must be 8½ x 11 inches with margins at least one inch on all sides. Typewritten briefs must have double spacing between each line of text, except for quoted texts which may be single spaced'' to ''Every brief must conform to the formatting requirements contained in the Board's Local Rules unless otherwise directed by the administrative judge.''
■ 57. Delete § 28.60(c)
■ 58. Amend § 28.133(a) by changing ''Prior to the effective date of any proposed personnel action, the Board's General Counsel may request, ex parte, the issuance of an initial stay of the proposed personnel action for a period not to exceed 30 days if the General Counsel believes that the proposed personnel action arises out of a prohibited personnel practice. The'' to ''Initial Stay Request. If the General Counsel believes that a proposed personnel action is arising out of a prohibited personnel practice, the General Counsel may request the issuance of an initial stay, not to exceed 30 days. The initial stay'' and adding ''submitted prior to the effective date of the proposed personnel action, be'' after ''request shall be.'' Delete '', and shall'' before '', specify'' and delete ''Within three business days of its filing, the request shall be granted by the Board member designated by the Board Chair to entertain the request unless that Board member determines that the request either: (1) Fails to satisfy the requirements of this paragraph or

(2) On its face, conclusively establishes that the proposed personnel action did not arise out of an alleged prohibited personnel practice as specified by the General Counsel.''
■ 59. Amend § 28.133(b) to change ''The Board's General Counsel may request the issuance of either: (1) Further temporary stays for the purpose of allowing additional time to pursue its investigation or (2) A permanent stay for the purpose of staying the proposed personnel action until a final decision is rendered'' to ''The assigned Board member shall issue a ruling on the initial request prior to the effective date of the proposed personnel action but not more than three (3) business days following the initial stay request. The request shall be granted unless the Board member determines that the request either: (1) Fails to satisfy the requirements of this paragraph (a) or (2) On its face, conclusively establishes that the proposed personnel action did not arise out of an alleged prohibited personnel practice as specified by the General Counsel.''
■ 60. Amend § 28.133(c) to change ''Requests for stays under paragraph (b) of this section shall be received by both the Board and the GAO no less than 10 days before the expiration of any stay then in effect. Any response from GAO to the request shall be received by both the Board and the Board's Office of General Counsel no less than three days before the expiration of any stay then in effect. Any request for stay under this paragraph shall be decided by the Board member who issued the prior stay under paragraph (a) of this section, unless the Board Chair determines that it should be decided by the Board en banc. The Board member, or Board en banc, may require further briefing, oral argument, submission of affidavits or other documentary evidence, or may conduct an evidentiary hearing before rendering a decision. Any stay then in effect may be extended, sua sponte, for a period not to exceed 30 days to enable the Board member, or Board en banc, a reasonable opportunity to render a decision'' to ''The Board's General Counsel may request additional stays for the following reasons: (1) For the purpose of allowing additional time to pursue its investigation or (2) For the purpose of staying the proposed personnel action that is the subject of a petition before the Board until a final decision is rendered.''
■ 61. Amend § 28.133(d) to change ''A temporary stay under paragraph (b)(1) of this section may be issued if the Board member, or Board en banc, determines that under all of the circumstances the interests of justice would be served by providing more time for the Board's Office of General Counsel to pursue the investigation. However, the duration of any single temporary stay shall not exceed the amount of time reasonably necessary to acquire sufficient information to support a request for a permanent stay in the exercise of a high degree of diligence and, in no event, shall any single temporary stay exceed 60 days except as provided under paragraph (c) of this section for the purpose of allowing time to render a decision'' to ''Requests for stays under paragraph (c) of this section shall be received by both the Board and GAO no less than 10 days before the expiration of any stay then in effect. Any response from GAO to the request shall be received by both the Board and the Board's Office of General Counsel no less than three days before the expiration of any stay then in effect. Any request for stay under this paragraph shall be decided by the Board member who issued the prior stay under paragraphs (a) and (b) of this section, unless the Board Chair determines that it should be decided by the full Board. The Board member, or the full Board, may require further briefing, oral argument, submission of affidavits or other documentary evidence, or may conduct an evidentiary hearing before rendering a decision. Any stay then in effect may be extended, sua sponte, for a period not to exceed 30 days to enable

the Board member, or full Board, a reasonable opportunity to render a decision.''

■ 62. Amend § 28.133(e) to change ''In determining whether a permanent stay under paragraph (b)(2) of this section should be issued, the Board member, or Board en banc, shall: (1) Assess the evidence adduced by each side as to whether the proposed personnel action arises out of an alleged prohibited personnel practice as specified by the Board's General Counsel; (2) Assess the nature and gravity of any harm that could inure to each side if the request for permanent stay is either granted or denied; and (3) Balance the assessments conducted under paragraphs (e)(1) and (2) of this section'' to ''A stay under paragraph (c)(1) of this section may be issued if the Board member, or The full Board, determines that under all of the circumstances the interests of justice would be served by providing more time for the Board's Office of General Counsel to pursue the investigation. However, the duration of a stay under paragraph (c)(1) of this section shall not exceed the amount of time reasonably necessary to acquire sufficient information to support a request normally not more than 60 days.''

■ 63. Amend § 28.133(f) to change ''Any order issued by a member of the Board granting or denying, in whole or in part, a stay request under paragraph (b) shall be subject to review by the Board en banc on the filing and service of a notice of appeal, accompanied by a supporting brief, within 10 days of the service of that order. Responsive briefs shall be filed and served within 10 days of service of the appeal'' to ''In determining whether to grant a stay under paragraph (c)(2) of this section, the Board member, or the full Board, shall: (1) Assess the evidence adduced by each side as to whether the proposed personnel action arises out of an alleged prohibited personnel practice as specified by the Board's General Counsel; (2) Assess the nature and gravity of any harm that could inure to each side if the request for permanent stay is either granted or denied; and (3) Balance the assessments conducted under paragraphs (f)(1) and (2) of this section.''

■ 64. Add § 28.133(h) ''Any order issued by a member of the Board granting or denying, in whole or in part, a stay request under paragraph (c) shall be subject to review by the full Board on the filing and service of a notice of appeal, accompanied by a supporting brief, within 10 days of the service of that order. Responsive briefs shall be filed and served within 10 days of service of the appeal.''

Kimberly McLeod,

Executive Director, Personnel Appeals Board, U.S. Government Accountability Office.

[FR Doc. 2026–16108 Filed 8–6–26; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–7233; Project Identifier AD–2026–00062–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. This proposed AD was prompted by a report indicating that the protection system on the left fan cowl of the right engine does not sufficiently cover the components and systems from possible cross engine debris. This proposed AD would require performing a maintenance records check or inspection of the right engine to determine the part number of the left fan cowl and applicable on-condition actions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by September 21, 2026.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–7233; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Boeing material identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com*.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2026–7233.

FOR FURTHER INFORMATION CONTACT: Shaan S. Brar, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3558; email: *shaan.s.brar@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–2026–7233; Project Identifier AD–2026–00062–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial

information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Shaan S. Brar, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3558; email: *shaan.s.brar@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA has received a report from the manufacturer indicating that the protection system on the left fan cowl of the right engine does not sufficiently cover the components and systems for airplanes equipped with Rolls Royce Deutschland Ltd & Co KG (RRD) Model Trent 1000–AE3, 1000–CE3, 1000–D3, 1000–G3, 1000–H3, 1000–J3, and 1000–K3 engines. This insufficient cover could leave multiple oil lines and the P30 sense line in the right engine exposed to possible cross engine debris from the intermediate pressure turbine (IPT) rotor stage of the left engine. This condition, if not addressed, could lead to damage to critical systems in the right engine due to debris from the left engine during an uncontained engine failure event, resulting in an in-flight dual engine shutdown of the airplane.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Special Attention Requirements Bulletin B787–81205–SB540022–00 RB, Issue 001, dated February 19, 2026. This material specifies procedures for performing a maintenance records check or inspection of the right engine, left fan cowl for fan cowl part numbers 725Z2300–307, 725Z2300–305, or 725Z2300–5003, and applicable on-condition actions. On-condition actions include modifying or replacing the existing right engine left fan cowl.

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the material already described except for any differences identified as exceptions in the regulatory text of this proposed AD. For information on the procedures and compliance times, see this material at *regulations.gov* under Docket No. FAA–2026–7233.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 22 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Maintenance records check or inspection	3 work-hours × $85 per hour = $255	$0	$255	$5,610

The FAA estimates the following costs to do any necessary modifications or replacements that would be required based on the results of the proposed inspection. The agency has no way of determining the number of aircraft that might need this modification or replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Modification of fan cowl	6 work-hours × $85 per hour = $510	$4,716	$5,226
Replacement of fan cowl	2 work-hours × $85 per hour = $170	*0	170

*The FAA has received no definitive data on which to base the cost estimates for the replacement parts specified in this proposed AD.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2026–7233; Project Identifier AD–2026–00062–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by September 21, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8, 787–9, and 787–10 airplanes, certificated in any category, equipped with Rolls Royce Deutschland Ltd & Co KG Model Trent 1000–AE3, 1000–CE3, 1000–D3, 1000–G3, 1000–H3, 1000–J3, and 1000–K3 engines.

(d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

(e) Unsafe Condition

This AD was prompted by a report indicating that the protection system on the left fan cowl of the right engine does not sufficiently cover the components and systems from possible cross engine debris. The FAA is issuing this AD to address insufficient cover leaving multiple oil lines and the P30 sense line in the right engine exposed to possible cross engine debris from the intermediate pressure turbine (IPT) rotor stage of the left engine. The unsafe condition, if not addressed, could lead to damage to critical systems of the right engine due to debris from the left engine during an uncontained engine failure event, resulting in an in-flight dual engine shutdown of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Special Attention Requirements Bulletin B787–81205–SB540022–00 RB, Issue 001, dated February 19, 2026, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Requirements Bulletin B787–81205–SB540022–00 RB, Issue 001, dated February 19, 2026.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Special Attention Service Bulletin B787–81205–SB540022–00, Issue 001, dated February 19, 2026, which is referred to in Boeing Special Attention Requirements Bulletin B787–81205–SB540022–00 RB, Issue 001, dated February 19, 2026.

(h) Exceptions to Requirements Bulletin Specifications

Where the ''Effectivity'' paragraph and the ''Compliance'' paragraph of Boeing Special Attention Requirements Bulletin B787–81205–SB540022–00 RB, Issue 001, dated February 19, 2026, refer to the Issue 001 date of Requirements Bulletin B787–81205–SB540022–00 RB, this AD requires using the effective date of this AD.

(i) Parts Installation Prohibition

For airplanes on which a right engine left fan cowl having part numbers 725Z2300–307, 725Z2300–305, or 725Z2300–5003 is not installed: As of the effective date of this AD, no person may install on any airplane a right engine left fan cowl having part numbers 725Z2300–307, 725Z2300–305, or 725Z2300–5003.

(j) Alternative Methods of Compliance (AMOCs)

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

(2) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Additional Information

(1) For more information about this AD, contact Shaan S. Brar, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3558; email: *shaan.s.brar@faa.gov.*

(2) Material identified in this AD that is not incorporated by reference is available at the address specified in paragraph (l)(3) of this AD.

(l) Material Incorporated by Reference

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

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

(i) Boeing Special Attention Requirements Bulletin B787–81205–SB540022–00 RB, Issue 001, dated February 19, 2026.

(ii) [Reserved]

(3) For Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*

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

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

Issued on July 30, 2026.

Brian Knaup,

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

[FR Doc. 2026–16157 Filed 8–6–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2025–0070]

RIN 1625–AA09

Drawbridge Operation Regulation; Drawbridge Operation Regulation; San Bernard River, Brazoria County, Texas

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating schedule that

governs the Union Pacific Railroad (UPRR) drawbridge that crosses the San Bernard River, mile 20.7, near Brazoria, TX. UPRR proposed to operate this drawbridge on a 24 hour basis from its Train Dispatch Center located in Spring, TX. The Coast Guard temporarily changed the regulation to test this system. During the test the drawbridge continued to operate safely and provided boats and mariners with a reasonable ability to use this waterway. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before September 8, 2026.

ADDRESSES: You may submit comments identified by docket number USCG–2025–0070 at *https://www.regulations.gov.*

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Doug Blakemore, Coast Guard Heartland District Bridge Branch, 504.671.2127, *Douglas.A.Blakemore@uscg.mil,* 500 Poydras St., Room 1313, New Orleans, LA 70130.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
U.S.C. United States Code

II. Background, Purpose and Legal Basis

The Union Pacific Railroad (UPRR) drawbridge crosses the San Bernard River, mile 20.7, near Brazoria, TX. The bridge is currently operated by a bridge tender at the site of the drawbridge and opens on signal; except that, from 10 a.m. to 2 p.m. and 10 p.m. to 2 a.m., the draw shall open on signal if at least three hours notice is given. The proposed rule will have the bridge open on signal and be operated at a remote located at the UPRR Train Dispatch Center located in Spring, TX. This bridge at mean high water has a vertical clearance of 2 feet in the closed to boat position, a vertical clearance of 19 feet in the open to boat position and a 50 foot horizontal clearance. The bridge operates according to 33 CFR 117.984.

UPRR has requested to operate this drawbridge from their railroad dispatch center located in Spring, TX. UPRR has installed a remote operation system at the bridge and at the remote control center in Spring, TX. UPRR has installed 8 cameras and microwave sensors on the bridge. 2 cameras have been installed on each tower that view upriver and downriver from the bridge, and along the train tracks. There are 4 cameras that view under the bridge but can be directed to look both upriver and downriver. Each camera has thermal imaging capability which will improve boat detection during periods of inclement weather. 2 sets of microwave sensors have been installed below the bridge to identify boats under the bridge. Communications. Boats can call a telephone number (sign posted on the bridge) or use VHF–FM Channel 10 to contact the dispatcher. The remote control station monitors the cameras, microwave sensors and communications with boats with a VHF-Fm radio and telephone.

This part of the San Bernard River is used by recreational fisherman, other small boats and small tows and barges. The bridge opens for vessels about once a day. Vessels that do not need the bridge to open may pass beneath the bridge.

III. Discussion of Proposed Rule

33 CFR 117.42 establishes Coast Guard drawbridge regulations to operate a drawbridge from a remote location and authorizes the Coast Guard District Commander to approve or not approve operations from a remote site. The bridge is currently operated by a bridge tender at the site of the drawbridge and opens on signal; except that, from 10 a.m. to 2 p.m. and 10 p.m. to 2 a.m., the draw shall open on signal if at least three hours notice is given. The bridge operates according to 33 CFR 117.984. This proposed rule will change the operating schedule to be operated by a bridge tender at Spring, TX. Mariners requiring an opening may do so by contacting the UPRR remote bridge tender on VHF–FM Channel 10 or by the phone number posted at the bridge.

This proposed rule requires UPRR to place and keep the draw in the open-to-boat when any part of the remote system fails, communications between a boat and the bridge operator fail, weather prevents the remote operator from identifying boats and vessels, safety, security and procedural systems of any kind fail and at the direction of the Coast Guard. The draw will be allowed to open and close again when UPRR provides a bridge operator at the bridge location or the failure has been corrected. Returning the bridge to remote operations will require the approval of the Coast Guard.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders.

A. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This regulatory action determination is based on the ability that vessels can still transit the bridge given notice.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

B. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

C. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has 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. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

D. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

E. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2025–0070 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. Also, if you go to the online docket and sign up for email alerts through the ''Subscribe'' option, you will be notified when comments/updates are posted, or a final rule is published.

Personal information. We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and DHS Delegation No. 00170.1. Revision No. 1.04.

■ 2. Change 33 CFR 117 to read as follows

§ 117.984 San Bernard River.

The draw of the Union Pacific Railroad (UPRR) vertical lift bridge shall be remotely operated by the train dispatcher located at the UPRR train dispatch center located in Spring, TX. The bridge shall be operated as follows.

(1) The draw will open on signal.

(2) Boats and vessels can contact the remote bridge tender at VHF–FM channel 9 or by the telephone number posted on the bridge to signal an opening.

(3) The draw will be immediately placed and left in the open-to-boat position if any of the below situations occur.

(a) If any combination of camera failures, thermal imaging capabilities or microwave sensor failures prevents the remote bridge tender from seeing upriver, downriver or beneath the bridge.

(b) Any communications failures prevent the bridge tender from communicating with boats.

(c) Weather prevents the remote bridge tender from visually identifying vessels or boats signaling the draw to open.

(d) The railroad does not meet any government or agency safety requirements.

(e) The railroad does not meet any government or agency cybersecurity requirements.

(f) Railroad safety and security procedures or equipment to close or open the bridge fail.

(g) Anytime the UPRR train dispatcher is evacuated from the dispatch center for any reason or cannot perform any bridge operator activities for any reason.

(4) If any of the above situations take place UPRR will immediately notify the Coast Guard Sector Houston-Galveston Command Center to report the failure and that the draw has been placed and kept in the open-to-boat position.

(5) The draw may resume onsite opening and closing when a bridge operator arrives onsite and can safely operate the drawbridge and UPRR notifies and receives approval from the Coast Guard.

(6) The draw may resume operating from the remote location when the

situations listed in paragraph 3 have been corrected and UPRR notifies and receives approval from the Coast Guard.

(7) UPRR will immediately operate the bridge using an onsite bridge operator anytime at the direction of the District Commander.

(8) UPRR shall maintain the working machinery of the drawbridge in good operating condition to be able to manually operate the bridge onsite.

W.E. Watson,

Rear Admiral, U.S. Coast Guard, Commander, Heartland District.

[FR Doc. 2026–16124 Filed 8–6–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2025–0309]

RIN 1625–AA09

Drawbridge Operation Regulation; Old Brazos River, Freeport, Texas

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedule that governs the Union Pacific Railroad (UPRR) drawbridge that crosses the Old Brazos River, mile 5.3, near Brazoria, TX. UPRR has proposed to remotely operate the drawbridge from their train yard located in Brazos, TX. The Coast Guard temporarily changed the regulation to test this system. During the test the drawbridge continued to operate safely and provided boats and mariners with a reasonable ability to use this waterway. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must reach the Coast Guard on or before September 8, 2026.

ADDRESSES: You may submit comments identified by docket number USCG–2025–0309 using Federal Decision Making Portal at *https://www.regulations.gov.*

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call, email or mail Doug Blakemore, Coast Guard Heartland District Bridge Branch, 504.671.2127, *Douglas.A.Blakemore@uscg.mil,* 500 Poydras St., Room 1313, New Orleans, LA 70130.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
U.S.C. United States Code

II. Background, Purpose and Legal Basis

The Union Pacific Railroad vertical lift drawbridge crosses the Old Brazos River, mile 5.3, near Brazoria, TX. The bridge is currently operated by a bridge tender at the site of the drawbridge and is maintained in the fully open-to-boat position. The bridge is closed to allow trains to pass or for maintenance. The proposed rule will have the bridge continue to open and close as above but will be operated by at the UPRR train yard in Brazoria. This bridge at mean high water has a vertical clearance of 10 feet in the closed to boat position, a vertical clearance of 71 feet in the open to boat position and a 228 foot horizontal clearance. The bridge operates according to 33 CFR 117.975.

UPRR has requested to operate this drawbridge from their railroad yard in Brazoria, TX. UPRR has installed a remote operation system at the bridge and at the remote control center in Spring, TX. Six cameras have been installed at the bridge; one per tower at each corner of the bridge that can be moved to look upriver, downriver and beneath the bridge and 2 cameras that look at the east and west rail tracks. The cameras are equipped with thermal imaging to assist with visibility during inclement weather. There are two sets of sensors that are installed to detect vessels under the bridge: 1 microwave sensor and 1 light detecting and ranging sensor. The remote control station monitors the cameras, sensor systems and communicates to boats with VHF radio and telephone.

This part of the Old Brazos River is used by recreational boaters and fisherman and small charter boats. The bridge is kept in the open-to-boat position and closes about 1–3 times per day to pass trains.

III. Discussion of Proposed Rule

33 CFR 117.42 establishes Coast Guard drawbridge regulations to operate a drawbridge from a remote location and authorizes the Coast Guard District Commander to approve or not approve operations from a remote site. The bridge is currently operated by a bridge tender at the site of the drawbridge, is maintained in the open-to-boat position and closes 1–3 times per day to pass trains. The bridge operates according to 33 CFR 117.975. This proposed rule will change the operating schedule. The bridge will continue to be maintained in the open-to-boat position but will be opened and closed from the remote control station at the UPRR train yard. Mariners will continue to communicate with the remote bridge tender via VHF–FM Channel 9 and by the telephone number posted on the bridge.

This proposed rule requires UPRR to place and keep the draw in the open-to-boat position when any part of the remote system fails, communications between a boat and the bridge operator fail, weather prevents the remote operator from seeing boats and vessels, safety, security and procedural systems of any kind fail and at the direction of the Coast Guard. The draw will be allowed to close again to pass trains when UPRR provides a bridge operator at the bridge location or the failure has been corrected. Returning the bridge to remote operations will require the approval of the Coast Guard.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders.

A. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This regulatory action determination is based on the ability that vessels can still transit the bridge given notice.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see

ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

B. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

C. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has 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. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

D. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

E. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2025–0070 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. Also, if you go to the online docket and sign up for email alerts through the ''Subscribe'' option, you will be notified when comments/updates are posted, or a final rule is published.

Personal information. We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and DHS Delegation No. 00170.1. Revision No. 1.04.

■ 2. Change § 117.975 to read as follows:

§ 117.975 Old Brazos River.

The draw of the Union Pacific Railroad (UPRR) vertical lift bridge, mile 4.4, Freeport shall be maintained in the open-to-boat position and remotely operated by the CSX yard supervisor in Freeport, TX. The bridge shall be operated as follows.

(1) The draw will close to boats to pass trains across the bridge and to maintain the bridge.

(2) Boats and vessels can contact the remote bridge tender at VHF–FM channel 9 or by the telephone number posted on the bridge.

(3) The draw will be immediately placed and left in the open-to-boat position if any of the below situations occur.

(a) If any combination of camera failures, thermal imaging capabilities or microwave sensor failures prevents the remote bridge tender from seeing upriver, downriver or beneath the bridge.

(b) Any communications failures prevent the bridge tender from communicating with boats.

(c) Weather prevents the remote bridge tender from visually identifying

vessels or boats signaling the draw to open.

(d) The railroad does not meet any government or agency safety requirements.

(e) The railroad does not meet any government or agency cybersecurity requirements.

(f) Railroad safety and security procedures or equipment to close or open the bridge fail.

(g) Anytime the UPRR train dispatcher is evacuated from the dispatch center for any reason or cannot perform any bridge operator activities for any reason.

(4) If any of the above situations take place UPRR will immediately notify the Coast Guard Sector Houston-Galveston Command Center to report the failure and that the draw has been placed and kept in the open-to-boat position.

(5) The draw may resume onsite opening and closing when a bridge operator arrives onsite and can safely operate the drawbridge and UPRR notifies and receives approval from the Coast Guard.

(6) The draw may resume operating from the remote location when the situations listed in paragraph 3 have been corrected and UPRR notifies and receives approval from the Coast Guard.

(7) UPRR will immediately operate the bridge using an onsite bridge operator anytime at the direction of the District Commander.

(8) UPRR shall maintain the working machinery of the drawbridge in good operating condition to be able to manually operate the bridge onsite.

W.E. Watson,

Rear Admiral, U.S. Coast Guard, Commander, Heartland District.

[FR Doc. 2026–16121 Filed 8–6–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket Number USCG–2026–0603]

RIN 1625–AA00

Safety Zone; WHALE Floating Production System Outer Continental Shelf Facility, Alaminos Canyon 773, Gulf of America

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a safety zone around the WHALE Floating Production System (FPS), on the Outer Continental Shelf (OCS) in the Gulf of America. Establishing a safety zone around the facility will significantly reduce the threat of allisions, collisions, security breaches, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment. This proposed rulemaking would prohibit entry of vessels into this safety zone unless specifically authorized by the Commander, Coast Guard Heartland District or their designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before September 8, 2026.

ADDRESSES: To submit comments and view available documents, go to *https://www.regulations.gov* and search for USCG–2026–0603.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rule, contact Mr. Steven Wilkes, Heartland District Western Rivers & Waterways Division, U.S. Coast Guard; telephone (206) 815–1119, or email *Steven.D.Wilkes2@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FPS Floating Production System
FR Federal Register
NPRM Notice of proposed rulemaking
OCS Outer Continental Shelf
§ Section
U.S.C. United States Code

II. Background and Authority

Shell Exploration and Production Company (Shell) requested that the Coast Guard establish a safety zone around its WHALE FPS facility. There are safety concerns for vessels operating in close proximity to the facility, as well as for the personnel aboard the facility and the environment that arise when unauthorized vessels operate in close proximity to the unit. Hazards associated with vessels operating in close proximity to an offshore platform include the threat of allisions, collisions, security breaches, oil spills, and releases of natural gas. Therefore, the District Commander is proposing this rule under the authority in 14 U.S.C. 544, 43 U.S.C. 1333, and the Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3, which is needed to protect personnel, property, and the marine environment from these potential hazards.

III. Discussion of the Rule

This proposed rule would establish a permanent safety zone on the OCS in the deepwater area of the Gulf of America at Alaminos Canyon 773. The area of the proposed safety zone would be 500 meters (1640.4 feet) from each point on the WHALE FPS facility, which is located at approximate position 26°13′25.55″ N, 94°40′25.39″ W (NAD 83). No vessel, except attending vessels as defined in 33 CFR 147.20, or those less than 100 feet in length and not engaged in towing, would be permitted to enter the safety zone without obtaining permission from the District Commander or their designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Impact on Small Entities

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

Vessel traffic will be able to safely transit around this safety zone. The rule also permits certain smaller vessels to enter the safety zone, and other vessels may enter the zone with permission from the District Commander.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this proposed rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247).

B. Collection of Information

This proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2026–0603 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in the docket. To view available documents, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. We will post public comments in our online docket. Additional information is on the *https://www.regulations.gov* Frequently Asked Questions web page.

Personal information. We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 544; 43 U.S.C. 1333; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4.

■ 2. Add § 147.885 to read as follows:

§ 147.885 WHALE Floating Production System safety zone.

(a) *Description.* The WHALE, a Floating Production System (FPS), is in the deepwater area of the Gulf of America at Alaminos Canyon 773. The facility is located at approximate position: 26°13′25.55″ N, 94°40′25.39″ W (NAD 83). The area within 500 meters (1640.4 feet) from each point on the facility structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except for the following:

(1) An attending vessel, as defined in § 147.20;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Coast Guard Heartland District or a designated representative.

(c) *Requests for permission.* To seek permission to enter, contact the District Commander or the District Commander's representative on VHF–FM channel 16 or by telephone at (855) 485–3727. All vessels and personnel in the safety zone must comply with all lawful orders or directions given to them by the District Commander or the District Commander's designated representative.

W.E. Watson,

Rear Admiral, U.S. Coast Guard, Commander, Coast Guard Heartland District.

[FR Doc. 2026–16130 Filed 8–6–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket Number USCG–2026–0827]

RIN 1625–AA00

Safety Zone; Chevron GENESIS SPAR Outer Continental Shelf Facility, Green Canyon Block 205A, Gulf of America

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to disestablish a safety zone around the GENESIS SPAR facility, previously located in Green Canyon Block 205A on the Outer Continental Shelf (OCS) in the Gulf of America. The GENESIS SPAR facility was decommissioned and fully removed by the Chevron Corporation in June of 2024. This proposed rulemaking would disestablish the permanent safety zone and remove the regulatory text of

33 CFR 147.825. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before September 8, 2026.

ADDRESSES: To submit comments and view available documents, go to *https://www.regulations.gov* and search for USCG–2026–0827.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rule, contact Mr. Steven Wilkes, Heartland District Western Rivers & Waterways Division, U.S. Coast Guard; telephone (206) 815–1119, or email *Steven.D.Wilkes2@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
OCS Outer Continental Shelf
§ Section
U.S.C. United States Code

II. Background and Authority

On September 25, 2025, the Chevron Corporation notified the Coast Guard's Heartland District that they decommissioned and fully removed the GENSIS SPAR facility, previously located in Green Canyon Block 205A. The Chevron Corporation stated that the permanent safety zone associated with the facility and listed in 33 CFR 147.825 was no longer needed and requested that it be disestablished. Therefore, the District Commander is proposing the disestablishment of this safety zone under the authority in 46 U.S.C. 70034.

III. Discussion of the Rule

This proposed rule would disestablish a permanent safety zone on the Outer Continental Shelf (OCS) in the deepwater area of the Gulf of America at Green Canyon Block 205A.

IV. Regulatory Analyses

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

A. Impact on Small Entities

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

By disestablishing a permanent safety zone that is no longer needed, all vessel traffic will be able to safely transit this previously regulated area free of restrictions.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this proposed rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247).

B. Collection of Information

This proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed rule is a safety zone. It is categorically excluded from further review under paragraph L60(b) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2026–0827 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in the docket. To view available documents, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. We will post public comments in our online docket. Additional information is on the *https://www.regulations.gov* Frequently Asked Questions web page.

Personal information. We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard is proposing to remove the following from 33 CFR part 147:

PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 544; 43 U.S.C. 1333; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4.

§ 147.825 [Removed]

■ 2. Remove § 147.825.

W.E. Watson,

Rear Admiral, U.S. Coast Guard, Commander, Coast Guard Heartland District.

[FR Doc. 2026–16118 Filed 8–6–26; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WC Docket No. 25–253; FCC 26–40; FR ID 359677]

Build America: Eliminating Barriers to Wireline Deployments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) proposes and seeks comment on rules that would eliminate state and local requirements that constrain the deployment of modern high-speed wireline infrastructure in violation of section 253 of the Communications Act (Act), particularly through the imposition of excessive delays and fees that impede infrastructure deployments and disincentivize investments in them. Based on the record resulting from a Notice of Inquiry that identified numerous challenges providers face in offering telecommunications services and deploying wireline infrastructure (*2025 Notice of Inquiry*), this *Notice of Proposed Rulemaking* seeks comment on codifying rules that would: establish a rebuttable presumption that state and local governments have effectively prohibited the provision of wireline telecommunications services if they fail to process all authorizations for use of public rights-of-way to provide wireline telecommunications services or to deploy wireline telecommunications infrastructure within 120 days; limit the fees that state and local governments may charge for a wireline telecommunications authorization to a reasonable approximation of the government's actual, direct costs of managing the rights-of-way with respect to that authorization and establish safe harbor fee levels that presumptively comport with that standard; require that the value of in-kind compensation demanded by state and local governments count toward any safe harbor fee levels adopted by the Commission; and prohibit state and local governments from imposing additional requirements on wireline telecommunications infrastructure deployments on the grounds that the infrastructure may be used to provide other services. The *Notice of Proposed Rulemaking* also seeks comment on the Commission's authority to enact these proposals.

DATES: Comments are due on or before September 21, 2026 and reply comments are due on or before November 5, 2026.

ADDRESSES: Pursuant to §§ 1.1415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments, identified by WC Docket No. 25–253, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the Commission's Electronic Comment Filing System (ECFS): *https://www.fcc.gov/ecfs.*
- *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 FCC'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 and Governmental Affairs Bureau at 202–418–0530 (voice).
- *Availability of Documents.* Comments, reply comments, and ex parte submissions will be publicly available via ECFS.

FOR FURTHER INFORMATION CONTACT: For further information about the Notice of Proposed Rulemaking, contact Jesse Goodwin, Attorney Advisor, Competition Policy Division, Wireline Competition Bureau, at *Benjamin.Goodwin@fcc.gov.* For additional information concerning the Paperwork Reduction Act proposed information collection requirements contained in this document, email to *PRA@fcc.gov* or contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking,* in WC Docket No. 25–253, FCC 26–40, adopted on June 25, 2026 and released on June 26, 2026. The complete text of this document is available online at *https://docs.fcc.gov/public/attachments/FCC-26-40A1.pdf.*

Paperwork Reduction Act. This *Notice of Proposed Rulemaking* may contain proposed new and revised 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 this document, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Providing Accountability Through Transparency Act: Consistent with the Providing Accountability Through Transparency Act, Public Law 118–9, a summary of this document will be available on *https://www.fcc.gov/proposed-rulemakings.*

Ex Parte Rules. The proceeding this NPRM initiates shall be treated as a

''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 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 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.

Synopsis

I. Notice of Proposed Rulemaking

The record developed in response to the *2025 Notice of Inquiry* shows that while some state and local governments have implemented effective and efficient requirements for issuing the authorizations that providers need to access and use public rights-of-way to provide wireline telecommunications services, many others are imposing requirements that cause deployments to be scaled back or abandoned altogether due to excessive delays, fees, or other onerous conditions. The record is also clear that the barriers created by such state and local governments have a ripple effect, with excessive delays, fees, and conditions in one jurisdiction impacting a provider's ability to complete a deployment and provide services in other jurisdictions. It is therefore essential that all state and local governments take action to ensure that their statutes, regulations, and other legal requirements do not effectively prohibit the provision of wireline telecommunications services in violation of Congress's direction in Section 253. As the expert agency charged with administering the Communications Act and Section 253 specifically, we adopt this *Notice of Proposed Rulemaking* to propose and seek comment on rules that would establish standards for compliance with the statute. In particular, we propose and seek comment on rules that would require state and local governments to process applications to access and use public rights-of-way in a timely manner and to limit their fees and other demands as necessary to avoid prohibitive financial burdens. Section 253 applies to ''the ability of any entity'' to provide telecommunications service. Accordingly, we use the term ''provider'' to refer to any entities that provide telecommunications services directly to consumers as well as those that deploy infrastructure with the ability to provide telecommunications services. We use the term ''authorization'' to refer to any type of authorization a state or local government may require for a provider to access and use public rights-of-way to provide wireline telecommunications services or deploy wireline telecommunications infrastructure, including permits and right-of-way agreements. We use the term ''right-of-way agreement'' to refer to licenses, franchises, or any other contract that a state or local government may require providers to obtain to access and use public rights-of-way. While cable franchises regulated pursuant to Title VI of the Act are not the focus of this *Notice of Proposed Rulemaking,* we do not foreclose the possibility that cable franchisees may be able to avail themselves of any rules or guidance adopted through this proceeding to the extent they are deploying facilities subject to Section 253.

A. Establishing a Deadline for State and Local Governments To Act on Wireline Telecommunications Authorization Requests

We propose to adopt a presumption that any failure by a state or local government to act by a specified deadline on all applications for authorizations to access and use public rights of way to provide wireline telecommunications services or deploy wireline telecommunications infrastructure constitutes an effective prohibition that violates Section 253(a) and does not qualify for the savings clauses in Sections 253(b) and (c). While comments filed in response to the *2025 Notice of Inquiry* show that some state and local governments have established procedures to review and approve authorization applications in a timely manner, others can often take months or even years to complete reviews. This can result in wireline telecommunications deployments and service offerings being canceled, delayed, or scaled back. For example, Intrepid describes the difficulties it has experienced when seeking construction permits and other authorization approvals from localities in Illinois, Minnesota, Massachusetts, and Colorado, and it details how various local requirements have delayed its projects by months to years. Crown Castle states that it has faced extensive delays in obtaining authorizations from the City of Los Angeles, California, ''where the average time to receive a permit from the Department of Transportation for installation of underground fiber facilities is nine months.'' It also describes enduring protracted processes for obtaining right-of-way agreements from localities, such as the Village of Itasca, Illinois, which offered to supply a model right-of-way agreement but did not do so, and then failed to communicate with Crown Castle about draft agreements that Crown Castle provided in an effort to expedite the process. WISPA reports that it can take months or years to obtain authorizations, which presents a particular challenge in localities such as Ottawa County, Ohio, where permits, when finally granted, remain valid for only 90 days. WISPA explains that delays associated with authorization approvals makes it extremely difficult for providers to plan and schedule the work needed to complete a project within that 90-day timeframe. T-Mobile describes a city in Ohio where fiber construction ''requires 13 different departments with 70 different individuals to review a single application,'' resulting in myriad delays that hinder deployments.

Examples such as these illustrate how wireline telecommunications deployments can become mired in red tape for years when state and local governments fail to act on authorization requests in a timely manner, and how such delays can squander provider resources and constrain deployments

across the nation. We therefore believe it is necessary and appropriate for the Commission to propose and seek comment on rules that will place presumptive limits on the time that state and local governments may take to review and act on authorization requests. We base our proposal on the point that excessive delays presumptively constitute an effective prohibition that Congress has deemed unlawful under Section 253.

Establishing a Presumptive Deadline to Act Under Section 253(a). Courts and the Commission have recognized that excessive delays in processing and approving applications for authorizations can effectively prohibit the provision of telecommunications services in violation of Section 253(a). The Commission has stated that ''in certain circumstances, a failure by a local government to process a franchise application in due course may 'have the effect of prohibiting' the ability of the applicant to provide telecommunications service, in contravention of section 253.'' Some courts have also found that excessive delays in processing a franchise agreement can constitute an effective prohibition under Section 253. For instance, the Second Circuit found that ''the extensive delays in processing TCG's request for a franchise have prohibited TCG from providing service for the duration of the delays.'' In that case, the delay ''spann[ed] over seven years since TCG's initial request in 1992, one [and] a half years since TCG's first request after the promulgation of the Ordinance [at issue in the case] and more than half a year since TCG's re-application in February 1999.'' Given the record evidence of excessive delays described above, the barriers they create to wireline telecommunications infrastructure and services, and the significant support in the record for addressing those barriers through the establishment of a deadline, we propose to identify the point at which a delay by a state or local government to act on a required authorization is so excessive that it can be presumed to constitute an effective prohibition that violates Section 253(a). We seek comment on this approach.

Do commenters agree that the Commission's authority under Section 253(a) allows the Commission to establish a deadline for when a failure to act by state and local governments can be presumed to effectively prohibit the provision of wireline telecommunications services? In the *Small Cell Order,* 83 FR 51867 (October 15, 2018), the Commission determined that violations of the shot clocks applicable to Small Wireless Facilities presumptively constitute an effective prohibition under Section 332(c)(7)(B)(i)(II) of the Act, which uses similar language in the context of the placement, construction, and modification of commercial mobile services and facilities. For the purposes of this Notice of Proposed Rulemaking, the term ''Small Wireless Facilities'' has the same meaning as the definition in section 1.6002(l) of the Commission's rules. Several commenters responding to the *2025 Notice of Inquiry* argue that, given the comparable language and purposes of Section 253 and Section 332, it is appropriate to construe Section 253 to similarly authorize limits on the time that state and local governments may take to review and act on wireline telecommunications authorization requests. Commenters also suggest that, in the absence of such limits, state and local governments can erect barriers to entry and restrain competition simply by delaying authorization reviews, in direct contravention of Congress's intent when it enacted Section 253. Are these arguments consistent with the best reading of Section 253(a)? Are there additional arguments that would support the establishment of a deadline for when state and local governments' failures to act on wireline telecommunications authorization requests presumptively prohibit telecommunications service under Section 253(a)?

State and local government commenters that responded to the *2025 Notice of Inquiry* generally oppose the establishment of a deadline under Section 253(a). In particular, they note that the shot clocks that the Commission established for Small Wireless Facilities implement language in Section 332 that does not exist in Section 253. Specifically, Section 332 contains a requirement that state and local governments ''act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality[.]'' Some state and local government commenters argue that if Congress intended shot clocks to be established under an effective prohibition standard, which exists in both Section 253(a) and Section 332(c)(7)(B)(i)(II), it would not have enacted the separate requirement in Section 332(c)(7)(B)(ii) that state and local governments act ''within a reasonable period of time,'' *i.e.,* that establishing a deadline for state and local governments to act under Section 253(a) or Section 332(c)(7)(B)(i)(II) would render Section 332(c)(7)(B)(ii) superfluous. Do other commenters agree? Does the fact that Congress adopted a specific requirement in Section 332 for state and local governments to act within a reasonable period of time with respect to wireless siting applications suggest that it did not intend to subject state and local governments to a deadline if the requirements and procedures they impose result in prohibitive delays within the meaning of Section 253(a)? Could the ''reasonable period of time'' requirement in Section 332(c)(7)(B)(ii) simply impose a more specific standard for wireless siting applications than the effective prohibition standard in Section 253(a), which sweeps more broadly to reach all telecommunications services? Does the fact that we propose to establish a deadline based on the point at which delays in approving authorizations can be safely presumed to effectively prohibit the provision of wireline telecommunications services—not the ''reasonable period of time'' standard in Section 332—render the arguments presented by state and local governments concerning the textual differences between Section 253 and Section 332 moot? Are there any other arguments that the Commission should consider when determining whether to establish a deadline under the effective prohibition standard in Section 253(a)?

Timeframe. We propose to establish 120 days from the date that an application for an authorization is submitted as the deadline by which state and local governments must ordinarily—subject to possible exceptions discussed below—act on all applications for authorizations needed to access and use public rights-of-way to provide wireline telecommunications services or deploy wireline telecommunications infrastructure. Commenters that favor establishing a deadline propose timeframes ranging from 30 to 150 days, at times contingent on the type of authorization in question (*e.g.,* a permit versus a right-of-way agreement) or the nature of the deployment. As discussed above, our proposed standard is designed to guard against ''effective prohibitions'' as contemplated by Section 253(a). As such, the deadline we propose to choose is the point at which a delay presumptively constitutes an effective prohibition—not the amount of time that it reasonably should take a state or local government to process a particular type of authorization. The record does not show that the lower range of deadlines proposed by commenters would meet that standard. We

tentatively conclude based on the existing record, however, that delays that exceed several months routinely have a prohibitive effect by increasing the costs of the deployments and generating uncertainty that requires providers to cancel, postpone, or scale back their investments in certain projects. We thus believe that setting the deadline at 120 days—a deadline closer to the longer time periods proposed in the record—is consistent with Congress's intent to preclude state and local requirements from having a prohibitive effect on the provision of telecommunications services. Notably, the record indicates that a number of state and local governments are already striving to process applications for authorizations to access and use public rights-of-way in significantly less time than 120 days, suggesting that our proposed deadline would appropriately target only those state and local governments engaging in review practices that have a presumptively prohibitive effect within the meaning of Section 253(a). We seek comment on our tentative findings concerning the prohibitive effect of delays longer than 120 days and on this proposed approach. We note that franchising authorities must act on a competitive cable franchise application within 90 or 180 days, depending on whether the competitive applicant already has access to the right-of-way to provide a non-cable service. The deadline is calculated from the date that the applicant files an application that includes information required by our regulation, and if a franchising authority fails to act within the allotted time, the franchising authority is deemed to have granted the application on an interim basis, under which the applicant may begin providing service.

Do commenters agree that the proposed 120-day deadline reflects the point at which a delay in acting on a request to access and use public rights-of-way to provide wireline telecommunications services can be presumed to have a prohibitive effect? Does this timeframe accurately reflect the point at which delays impede the ability of providers to invest in and complete deployments? Is a shorter or longer time period more appropriate? We seek detailed comment on when it becomes nonviable for a provider to wait for authorizations and how a provider makes such determinations. Given the extent of planning required to deploy wireline telecommunications infrastructure and the need to muster resources well in advance, at what point does a provider need an answer, including a possible denial, before it decides to forego or scale back a given project? How does the size of the provider or the extent of the project affect this analysis? We ask that commenters submit specific examples to the Commission of projects that have been canceled, postponed, or reduced in scope as a result of delays created by state and local requirements, with references to specific state and local requirements and the specific point in time that they made the decision to cancel, postpone, or reduce the project (*e.g.,* 120 days, 365 days). Was the decision to cancel, postpone, or reduce the project because of costs associated with the longer review? If so, what were those specific costs (*e.g.,* lessened return on investment, penalties under contracts, lost funding from federal and state programs, customer churn)? Could delays in one jurisdiction or set of jurisdictions have effects on deployment in other markets? For example, to what extent would delays beyond 120 days in one area (or the aggregate effects of such delays in multiple areas) preclude a provider from beginning additional deployments in other areas by tying up resources needed to undertake those additional deployments?

We propose that the 120-day time period start when a provider submits a written application for an authorization, or, if a state or local government requires pre-application steps, when the provider takes the first mandatory procedural step. A number of commenters support such an approach. Do other commenters agree? If commenters disagree, when should the period begin? For example, some state and local government commenters contend that the start of any such timeframe should be the point at which an application is deemed complete. As discussed in more detail below, while some commenters favoring establishing a deadline argue that it should be extended upon discovery of application deficiencies or incompleteness, they further argue that calculating the deadline from the point at which a state or local government deems the application complete could render the deadline meaningless if a state or local government improperly delays that determination. Do commenters agree that requiring completeness would enable gamesmanship by state and local governments to extend their review periods indefinitely, resulting in effective prohibitions? Would requiring completeness before the timeframe begins be inconsistent with the approach that the Commission took to establish shot clocks for Small Wireless Facilities, as Free State Foundation suggests, and if so, what would the consequence of any such inconsistency be? If the Commission were to consider starting the 120-day timeframe on the date that a state or local government deems an application complete, how should the Commission define completeness? Should the Commission consider adopting a rule that requires a state or local government to provide an applicant with written notice that their application is incomplete within a certain period of time, with a failure to do so eliminating incompleteness as a basis for rebutting a presumption that an effective prohibition has occurred?

Authorizations Subject to Deadline. We propose that any and all authorizations that a state or local government may require for a particular use of a particular right-of-way must ordinarily be acted on within the 120-day period that commences when a provider of wireline telecommunications services submits its first application for a required authorization. For instance, if a local government requires that a provider obtain a right-of-way agreement, a construction permit, road closure permits, and additional types of authorizations for a single deployment of wireline telecommunications service infrastructure in a particular right-of-way, the standard we propose would—subject to the possible exceptions discussed below—require that all such authorizations be approved within 120 days of the first request submitted. The record is clear that providers must have a sense of when they will obtain the authorizations needed for their builds to proceed in order to plan and budget for their deployments, as variables such as excessive state and local processing delays can render builds cost prohibitive and the risks of further investment too high. Further, sequential authorization demands that drag out for months, if not years, may delay deployments well beyond the point that we may presume an effective prohibition to have occurred pursuant to the proposals herein. We thus believe the goals of establishing a deadline for state and local governments to act on applications for authorizations that would avoid a presumption that they have violated Section 253 would be best achieved by applying it to all authorizations that the governments may require for a particular deployment in a particular right-of-way, and seek comment on that view.

Do commenters agree that the Commission should adopt a single deadline that applies to any and all authorizations that a state or local

government may require a wireline telecommunications services provider to obtain for a particular use of a particular right-of-way? Do state and local governments identify all of the authorizations that a provider must obtain for a particular deployment early in the process, such that providers could organize and submit their applications in a manner that would work with the proposed 120-day period? Are there authorizations that must be processed sequentially and that require review periods that would make it impracticable for all authorizations to be reviewed within a single 120-day period? If so, should the 120-day period restart for certain types of authorizations, or should sequential authorization processing be a basis for seeking an extension of the 120-day period? To the extent governments require providers to obtain authorizations from multiple state or local agencies to deploy wireline telecommunications infrastructure within a particular right-of-way, is it feasible for those agencies to coordinate their work to comply with a single 120-day period? If not, why not? What else should the Commission consider when determining whether to require state and local governments to act on all authorizations required for a particular deployment in a particular right-of-way by a single deadline? If commenters propose that the Commission take a different approach, *e.g.,* separate deadlines for different types of authorizations needed for a particular use of a particular right-of-way, we ask that commenters detail how their proposals would function and comport with the effective prohibition standard in Section 253(a).

We also seek comment on whether the 120-day period should apply to ''batched'' applications, *i.e.,* requests for authorizations for multiple deployments within a single jurisdiction. In the *Small Cell Order,* the Commission found that ''the way in which Small Wireless Facilities are likely to be deployed, in large numbers as part of a system meant to cover a particular area,'' warranted applying the shot clocks applicable to such facilities to batched applications. Do the same considerations apply in the context of deploying infrastructure to provide wireline telecommunications services? Is there sufficient uniformity between the applications for authorizations for multiple deployments within a single jurisdiction to enable state and local governments to efficiently review them all within a single 120-day period, or are there variances between the applications or the locations where the infrastructure is to be deployed that warrant separate review periods? How do state and local governments require providers to structure their applications for authorizations in the wireline context? Are providers required to submit separate applications for each street, sidewalk, or other public right-of-way where they propose to install facilities within a single jurisdiction? Are they required to break their applications down even further (*e.g.,* by city block)? Do any state or local governments allow providers to submit jurisdiction-wide applications? What challenges would state and local governments encounter if they were required to process batched applications within a single 120-day period?

Lastly, we seek comment on whether the Commission can and should apply its proposed 120-day period to applications for state and local authorizations to place infrastructure needed to provide wireline telecommunications services outside the public right-of way. What state and local statutes, regulations, and legal requirements currently apply to requests to place such facilities outside of public rights-of-way? What facilities do providers deploying wireline networks need to place outside of the public rights-of-way (*e.g.,* fiber huts)? Do state and local procedures for placing wireline telecommunications facilities outside of public rights-of-way differ from applications to access and use public rights-of-way? Do the procedures result in delays that effectively prohibit the provision of wireline telecommunications services in violation of Section 253(a)? If so, would the savings clause in Section 253(c) apply to such requirements, given that the statutory provision expressly applies to uses and management of public rights-of-way? Would the savings clause in Section 253(b) apply? What else should the Commission consider when evaluating whether to apply the proposed 120-period to requests to place wireline telecommunications facilities outside the public rights-of-way? Should the Commission evaluate whether there are state and local laws that prohibit or effectively prohibit providers from requesting and obtaining access to private utility easements within the meaning of Section 253?

Section 253(b) and (c) Savings Clauses. We tentatively conclude that 120 days ordinarily provides sufficient time to perform the tasks outlined in Section 253(b) and (c) and seek comment on that view. We acknowledge the safety and other public welfare purposes of the permitting process and the role state and local governments have in managing public rights-of-way to address those concerns. Wireline telecommunications deployments can involve excavation, road closures, aerial attachments, and other types of work that impact the public and warrant review consistent with the purposes identified by Congress in Sections 253(b) and (c) of the Act. Nevertheless, we believe that in most circumstances 120 days provides an adequate amount of time to complete that review, as evidenced by comments from both providers and governments stating that authorization requests are often processed in less than 120 days. Indeed, some states that have adopted deadlines for their political subdivisions to process authorizations for wireline deployments have codified much shorter time periods, *e.g.,* 60 days. Further, our proposal to adopt a single deadline based on the point that an effective prohibition can be presumed to have occurred if the provider cannot proceed with its deployment—rather than structured deadlines for each type of authorization that may be required—would allow state and local governments to continue employing the management and review methods that they have deemed necessary for their jurisdictions. That said, we believe it is important to set a definitive point at which the state and local review process must presumptively stop so as to give providers the certainty they need to plan, fund, and implement their deployments, and that our proposal would achieve that critical objective.

We seek comment on this approach. Do commenters agree that 120 days provides enough time for state and local governments to carry out the tasks set forth in Section 253(b) and (c)? If not, what specific tasks would state and local governments not be able to complete within that timeframe (*e.g.,* inspections, meetings, any required vote by a government body), and what deadline would allow sufficient time for those tasks to be completed? Is 120 days sufficient time for state and local governments to address the unique geographic, economic, or other regulatory considerations of their jurisdictions? If not, why not? Can state and local government commenters provide specific examples of applications that took longer than 120 days to review and detailed explanations for why that was the case (*e.g.,* incomplete applications)? Are there measures that the Commission should consider adopting to address any impediments to completing application reviews within 120 days (*e.g.,*

requirements concerning the submission of complete applications)? Could any challenges identified by state and local governments be mitigated through more efficient procedures? For example, INCOMPAS points out that numerous federal, state, and local agencies complete complex permitting activities within mandatory timelines in other contexts. Is there any reason that state and local governments could not develop standard processes that would allow them to complete the public welfare tasks identified in Sections 253(b) and (c) and comply with a deadline to act on wireline telecommunications authorization requests? Would a failure to take such steps that could improve processing times support the conclusion that a state or local government's requirements effectively prohibit the ability of an entity to provide wireline telecommunications services? What else should the Commission consider to determine whether 120 days or another time period that reflects the point at which an effective prohibition has presumptively occurred under Section 253(a) also exceeds any timeframe necessary for a state or local government to perform the tasks identified in Section 253(b) and (c)?

Bases for Rebutting the Presumption of a Section 253 Violation and Extending the Deadline. We propose that state and local governments be permitted to rebut the presumption that an effective prohibition has occurred under Section 253(a). We seek comment on the factors that should be considered to determine whether the presumption has been rebutted and whether the Commission should consider adopting specific provisions for extending the deadline under certain circumstances. For instance, are there particular types of applications or projects that inherently require more time to review due to their complexity, scope, or other factors, and that providers should expect state and local governments to need more time to review when planning their builds? If so, what specific aspects of the applications or projects trigger the need for more time (*e.g.,* the terrain, need for third-party coordination, particular engineering issues) and why could those factors not be addressed within a 120-day period? Are there any other factors that are relevant to rebutting the presumption that an effective prohibition has occurred if more time than any deadline adopted by the Commission is needed (*e.g.,* incomplete applications)?

Should the Commission consider adopting specific extensions of the 120-day period when certain circumstances arise? For example, if—through no fault of the state or local government—a provider does not file an application needed for a particular deployment until late in the 120-day review period (*e.g.,* the provider applied for a right-of-way agreement on Day 1 but does not submit an application for a separate excavation permit until Day 118), should the state and local government be able to take more time to review the late-filed application? If so, should the 120-day clock be restarted for the late-filed permit, or should the 120-day review period be extended for a shorter set period? Should the Commission consider a set extension for applications that are submitted but are incomplete? Should the review period be extended if a provider revises its deployment plan after its applications have been submitted? Should providers and governments be able to extend the 120-day review period by mutual agreement? Should the 120-day period be paused while the parties negotiate a mutual agreement? And what process should take place if negotiations fail and no good-faith, mutual agreement is reached? If a state or local government approves an authorization during the 120-day review period, but then revokes it and requires the provider to reapply, should the 120-day period restart for the renewed application, or should the prior 120-day period still apply and be extended? Should an extension be prohibited if the revocation is due to the state or local government changing its requirements for an application after the provider submits it, or due to a mistake or omission by the government during the review process? Are there any factors or circumstances that should be preemptively rejected as bases for extending the 120-day review period?

Applicability to Government-Owned Structures. The mandates of Section 253 apply not only to requests to access and use public rights-of-way to provide telecommunications services, but to requests to access and use government-owned property in public rights-of-way. Indeed, in City of Portland, the Ninth Circuit agreed with the Commission's determination in the *Small Cell Order* that state and local governments do not act solely as market participants when they grant or deny access to government-owned structures in public rights of way, stating that ''[t]he rights-of-way, and manner in which the municipalities exercise control over them, serve a public purpose, and they are regulated in the public interest, not in the financial interests of the cities.'' Thus, the court upheld the Commission's application of its interpretations of Section 253 to government-owned property in public rights of way, concluding that governments ''act in a regulatory capacity when they restrict access to the public rights-of-way because they are acting to fulfill regulatory objectives.'' Further, the court noted that the Commission's determination was not novel, citing prior in-circuit precedent concluding that ''cities operate in a regulatory capacity when they manage access to public rights-of-way and property thereon.''

Consistent with this precedent, we propose to apply the 120-day deadline for state and local governments to act on applications for authorizations to provide wireline telecommunications services and deploy wireline telecommunications infrastructure to requests to access and use government-owned property located in public rights-of-way, including, but not limited to, government-owned poles. We seek comment on this approach. Are there any factual or practical distinctions between requests to access public roadways, highways, streets, sidewalks, or similar property and requests to attach to different types of government-owned poles or structures that warrant taking a different approach? Is the proposed 120-day deadline sufficient to review applications to attach facilities to government-owned structures? If not, should the Commission consider a longer deadline that is inclusive of any type of authorization that a provider may seek from a jurisdiction, or should the Commission consider a separate deadline that applies solely to applications to access and use government-owned structures? What would be the impact of not applying the proposed deadline to government-owned structures? Would it disadvantage certain types of deployments or providers? Is applying the proposed deadline to government-owned structures necessary to ensure that state and local requirements are applied in a competitively neutral, nondiscriminatory manner, as required by Section 253? What else should the Commission consider when determining whether to apply the proposed deadline to government-owned structures in public rights-of-way?

Enforcement. We seek comment on how providers could seek enforcement of the proposed deadline. We expect that one method of enforcement would be action on petitions submitted to the Commission under Section 253(d) of the Act. That provision directs the Commission to preempt the enforcement of any statute, regulation, or legal requirement ''to the extent

necessary to correct'' a violation of, or inconsistency with, Section 253(a) after public notice and comment. Accordingly, if the Commission were to adopt a presumption that a failure to comply with the proposed 120-day deadline constitutes an effective prohibition that violates Section 253, and a state or local government requires that providers comply with procedures for authorization reviews that exceed that timeframe, providers could petition the Commission for preemption of those procedures. At that point, as proposed above, the relevant state or local governments could respond with any arguments the Commission should consider to determine if the presumption of an effective prohibition has been rebutted and/or any additional arguments for why it believes the procedures should be saved from preemption under Section 253(b) or (c). We seek comment on this approach. We observe that Section 253(d) does not expressly authorize the Commission to order injunctive relief, *e.g.,* to require a state or local government to grant a permit or follow procedures specified by the Commission. In view of this, would preempting state and local requirements that allow review and approval of authorizations beyond the 120-day timeframe, without any further relief, sufficiently resolve an effective prohibition created by excessive delays? If not, can commenters identify any source of authority that would enable the Commission to require state and local governments to grant an authorization request or to provide other injunctive relief? Are there other forms of relief the Commission could order beyond preemption that would enable the provider to proceed with its project? Would a petition to the Commission under Section 253(d) be viable if the delay is based on inaction that is not rooted in a statute, regulation, or legal requirement?

Would providers be able to seek enforcement of a deadline adopted by the Commission in court? We note that Section 332(c)(7) of the Act authorizes providers to commence an action in court if a state or local government fails to act on an authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time where they may seek injunctive relief. We expect that, at a minimum, the Commission's determinations of what constitutes an effective prohibition under Section 253, including any presumption adopted by the Commission on when excessive delays have a prohibitive effect, would be persuasive authority to courts. Would courts be legally bound to enforce rules adopted by the Commission that codify and implement the proposals discussed above?

Consistent with the incremental approach taken to establish shot clocks under Section 332 in the *Small Cell Order,* we decline at this time to propose the ''deemed granted'' remedy requested by some commenters. We expect that creating a standard that providers can use to challenge delays as effective prohibitions will be sufficient to address the consequences identified by providers in the record, particularly given that the record indicates that many jurisdictions currently process applications within the proposed deadline period. However, we may revisit this decision if evidence submitted to the Commission suggests that a ''deemed granted'' remedy is needed and, as discussed above, commenters identify sources of authority that would allow the Commission to order state and local governments to grant authorization requests. We thus seek comment on our proposed incremental approach and any bases upon which the Commission could and should require state and local governments to grant requests for authorizations to provide wireline telecommunications services and deploy wireline telecommunications infrastructure.

We also seek comment on whether and how the Commission should enforce its prior determination that de facto moratoria violate Section 253 if we were to adopt the proposed deadline. In the *Moratoria Order,* the Commission determined that de facto moratoria prohibit or effectively prohibit the provision of telecommunications services through indefinite or unreasonable delays in the processing of applications or issuance of permits, such as through blanket refusals to process applications, refusals to issue permits for a category of structures, and frequent and lengthy delays of months or even years in issuing permits and processing applications. By contrast, express moratoria are created via state or local statutes, regulations, or other written legal requirements that expressly prevent or suspend the acceptance, processing, or approval of applications or permits necessary for deploying telecommunications services and/or facilities, and also violate Section 253. If the Commission were to codify a presumption that a state or local government has effectively prohibited the provision of wireline telecommunications services if it does not act on authorization applications by a set deadline, would that render the Commission's prior ruling on de facto moratoria moot in the context of wireline services? Are there circumstances where de facto moratoria could still exist? If so, what are those circumstances? Should the Commission codify its declaratory rulings on moratoria?

Expediting Deployments Upon Approval. Some government commenters have suggested that some providers do not complete deployments after authorization approvals have been issued. They argue that this results in a waste of financial and administrative resources. If the Commission were to adopt a rule that requires state or local governments to act on wireline authorizations within 120-days to avoid a presumption that they have violated Section 253, are there steps that the Commission could also take to incentivize providers to act quickly on those authorizations so that state and local governments have more certainty that the deployments will be completed and that their resources are being correctly applied? Are there formal requirements that the Commission should consider, and if so, could they be adopted under Section 253 or another source of authority?

B. Establishing a Standard for State and Local Fees That Complies With Section 253

The courts and the Commission have long applied Section 253 of the Act to limit fees charged by state and local governments that impose prohibitive financial burdens on the provision of wireline telecommunications services and the deployment of wireline telecommunications infrastructure. Despite this precedent, the record developed in response to the *2025 Notice of Inquiry* shows that many state and local governments continue to assess fees against providers seeking authorizations to deploy and provide wireline telecommunications services as profit generators for their jurisdictions, rather than as compensation for costs incurred due to the provider's requested or actual use of the public rights-of-way. The record makes clear that state and local governments assess these fees without regard to the financial burden they create for the provider and its ability to provide service. For instance, Crown Castle reports that it is either stuck at an impasse or has been forced to walk away from projects planned for municipalities in Alabama, Washington, and Arizona due to excessively high fees that have ''caused [the] projects to be uneconomical.'' INCOMPAS similarly asserts that above-cost fee requirements set by cities in Arizona,

Oregon, New Mexico, California, and New Mexico, including gross-revenue and per-linear-foot fees, have ''led [its] members to abandon planned projects in those localities as uneconomic.'' T-Mobile, meanwhile, claims that non-cost-based fees ''can and have caused our fiber partners to abandon deployment projects,'' citing as examples a Minnesota city's ''$160 fee for any structure (*i.e.,* handholds, vaults, terminal boxes, etc.) that the company install[s]'' and an Ohio municipality's high per-linear-foot fees. USTelecom also states that some of its members have abandoned or scaled back projects due to excessive fees, including one project for which a city in Minnesota sought close to $30,000 in per-linear foot fees for a single block.

While these and other examples in the record of providers canceling, delaying, or scaling back projects raise serious concerns about the fees being assessed by state and local governments for wireline telecommunications deployments, those concerns are amplified when considering the impact of excessive fees on a regional or national basis. As NCTA states, when ''any given locality's unreasonable permitting fees and conditions sap a disproportionate share of a provider's available capital for a particular multi-jurisdictional deployment project, that locality may be effectively prohibiting the provider's ability to follow through on its plan to extend its network to other jurisdictions.'' Accordingly, even if many state and local governments charge fees that are not excessive, the ones that do can cause prohibitive effects that reach beyond their jurisdictional boundaries.

To ensure that excessive fees do not effectively prohibit the provision of wireline telecommunications services in violation of Section 253 of the Act, either within the jurisdiction where they are charged or in the aggregate, we propose to adopt a rule that codifies a cost-based standard for the fees that state and local governments may collect in connection with authorizations to access and use public rights-of-way to provide such services and to deploy wireline telecommunications infrastructure. Specifically, we propose that state and local fees be limited to a reasonable approximation of the government's actual and direct costs of managing its public rights-of-way in connection with a particular wireline telecommunications authorization, provided that those costs are objectively reasonable, competitively neutral, and nondiscriminatory. We propose to codify a presumption that state and local fees do not impose financial burdens that violate Section 253(a) and constitute ''fair and reasonable compensation'' within the meaning of Section 253(c) when they comport with this standard. As we did in the context of Small Wireless Facilities, we propose to adopt safe harbor fee levels, with fees that fall within the safe harbor levels deemed presumptively compliant with our proposed fee standard. We propose and seek comment on additional measures to implement this fee standard below.

Cost-Based Fee Standard. In the *Small Cell Order,* the Commission established a cost-based standard for fees that state and local government may assess for authorizations to deploy Small Wireless Facilities. In doing so, the Commission reviewed a line of judicial precedent that: (1) found excessive fees can violate Section 253(a); and (2) supported an interpretation of Section 253(c) that requires ''fair and reasonable compensation'' to be cost-based. For instance, in *City of White Plains,* the Second Circuit examined an ordinance that charged providers a monthly fee of five percent of annual gross revenues. Although the Second Circuit did not resolve whether the term ''compensation'' limited fees to costs, the court observed that Section 253(c) ''requires compensation to be reasonable essentially to prevent monopolistic pricing by towns,'' as ''[w]ithout access to local government rights-of-way, provision of telecommunications service using land lines is generally infeasible, creating the danger that local governments will exact artificially high rates.'' The court noted that ''compensation is . . . sometimes used as a synonym for costs,'' but ultimately did not resolve whether fair and reasonable compensation is ''limited to cost recovery, or whether it also extends to a reasonable rent,'' relying instead on the fact that ''White Plains has not attempted to charge Verizon the fee that it seeks to charge TCG'' to determine that the fee failed the ''competitively neutral and nondiscriminatory'' standard in Section 253(c). Similarly, in *Municipality of Guayanilla,* the First Circuit held that Section 253(a) preempted a municipal ordinance charging a monthly fee of five percent of annual gross revenues, concluding that the fees placed such a ''significant burden'' on providers that they impermissibly ''strain[ed the] ability to provide telecommunications services.'' It found that Section 253(c) did not save the fee requirement because the fees lacked a nexus with ''the actual use of the rights of way, . . . an essential part of the equation'' in determining whether the fees were ''fair and reasonable compensation as opposed to monopolistic pricing.'' Due to this case-specific finding, the First Circuit determined that it ''need not decide whether fees imposed on telecommunications providers by state and local governments must be limited to cost recovery'' to comply with the statute. The First Circuit also noted that the inquiry under Section 253 is not limited to the impact that a fee has on the deployment in the jurisdiction that imposes the fee, but the aggregate effect of fees when totaled across all relevant jurisdictions. And in *City of Santa Fe,* the Tenth Circuit preempted an ordinance enabling the City of Santa Fe, New Mexico, to charge an annual rent of $6,000 for a single 12′x18′ block of concrete, which it deemed to be a prohibitive financial burden. The Tenth Circuit reasoned that it was ''sufficient [under Section 253(a)] to show that the rental provisions [were] prohibitive because they create[d] a massive increase in cost'' for the provider, and after noting that the city had conceded that its rent requirement was not cost based, concluded that the requirement did not constitute ''fair and reasonable'' compensation under Section 253(c) pursuant to the ''totality of the circumstances'' test adopted by some federal circuits. We acknowledge, too, that some courts have upheld gross-revenue fees.

These cases—each of which interpreted Section 253 in the context of wireline telecommunications services—did not conclusively determine that Section 253(c) requires state and local fees to be cost-based. They do, however, support a conclusion that the best reading of Sections 253(a) and (c) is that Congress intended to limit state and local fees to prevent governments from using their control over public rights-of-way to extract exorbitant sums from providers, thereby increasing providers' costs, lowering their profitability, and effectively prohibiting their ability to provide and expand their telecommunications services. This is clear from the statutory text, which requires state and local fees to be limited to what is ''fair and reasonable'' for ''use of public rights-of-way,'' imposed on a ''competitively neutral and nondiscriminatory'' basis, and disclosed publicly. This qualifying language expressly limits the fees that state and local governments may charge and thus stands in opposition to a reading of the statute that would entitle state and local governments to charge profit-driven fees. The Ninth Circuit

concurred with this reading of the statute in City of Portland, stating that Section 253(c) ''requires that compensation be 'fair and reasonable;' this does not mean that state and local governments should be permitted to make a profit by charging fees above costs'' where the Commission has reasonably determined that the aggregate effect of such fees is to effectively prohibit the provision of telecommunications services. The Ninth Circuit thus upheld the Commission's adoption of a cost-based approach for fees assessed in connection with authorizations to deploy Small Wireless Facilities, deeming the approach of the *Small Cell Order* ''consistent with the language and intent of Section 253(c).''

Consistent with this precedent, we tentatively conclude that: (1) a state or local government does not effectively prohibit the provision of wireline telecommunications services in violation of Section 253(a) if it merely requires a provider to bear the government's actual and direct costs of authorizing the provider to use the public rights-of-way in its jurisdiction to provide service or deploy infrastructure; and (2) fees that recover more than such costs do not constitute ''fair and reasonable compensation'' under Section 253(c). Consistent with these tentative conclusions, we propose to adopt a rule that limits state and local government fees for authorizations required to provide wireline telecommunications services and deploy wireline telecommunications infrastructure to those that are a reasonable approximation of the government's costs of managing the public rights-of-way in connection with a particular authorization. We seek comment on this approach.

Do commenters agree that the interpretations of Section 253 set forth above are the best reading of the statute? If so, what additional authorities exist to support those interpretations? If not, what authorities support an argument that the best reading of ''fair and reasonable compensation'' under Section 253(c) is that state and local governments may extract profits in exchange for granting access to public rights-of-way to provide wireline telecommunications services? For instance, do commenters agree with the local governments that argue that the best reading of ''fair and reasonable compensation'' under Section 253(c) is that state and local governments may charge market-based rates?

Do commenters agree that a cost-based fee standard is appropriate in the context of wireline telecommunications services? In the *Small Cell Order,* the Commission concluded that ''infrastructure builders, like all economic actors, have a finite (though perhaps fluid) amount of resources to use for the deployment of infrastructure,'' and that ''fees imposed by localities, above and beyond the recovery of localities' reasonable costs, materially and improperly inhibit deployment that could have occurred elsewhere.'' The Commission further concluded that the ''regulatory uncertainty created by such effectively prohibitive conduct creates an appreciable impact on resources that materially limits plans to deploy service.'' In reaching these conclusions, the Commission deemed it appropriate to consider ''the aggregate effects of fees imposed by individual localities,'' stating that it had to ''consider the marketplace regionally and nationally and thus . . . consider the cumulative effects of state or local fees on service in multiple geographic areas that providers serve[d] or potentially would serve.'' Opting to proceed incrementally based on the record before it on 5G deployments, which require the installation of many closely spaced small cells to ensure reliable services, the Commission determined that ''fees above a reasonable approximation of cost, even when they may not be perceived as excessive or likely to prohibit service insolation, will have the effect of prohibiting wireless service when the aggregate effects are considered.'' Thus, the Commission concluded that Section 253 precludes non-cost-based fees for the deployment of Small Wireless Facilities because such fees can prohibitively increase the financial burdens of a single deployment and be prohibitive when the cumulative effect of state and local fees is considered on a national or regional basis.

As noted above, the record developed in response to the *2025 Notice of Inquiry* indicates that excessive fees are also having a prohibitive effect on wireline telecommunications deployments in the jurisdiction where they are assessed and in the aggregate, when the financial burdens of deploying in one jurisdiction requires a provider to divert resources from planned deployments in another. Do commenters agree with that tentative conclusion? If not, why not? And if commenters do agree that excessive fees are having a prohibitive effect, as indicated in the record developed in response to the *2025 Notice of Inquiry,* do commenters agree that the same rationales for adopting a cost-based standard in the *Small Cell Order* apply to wireline telecommunications deployments? Do commenters believe that limiting state and local governments to the recovery of their costs would remedy the prohibitive effects of excessive fees identified in the record?

We also seek comment on the effect of limiting fees to the recovery of costs on state and local governments. The record shows that some states, such as Missouri and Ohio, have already enacted statutes that limit the compensation that localities may collect for use of their public rights-of-way to actual costs. Are there other states that have done so as well? If so, which states? Are there localities that have adopted cost-based fee schedules? If so, how many have done so and can commenters identify the regulations that establish the cost-based fees? We note that some local government commenters have indicated that they do not fundamentally oppose requiring fees to be cost-based; rather, their concern is primarily about whether and how those fees will be capped. Does that reflect the view of other state and local governments? Stated differently, would more state and local governments support a cost-based fee standard if mechanisms were in place to ensure that they are able to recoup the actual costs they incur due to a particular authorization (*e.g.,* safe harbors, the ability to rebut a presumption that a fee is excessive in a particular case)?

We seek comment on additional concerns raised by state and local commenters. For instance, some governments assert that a cost-based standard would disrupt local budgets. Others, like the City of Dallas, argue that this may result in property tax increases for residents in order to recapture lost revenue. We believe that this argument is inconsistent with the text of Section 253(c), which, as explained above, contains language that limits state and local fees to fair and reasonable compensation for use of public rights-of-way, indicating an intent by Congress to prevent state and local governments from using their control over public rights-of-way as a profit generator that prohibitively increases the financial burdens of telecommunications deployments. Accordingly, we believe that any adjustments to local budgets that may be needed as a result of limiting state and local fees as proposed herein would be a necessary consequence of complying with the mandates of the statute. As detailed below, we propose to establish safe harbors for fees that would presumptively comply with a cost-based standard under Section 253 and seek comment on the data that the

Commission should consider to set such safe harbors. It may be that, after considering that data, the Commission sets safe harbors that are consistent with the fees assessed by many jurisdictions for authorizations to access and use public rights-of-way to provide wireline telecommunications services. Accordingly, at this time, any argument that state and local governments may lose revenue due to a rule establishing a cost-based fee standard is speculative. We seek comment on these views, and how much state and local fees might change if we were to adopt the proposed cost-based standard. Given that some state and local governments assert that limiting fees to cost-based recovery will have a significant economic impact on their jurisdictions, we assume that those governments have balance sheets, projections, and other financial reports that set forth how much they collect in authorization fees, the costs that those fees cover, the net revenue that is applied to other governmental purposes, what those purposes are, etc. Are these data points that state and local governments can submit to the Commission, both to assist our consideration of the economic-impact arguments asserted by commenters and to evaluate whether any fee safe harbors established by the Commission would sufficiently compensate state and local governments for their costs? Is the data available via public sources?

Some government commenters also argue that limiting fees to cost-based recovery would constitute a Fifth Amendment taking and that ''compensation'' requires recovery of fair market value. As an initial matter, we note that the Ninth Circuit rejected similar arguments when it upheld the cost-based fee standard adopted in the *Small Cell Order,* concluding that no regulatory taking within the meaning of the Fifth Amendment took place because the Commission's standard allowed state and local governments to recover their actual costs of providing access to public rights-of-way pursuant to Section 253(c). The court pointed to the U.S. Supreme Court's decision in *FCC* v. *Florida Power Corp.,* which found that ''it is . . . settled beyond dispute that the regulation of rates chargeable from the employment of private property devoted to public uses is constitutionally permissible'' and that ''[s]o long as the rates set are not confiscatory, the Fifth Amendment does not bar their imposition.'' Here, we do not even seek to set rates for right-of-way access, but merely to establish a standard that ensures such fees comply with Section 253 in the context of wireline telecommunications services. Further, the standard we seek to establish would expressly allow state and local governments to recover their actual costs. Accordingly, we do not believe our proposed standard implicates the Fifth Amendment. Even if it were otherwise, it remains unclear how ''fair and reasonable'' compensation under Section 253(c) could be based on ''fair market value'' given that public rights-of-way are not assets freely bought and sold in a ''market,'' but are more accurately described as subject to monopolistic control by state or local governments. In such circumstances, actual costs or other readily discernable amounts have been deemed reasonable proxies for estimating just compensation. We seek comment on these views. Do commenters agree that our proposed fee standard does not implicate the Fifth Amendment? If not, on what basis could state and local governments argue that an uncompensated taking will occur under the Fifth Amendment if they are limited to compensation for the costs they incur due to a provider's use of public rights-of-way?

Some government commenters also express concern that requiring fees collected in connection with the provision and deployment of wireline telecommunications services to be cost-based may lead to preferential treatment of telecommunications providers over other users of the public rights-of-way (*e.g.,* electric and other utilities). While it is not clear from the current record whether this is true, we note that Congress had a specific objective when it enacted Section 253: to remove state and local barriers to the deployment of telecommunications services and promote the rapid deployment of new telecommunications technologies. Accordingly, any preference favoring telecommunications deployments that may be perceived pursuant to the implementation of the statute is one directed by Congress. Do commenters agree? Is there a legal basis for concluding that state and local fees for wireline telecommunications authorizations may not be limited to the recovery of costs under Section 253 if other users of public rights-of-way are charged above-cost fees? Do commenters agree that Congress may enact statutes that result in different users of state and local public rights-of-way being subject to different fees or other requirements?

Objectively Reasonable Costs. In addition to limiting fees for wireline telecommunications authorizations to a reasonable approximation of the costs incurred by a state or local government for managing their public rights-of-way in connection with a particular authorization, we propose to limit the costs that may be recovered to those that are objectively reasonable. We seek comment on the costs that should be included or excluded under this standard.

To start, we propose that state and local governments be limited to recovering the actual and direct costs that they incur to manage the public rights-of-way with respect to the provider's access and use of the right-of-way. By ''direct costs,'' we mean expenses that can be directly traced to a provider's application to access and use a public rights-of-way, and would not have been incurred but for the provider's access and use of the public right of way. By ''actual costs,'' we mean costs that can be substantiated by invoices or other documentation and are not hypothetical or speculative. We believe this approach is consistent with the text of the statute, which states that ''fair and reasonable compensation'' may be required ''from telecommunications providers . . . for use of public rights-of-way on a nondiscriminatory basis.'' We believe the best reading of that language is that Congress intended state and local governments to recover the costs they actually incur due to the direct use of public rights-of-way by a particular provider, and not costs associated with management of the public rights-of-way generally or that were incurred due to uses of the public rights-of-way by other entities. We seek comment on this view. Do commenters agree that state and local governments would collect ''fair and reasonable compensation'' if they recover the actual and direct costs that they incur due to a provider's specific use of a particular right-of-way? If so, what would those costs include? For instance, would they include the costs of processing the provider's application to access the right-of-way, and what do those costs include (*e.g.,* labor hours)? Would they include costs associated with monitoring the provider's deployment of facilities, and what do those costs include (*e.g.,* inspections, surveys)? Are there other actual and direct costs that should be included as objectively reasonable? Are there certain costs that are arguably incurred due to a provider's specific use of a public right-of-way, but should be excluded from any measure of objectively reasonable costs because they are inherently excessive or unnecessary? For instance, should exorbitant fees charged by consultants retained by state and local governments be excluded?

Some commenters suggest that state and local governments should be

permitted to recover modest overhead costs under Section 253, such as joint and common costs for the administration and upkeep of public rights-of-ways or intergovernmental coordination when reviewing deployment projects. Do other commenters agree? If the Commission were to allow for such recovery, what joint and common costs should be included and how should they be allocated among users of the public rights-of-way? For instance, how should joint and common costs be allocated if a local government conducts a routine inspection of a public right-of-way that contains wireline telecommunications, electric, and water main infrastructure? Should state and local governments be required to employ a particular allocation method for joint and common costs based on relative usage of the public rights-of-way or the degree to which a provider benefits from the cost-imposing activity to determine the portion of joint and common costs that can be recovered from each provider using the right-of-way? Would a recovery of joint and common costs be consistent with the best reading of Section 253?

Safe Harbors. We propose to establish one or more safe harbors, with state and local fees for wireline telecommunications authorizations set at or below the safe harbor level presumptively deemed compliant with Section 253(a) and ''fair and reasonable compensation'' under Section 253(c). Under this approach, the Commission would not automatically preempt any and all state and local fees that are not cost-based, but instead adopt a presumption that fees that fall within the safe harbors are ''so clearly reasonable that justification [is] not necessary.'' Thus, state and local governments would not be required to establish the cost basis for each fee assessed for a wireline telecommunications authorization unless they seek to charge a fee that exceeds any applicable safe harbor limit. In such cases, the fee higher than the safe harbor limit would be deemed to violate Section 253 unless the state and local government can show that it only recovers the government's actual and direct costs incurred due to the provider's access and use of the public rights-of-way, and that those costs are objectively reasonable, competitively neutral, and nondiscriminatory.

We seek comment on this approach. Providers that responded to the *2025 Notice of Inquiry* generally support the establishment of safe harbors as a means of preventing excessive fees—bound by no limits—from curtailing and delaying deployments in violation of the statute while ensuring that state and local governments receive compensation for the actual and directs costs that they incur due to those deployments. Do other commenters agree? Does the wireline context pose unique considerations that make safe harbors unsuitable, and if so, how? Do safe harbors limit the flexibility of state and local governments to capture actual, objective costs? Would establishing safe harbors help state and local governments avoid setting fees that could have a prohibitive effect in violation of Section 253? Would safe harbors deter unnecessary disputes and litigation? Would safe harbors provide certainty for providers seeking to deploy wireline projects? Would failure to establish safe harbors in the wireline context place additional demands on state and local governments by requiring them to demonstrate the cost basis for all fees?

We seek comment on how the Commission should set fee safe harbors in the context of authorizations to provide wireline telecommunications services. In the *Small Cell Order,* the Commission established safe harbors after reviewing small cell legislation in twenty states, a sample of local legislation from municipalities in states that had not yet passed small cell legislation, the Commission's pole attachment rate formulas, and comments in the record, which included cost surveys and other analyses. Some commenters responding to the *2025 Notice of Inquiry* advocated that the Commission take a similar approach to set safe harbors in the context of wireline telecommunications services, but we did not receive the suggested data sets in comments or specific safe harbor proposals. Accordingly, we request such data and proposals now. If commenters argue that we should look to existing state and local fees for the provision of wireline telecommunications services to establish safe harbors that would apply on a national scale, what specific state and local fees should we review? We request a complete set of citations for any and all state and local regulations, ordinances, fee schedules, or other sources of fee data that commenters believe we should consider. Given that fees are often memorialized in right-of-way agreements for wireline telecommunications services, we request that commenters submit copies of such agreements executed with state and local governments across the country together with a spreadsheet summarizing and comparing the relevant fee provisions. To the extent that commenters argue that certain fee demands by state and local governments are excessive and thus should not be considered when setting safe harbors, we ask that commenters specifically identify the source of those fees (*e.g.,* the specific local ordinance or right-of-way agreement) and an explanation for why those fees fail to reflect the actual and direct costs incurred by the state and local government due to the provider's access and use of the public right-of-way. We ask that commenters submit cost surveys and other analyses demonstrating the actual and direct costs that state and local governments incur when acting on applications to access and use public rights-of-way to provide wireline telecommunications services, and explanations for why those costs may differ between different types of projects (*e.g.,* based on the scope of the build, whether it involves trenching or aerial deployments), location (*e.g.,* geography, topography, population density), or other factors. We ask that commenters propose how the Commission should take such variables into consideration when establishing safe harbor fee levels.

Taking into consideration any relevant data sources and the varying nature of wireline telecommunications deployments, we ask that commenters propose specific safe harbor fee levels for the Commission's consideration, including a structure for how any fee level should apply. For instance, should the Commission consider adopting one safe harbor that encompasses the sum of all actual and direct costs incurred by a state or local government in connection with a provider's use of their public rights-of-way to provide telecommunications services, irrespective of how such costs may be recovered through different fees, *i.e.,* if a jurisdiction requires a right-of-way agreement fee, an excavation permit fee, and a road closure fee, they all presumptively comply with Section 253 provided that the total tally does not exceed an outer-bound fee level? Or should the Commission consider applying a structure similar to the one adopted in the *Small Cell Order,* with different safe harbors applying to different types of fees and facility deployments? The *Small Cell Order* established safe harbors of ''$500 for non-recurring fees, including a single up-front application that includes up to five Small Wireless Facilities, with an additional $100 for each Small Wireless Facility beyond five, or $1,000 for non-recurring fees for a new pole (*i.e.,* not a collocation) intended to support one or

more Small Wireless Facilities'' and ''$270 per Small Wireless Facility per year for all recurring fees, including any possible ROW access fee or fee for attachment to municipally-owned structures in the ROW.'' Would a different structure be more appropriate? For instance, should safe harbors differ by the type or size of jurisdiction? Should the safe harbors vary based on other factors? We ask that commenters identify the data that supports their safe harbor proposals.

Competitively Neutral and Nondiscriminatory. We tentatively conclude that to be competitively neutral and nondiscriminatory as required by Section 253(c), any fee charged to one provider of wireline telecommunications services may not be materially higher than those charged to other providers of wireline telecommunications services for similar uses of the public rights-of-way. We believe this tentative conclusion is consistent with determinations by both courts and the Commission that imposing requirements on one provider that are not imposed on similarly situated providers is inconsistent with the statutory text of Section 253(c), and seek comment on that view. Do commenters agree with our interpretation of the statute? Is a different interpretation a better reading of the statute? What are the real-world implications of applying this standard in the context of wireline telecommunications services? For instance, would it be easy to assess whether two different providers of wireline telecommunications services are being charged materially similar fees for deployments when their builds are of a different scope, utilize different deployment methods (*e.g.,* aerial versus buried), or involve different technologies? Should fees be assessed in a technologically neutral manner to ensure they are not discriminatory, or do different technologies result in state and local governments incurring different costs that would justify different fees? What other factors should the Commission evaluate to determine when fees are competitively neutral and nondiscriminatory?

Section 253(c) requires that fair and reasonable compensation collected by state and local governments be ''publicly disclosed.'' Some commenters suggest that state and local governments are not complying with this statutory directive. We seek comment on whether the Commission should ensure compliance by adopting a requirement that state and local governments publicly disclose any fees they collect in connection with an authorization to access and use public rights-of-way to provide wireline telecommunications services in a particular manner. Would the Commission have authority to adopt such a rule? If the Commission adopts such a rule, in what form should public disclosures take place? Is it sufficient if state and local governments post a table on their websites or another publicly accessible platform listing the fees they have collected in connection with approved authorizations? Is it sufficient if state and local governments maintain a list of all fees that they have collected and provide it to anyone from the public on request? Should we require that state and local governments establish and publicly disclose fees in advance of the imposition of the fee for a particular application? Should we require that state and local governments describe the costs included in the fees they impose with sufficient detail to permit providers and the Commission to evaluate whether the fees comport with the ''fair and reasonable'' and ''competitively neutral and nondiscriminatory'' requirements of Section 253(c)? Is there other information that should be included in the disclosures? Should state and local governments be required to publicly disclose fees in a manner that is accessible to all providers on equal terms? To the extent state and local governments are currently complying with the statutory public disclosure requirement, how are the public disclosures being made?

Section 253(b) Savings Clause. We seek comment on whether our proposed fee standard is consistent with the best reading of the savings clause in Section 253(b), which preserves a state's ability to ''impose . . . requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.'' Would limiting the fees that state and local governments may recover to a reasonable approximation of their objectively reasonable costs impact a state's ability to perform these tasks? If so, how? Would commenters recommend any adjustments to our proposed fee standard to address any negative impacts? Is the question of Section 253(b)'s application to our proposed fee standard moot, given that we propose to adopt a presumption that state and local governments do not effectively prohibit the provision of wireline telecommunications services if they comply with it (*i.e.,* if there is no prohibitive effect within the meaning of Section 253(a), the savings clause in Section 253(b) is irrelevant)? What else should the Commission consider when evaluating whether our proposed fee standard implicates the Section 253(b) savings clause?

Prohibited Fee Types. We seek comment on whether the Commission should adopt a rule that prohibits state and local governments from recovering certain types of fees that may not comport with the cost-based standard we propose above. For instance, some providers have suggested that it would be inconsistent with a cost-based fee standard for state and local governments to assess fees based on a provider's gross revenue, the asserted fair market value of public rights-of-way, the linear feet of a wired deployment, or to collect fees on a recurring versus one-time basis (*e.g.,* recurring use fees in a right-of-way agreement). Do other commenters agree? Are fees assessed based on gross revenue, a valuation of rights-of-way, or linear feet reflective of the costs that a state or local government incurs due to a providers' access and use of public rights-of-way to provide wireline telecommunications services? Or do such fee measures generate revenue for state and local governments irrespective of their costs? Are recurring right-of-way use fees charged to recover costs that state and local governments may incur due to a provider's access and use of public rights-of-way on an ongoing basis, *i.e.,* does an annual use fee recover costs that the state or local government incurs during the year that it is charged, even after the deployment and installation of facilities is complete? Or do state and local governments recover their costs via the initial collection of authorization fees, such that use fees collected after the deployment is complete are profit? In the *Small Cell Order,* the Commission noted that gross revenue fees generally are not based on the costs associated with an entity's use of public rights-of-way, but acknowledged that ''a fee not calculated by reference to costs might nonetheless happen to land at a level that is a reasonable approximation of objectively reasonable costs, and otherwise constitute fair and reasonable compensation as we describe herein.'' Accordingly, under the standard adopted in the *Small Cell Order,* ''[i]f all these criteria are met, the fee would not be preempted.'' Is the same true in the context of wireline telecommunications services? If so, should the Commission refrain from prohibiting the use of certain fee measurements provided that the fee collected ultimately complies with any cost-based standard and safe harbors adopted by the Commission?

Application to Government-Owned Structures. We seek comment on whether the fee standard we propose to adopt above should apply to applications to attach wireline telecommunications facilities to government-owned infrastructure in public rights-of-way or whether a different standard should apply. The record developed in response to the *2025 Notice of Inquiry* suggests that providers of wireline telecommunications services pay excessively high fees when they seek to attach facilities to government-owned poles and conduit. As discussed above, the mandates of Section 253 apply when providers seek to access and use government-owned infrastructure in public rights-of-way; thus, state and local governments may not charge fees that effectively prohibit the provision of wireline telecommunications services in violation of Section 253(a) and may only charge fair and reasonable compensation that is competitively neutral and nondiscriminatory, consistent with Section 253(c). Accordingly, we tentatively conclude that any cost-based fee standard adopted by the Commission for authorizations to provide wireline telecommunications services should apply when a provider of wireline telecommunications services seeks to attach to government-owned infrastructure in public rights-of-way. We seek comment on that view and how the Commission should implement that approach.

For instance, some state and local government commenters argue that there are concerns specific to government-owned infrastructure that differ from other requests to access public rights-of-way, such as the need to conduct engineering reviews of poles. These commenters argue that such differences weigh against limiting the fees that state and local governments can collect, whether generally or in the same manner upheld by the Ninth Circuit in the context of Small Wireless Facilities. Do other commenters agree? To the extent these concerns indicate that a state or local government incurs greater costs when a provider seeks to access poles or conduit in public rights-of-way, could those concerns be addressed by establishing safe harbor fee levels consistent with those higher costs? If so, we request that commenters submit data to the Commission demonstrating how the Commission should establish safe harbors for attachments to government-owned poles and conduit to ensure that they reflect a reasonable approximation of the actual and direct and objectively reasonable costs incurred by state and local governments when providers of wireline telecommunications services seek access. We request data demonstrating the actual and direct costs of, for example, conducting inspections and performing engineering reviews. To the extent variables such as location or geography can affect costs, we seek data highlighting their impact on costs and how state and local governments account for these differences in the fees they impose. We request that commenters submit specific proposals for safe harbors that the Commission should consider adopting in this context.

Some commenters argue that the Commission would impermissibly circumvent Section 224 by preempting a state or local law applicable to government-owned poles and conduit under Section 253. The Commission rejected this argument in the *Small Cell Order,* noting that ''[s]ome have argued that Section 224 of the Communications Act's exception of state-owned and cooperative-owned utilities from the definition of 'utility' . . . suggests that Congress did not intend for any other portion of the Act to apply to poles or other facilities owned by such entities. . . . Nothing in Section 253 suggests such a limited reading, nor does Section 224 indicate that other provisions of the Act do not apply.'' As noted above, the Ninth Circuit upheld the Commission's application of Section 253 to government-owned structures in public rights-of-way in *City of Portland.* Accordingly, we reiterate our prior conclusion that Congress's choice to exclude government-owned poles and conduit from regulation under Section 224 does not indicate an intent to remove such infrastructure from the scope of Section 253, which expressly reaches any state or local statute, regulation, or legal requirement that has a prohibitive effect on the provision of telecommunications services.

Enforcement. We propose that any state and local government fees that exceed a fee standard adopted by the Commission for wireline telecommunications services be presumed to have a prohibitive effect that violates Section 253(a) and fail to constitute fair and reasonable compensation under Section 253(c). Under this approach, providers would be permitted to seek preemption of the fees through a petition to the Commission under Section 253(d), and state and local governments would be permitted to rebut the presumption by demonstrating that the fees recover the actual, direct, and objectively reasonable costs they incurred due to the provider's access and use of the public right-of-way to provide wireline telecommunications services and are competitively neutral and nondiscriminatory. We seek comment on our proposal. What would be the impact of the Commission preempting fees that do not comply with the proposed cost-based standard? Would the potential for preemption by the Commission incentivize providers to proactively adopt fees that comport with any safe harbor fee levels adopted by the Commission, thereby reducing the need for litigation in any forum? Are there any other benefits or consequences of this proposed approach?

We also seek comment on whether a fee standard adopted by the Commission for wireline telecommunications services under Section 253 could be enforced through actions initiated in court. We expect that, at a minimum, any fee standard adopted by the Commission would act as persuasive authority for courts considering challenges under Section 253. Would federal district courts be bound to follow a fee standard adopted by the Commission?

C. Requiring In-Kind Contributions To Comply With Section 253

The record developed in response to the *2025 Notice of Inquiry* shows that providers of wireline telecommunications services are often required to supply various forms of in-kind compensation to state and local governments as a condition for obtaining authorizations to access and use public rights-of-way. The record demonstrates that these requirements often do not relate to or far exceed the costs of a provider's actual use of the public rights-of-way. Such required in-kind compensation can significantly increase the cost of wireline deployments in a manner that results in projects being delayed or even canceled. We therefore tentatively conclude that in-kind compensation demands can have a prohibitive effect on the provision of wireline telecommunications services in violation of Section 253(a) and thus are subject to preemption unless they constitute objectively reasonable compensation under Section 253(c), consistent with the cost-based fee standard we propose above, and are imposed in a competitively neutral and nondiscriminatory manner. Under this approach, the cost or value of any in-kind compensation requirements imposed by state and local governments as a condition of issuing authorizations to access and use public rights-of-way to provide wireline telecommunications

services must count toward any safe harbor fee levels adopted by the Commission to implement our proposed cost-based fee standard. For example, if a municipality could collect $3,000 in compensation for costs incurred due to a particular wireline project pursuant to safe harbor fee levels adopted by the Commission, and the municipality requires the provider to install additional conduit for municipal use at a cost of $1,200 to the provider, then that $1,200 of in-kind compensation would be deducted from the $3,000 compensation limit. The municipality would be presumed to have complied with Section 253 provided that: (1) it collects no more than $1,800 in fees from the provider; or (2) it can demonstrate that the actual and direct costs that it incurred due to the wireline project exceeded the $1,200 in in-kind compensation received and the fees that it collected in excess of $1,800. Similarly, if the municipality were to charge $2,800 in fees, then it could demand no more than $200 in in-kind compensation.

We seek comment on this proposal. We believe our tentative conclusion to be consistent with the findings of courts considering this issue. Does other legal authority support our tentative conclusion? Does contrary precedent exist? Would our proposal sufficiently remedy the prohibitive effects that excessive in-kind contributions have on deployments? How should the Commission approach the valuation of in-kind compensation for the purposes of determining whether it has been appropriately applied toward the overall compensation collected by state and local governments? As suggested in the example above, should it be based on the actual costs incurred by the provider in supplying it (*e.g.,* labor, materials)? Should it be based on any applicable market value (*e.g.,* what the government would have had to pay to purchase equipment)? Is there another method of valuation we should consider? At what point does work such as street or curb restoration stop being a reasonable cost that a provider should incur for the work it performs in public rights-of-way and become in-kind compensation? Does restoration have to be limited to exactly what existed before the provider commenced work? If an installation requires a limited street cut, does restoration of the road beyond that cut constitute in-kind compensation? Does requiring providers to do additional work to install curb ramps and other accessibility features or additional signage that did not previously exist constitute in-kind compensation? What kind of documentation should be required to substantiate the value of in-kind compensation? Who should bear the burden of proof during a dispute of in-kind valuation? Should the Commission require public disclosure of in-kind contribution requirements, and in what manner?

The Commission has addressed in-kind compensation in the context of cable franchise fees, as defined by section 622(g) of the Act. Specifically, the Commission has found that cable franchise fees ''can encompass both monetary payments imposed by a franchising authority or other governmental entity on a cable operator, as well as 'in-kind' payments—*i.e.,* payments consisting of something other than money, such as goods and services—that are so imposed,'' and determined that specific types of cable-related, in-kind contributions are franchise fees subject to the 5% statutory cap under section 622(b) of the Act.

Are there types of in-kind compensation that impose costs on providers that cannot be easily assigned a value? For instance, some commenters express concerns about municipalities that effectively require providers to subsidize their competitors by requiring them to install infrastructure that the municipality then leases out to other providers. How should such requirements be addressed? Could this be a basis for state and local governments to waive or significantly lower the fees they demand from providers? What would happen if a provider simply refused to install infrastructure that could or would be used by a competitor? Could state or local governments use the opportunity created by the provider's deployment to purchase and install additional facilities itself, rather than imposing the obligation on the provider? Do these requirements promote beneficial ''dig once'' policies, and if so, how should the Commission take that into account? Are there other forms of in-kind compensation that drive up costs for providers in a manner that implicates Section 253 but cannot be assigned a value? Are there types of in-kind contributions that are so onerous that they prohibit the provision of wireline telecommunications irrespective of whether their monetary costs would exceed our fee standard?

Some commenters request that we determine that in-kind requirements that have no bearing on a provider's use of public rights-of-way are prohibited by Section 253. While we do not propose outright prohibitions on specific types of in-kind compensation at this time, we reiterate that Section 253(c) only allows state and local governments to collect fair and reasonable compensation ''for use of public rights-of-way.'' For this reason, the Commission and courts have already recognized that demands for compensation that effectively prohibit the provision of telecommunications services in violation of Section 253(a) and are unrelated to a provider's use of public rights-of-way may not be saved from preemption by Section 253(c). We therefore tentatively conclude that, if in-kind compensation demands are unrelated to a provider's use of public rights-of-way and increase the costs of deployment in a manner that effectively prohibits the provision of wireline telecommunications service within the meaning of Section 253(a), they are likely to be preempted if challenged before the Commission or in court. We seek comment on this view and whether commenters believe it is necessary for the Commission to codify a rule that memorializes these statutory standards. Are there in-kind compensation demands that are unrelated to a provider's use of public rights-of-way but are permissible under the statute because they do not effectively prohibit the provision of telecommunications services under Section 253(a)? Are the questions of whether an in-kind compensation demand is related to use of public rights-of-way so case specific that they should be resolved via individual adjudications versus a generally applicable rule? How should the Commission define what it means for an in-kind compensation demand to be ''related'' to a provider's use of the right-of-way? Does making spare conduit or dark fiber strands available ''relate'' to the use of the right-of-way in the same way mitigation measures like repaving roads or restoring curbs do, or do such demands more closely resemble requirements such as providing a municipality with free services or other donations? Are any of these examples more or less objectionable with respect to how they relate to a provider's use of the right-of-way? Should Commission establish an exception for in-kind compensation that is voluntarily negotiated?

We also seek comment on whether state and local governments demand in-kind compensation that has a prohibitive effect that violates Section 253(a) and would not qualify as ''fair and reasonable compensation'' under Section 253(c), but may nonetheless be saved from preemption under Section 253(b). If so, what types of in-kind compensation meet the criteria of Section 253(b) and how should the

Commission consider Section 253(b) when evaluating the above proposal?

D. Applying the Deadline and Fee Standard to Commingled Facilities

We propose to adopt a rule that prohibits state and local governments from effectively prohibiting the provision of wireline telecommunications services by imposing additional requirements on wireline telecommunications infrastructure that can also be used to provide other services. Specifically, we propose to codify a presumption that a state or local government has violated Section 253 if it imposes requirements that exceed any limits on processing timelines and fees adopted by the Commission for wireline telecommunications authorizations on the grounds that the provider may provide other services over the same infrastructure on a commingled basis. We seek comment on this proposal.

We note that the Commission clarified in 2019 that the Act prohibits franchising authorities from charging cable operators duplicative fees—for example, a cable franchise fee and a ''broadband access fee''—for use of public rights of way. Section 622(a) of Title VI the Act states that any cable operator may be required under the terms of any franchise agreement to pay a franchise fee. Section 622(b) provides that ''[f]or any twelve-month period, the franchise fees paid by a cable operator with respect to any cable system shall not exceed 5 percent of such cable operator's gross revenues derived in such period from the operation of the cable system to provide cable services.'' In 2019, the Commission observed that ''Title VI does not permit franchising authorities to extract fees or impose franchise or other requirements on cable operators insofar as they are providing services other than cable services'' and preempted ''(1) any imposition of fees on a franchised cable operator or any affiliate using the same facilities franchised to the cable operator that exceeds the formula set forth in section 622(b) of the Act . . . whether styled as a 'franchise' fee, 'right-of-access' fee, or a fee on non-cable (*e.g.,* telecommunications or broadband) services, and (2) any requirement that a cable operator with a Title VI franchise secure an additional franchise or other authorization to provide non-cable services via its cable system.''

The record developed in response to the *2025 Notice of Inquiry* shows that in today's marketplace, wireline telecommunications infrastructure commonly transports both telecommunications and non-telecommunications services. As noted above, Section 253 applies to the deployment of infrastructure that can be used to provide telecommunications services, even if the entity deploying the infrastructure is not offering telecommunications services to end users. As USTelecom observes, ''[p]roviders build and operate integrated fiber networks that simultaneously carry both telecommunications traffic and broadband traffic.'' It is axiomatic that wireline telecommunications infrastructure does not cease to be such simply because it is used to carry other types of traffic, and we thus tentatively conclude that the infrastructure remains subject to the protections of Section 253 irrespective of whether the buildout is required solely to provide telecommunications services or to provide non-telecommunications services, as well. This is a principle that has been recognized by the Commission for almost twenty years, dating back to when the Commission concluded that ''Section 332(c)(7)(B) would continue to apply to wireless broadband internet access service that is classified as an 'information service' where a wireless service provider uses the same infrastructure to provide its ''personal wireless services'' and wireless broadband internet access service.'' As the Commission observed then, ''classifying wireless broadband internet access services as 'information services' will not exclude these services from the section 332(c)(7) framework when a wireless provider's infrastructure is used to provide such services commingled with 'personal wireless service.' Commingling services does not change the fact that the facilities are being used for the provisioning of personal wireless services.'' These conclusions were similar to the view taken by the U.S. Supreme Court in *National Cable & Telecommunications Ass'n* v. *Gulf Power Co.,* which concluded that a pole attachment by a cable operator does not cease to be such for the purposes of Section 224 of the Act if it is someday also used to provide high-speed internet access. Indeed, any other approach would seem in tension with the express text of the statute, which provides that ''[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.'' Accordingly, if a provider seeks to deploy infrastructure that enables the ability to provide telecommunications services, no state or local requirement may prohibit or have the effect of prohibiting it, regardless of whether the provider offers other services on a commingled basis. We seek comment on these tentative conclusions.

The record indicates that some state and local governments impose additional or more onerous requirements on providers seeking authorizations to deploy wireline telecommunications infrastructure when that infrastructure may be used to provide other services on a commingled basis. The record further suggests that these additional or more onerous requirements, such as state rate regulation of broadband, frustrate the ability of providers to offer wireline telecommunications services, with deployments facing delays or cancelation. In view of this, we propose to adopt a presumption that a state or local government violates Section 253 if it imposes requirements that exceed any limits on processing timelines and fees adopted by the Commission for wireline telecommunications authorizations on the basis that the wireline telecommunications infrastructure may be used to provide other services. We seek comment on this proposal and these views.

How common is it for state and local governments to impose additional review or fee requirements on wireline telecommunications authorization requests because the provider may also offer broadband or other services? Can providers offer additional examples of the prohibitive effect of these additional requirements, *e.g.,* examples of specific deployments that have been postponed, scaled back, or canceled, whether in the jurisdiction where the additional requirements are applied or because additional requirements imposed in one jurisdiction precludes a build from proceeding in another? Are there legitimate reasons for a state or local government to require more time to review an authorization request if additional services are offered over the wireline telecommunications infrastructure? Do the actual and direct costs incurred by a state or local government increase if wireline telecommunications infrastructure is also used to provide other services?

What would be the practical effect of adopting the proposed rule? For instance, to the extent state and local governments have enacted specific procedures and fees applicable to the deployment of broadband infrastructure, would those requirements be deemed compliant with Section 253 provided that they are no more onerous than the requirements applicable to wireline telecommunications services? What

types of additional regulatory restrictions on broadband deployments (*e.g.,* engineering requirements or facility-placement rules) would be preempted if the Commission adopted its proposed rule? What else should the Commission consider while evaluating this proposal?

E. Unused Facilities in Public Rights-of-Way

Some state and local government commenters ask that the Commission refrain from adopting requirements that would interfere with permit or land use conditions that pertain to old, unused telecommunications infrastructure left in the public rights-of-way. While we do not propose to adopt measures that would do so, we take this opportunity to seek comment on the extent to which unused wireline telecommunications facilities remain buried or installed in public rights-of-way and whether there are steps the Commission could take under Section 253 or any other authority to incentivize providers to remove such facilities as they upgrade their networks and complete additional deployments. Are there currently state and/or local laws that require providers to remove unused facilities? If so, do providers comply with those laws, and if not, why not? Do providers maintain their own procedures for removing old, unused facilities? In general, what are the obstacles to removing unused facilities from state and local rights-of-way and how can they be addressed?

F. Legal Authority

We tentatively conclude that the Commission possesses authority under Sections 253, 4(i), 201(b), and 303 of the Act to make findings concerning what constitutes a violation of Section 253(a) and what qualifies for the Section 253(b) or (c) exceptions, and to adopt regulations that enable the Commission to better effectuate its authority under Section 253(d) to preempt statutes, regulations, or legal requirements that violate Sections 253(a) or (b). We tentatively conclude that the Commission's authority to address effective prohibitions as described in Section 253(a) is not limited to case-by-case consideration (or, where appropriate, preemption) of specific state or local legal requirements. We note that many courts have not construed Section 253(d) as establishing an exclusive method of enforcing Section 253, as evidenced by the fact that they have allowed providers to challenge state and local requirements in federal court, regardless of the availability of the Commission as a forum to resolve petitions. We seek comment on these tentative conclusions. We also seek comment on additional sources of authority under which the Commission could preempt state and local requirements that impose excessive permitting delays and fees.

Some state and local government commenters argue that ''Congress expressly withheld from the Commission authority to preempt . . . requirements that fall within the scope of Section 253(c).'' This argument has previously been made by state and local governments challenging the ability of the Commission to preempt state and local requirements under Section 253 and has been rejected. As the Commission has explained, if this argument were viable, ''any party could avoid preemption or the Commission's jurisdiction simply by invoking section 253(c) as a defense, 'creating a procedural oddity where the appropriate forum would be determined by the defendant's answer, not the complaint.' ''

II. 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 *Notice of Proposed Rulemaking* (*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 on the first page of the *Notice.* The Commission will send a copy of the *Notice,* including this IRFA, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy. In addition, the *Notice* and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

In the *Notice,* pursuant to congressional direction found in the Telecommunications Act of 1996, which sought to spur rapid deployment of new telecommunications technologies in part by reducing regulation, we continue efforts by the Commission to eliminate barriers to the provision of wireline telecommunications services. Such barriers include state and local statutes, regulations, excessive fees, and other legal requirements that can constrain providers attempting to deploy wireline telecommunications infrastructure and provide wireline telecommunications services. We seek comment on proposals that would codify presumptions for when state and local requirements for obtaining authorizations prohibit, or have the effect of prohibiting, wireline telecommunications services in violation of Section 253 of the Communications Act of 1934. Specifically, we propose establishing a deadline for state and local governments to act on wireline telecommunications authorizations requests; establishing a standard for state and local fees that complies with Section 253; requiring in-kind contributions to comply with Section 253; and applying the deadline and fee standard to commingled facilities that carry both telecommunications services and other kinds of services. Further, we seek comment on our legal authority to establish such presumptions and on whether any rules promulgated by the Commission would have a binding effect on the courts.

B. Legal Basis

The proposed action is authorized pursuant to sections 1, 4(i), 253, 303, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 253, 303, and 403.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act (SBA). A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions. In general, a small

business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, ''small organizations'' are not-for-profit enterprises that are independently owned and operated and not dominant their field. While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, ''small governmental jurisdictions'' are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

The rules proposed in the *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
Electric Power Generators, Transmitters and Distributors	2211	250–1000	2,626	2,103	80.08
Natural Gas Distribution	221210	1,150 employees	432	354	81.94
Water Supply and Irrigation Systems	221310	$41 million	3,887	2,988	76.87
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
All Other Telecommunications	517810	$40 million	1,673	1,007	60.19
Computer Infrastructure Providers, Data Processing, Web Hosting, and Related Services.	518210	$40 million	12,054	8,895	73.79
Engineering Services	541330	$25.5 million	47,367	37,363	78.88

TABLE 2—TELECOMMUNICATIONS SERVICE PROVIDER DATA

2025 Universal service monitoring report telecommunications service provider data (data as of December 2024)	SBA size standard (1,500 employees)		
Affected entity	Total number FCC Form 499A filers	Small firms	% Small entities
Competitive Local Exchange Carriers (CLECs)	4,049	3,853	95.16
Incumbent Local Exchange Carriers (Incumbent LECs)	1,175	920	78.30
Interexchange Carriers (IXCs)	112	92	82.14
Local Exchange Carriers (LECs)	5,224	4,773	91.37
Operator Service Providers (OSPs)	26	24	92.31
Other Toll Carriers	72	69	95.83
Wired Telecommunications Carriers	4,971	4,531	91.15
Wireless Telecommunications Carriers (except Satellite)	608	522	85.86

TABLE 3—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

D. 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 proposed 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 requirements and the type of professional skills necessary for preparation of the report or record.

Small governmental jurisdictions are likely to incur new costs in order to expedite review of wireline authorizations and to comply with the proposals in the *Notice,* if adopted. Other proposed rules may result in changes to state and local governments' administrative procedures. However, our proposals, if adopted, may reduce the time and expense for small and other service providers attempting to obtain authorizations for accessing and using state and local public rights-of-way to provide wireline telecommunications service.

In the *Notice,* the Commission seeks comment on proposals that, if adopted, offer clarification as to when a state or local statute, regulation, or legal requirement prohibits or effectively prohibits the provision of wireline telecommunications service, potentially

reducing barriers to entry for the latter and enabling small entities to avoid unnecessary legal and administrative costs. Specifically, we propose to require that state and local governments act upon applications for authorizations to access and use public rights-of-way to provide wireline telecommunications services or deploy wireline telecommunications infrastructure within 120 days of a submission by a provider.

Although these tasks, including, *e.g.,* application review and public safety inspections, would be performed irrespective of any proposed deadline, some small governmental jurisdictions may need to act on timelines shorter than those currently being followed. As such, the Commission proposes to establish a rebuttable presumption that would enable small governmental jurisdictions to offer evidence that its timelines, fees, and other associated requirements do not prohibit or effectively prohibit the provision of wireline telecommunications services, or that they fall within the scope of Section 253's savings clauses. This evidence may include, for example, data that demonstrates that a state or local government's fees relate to its actual, direct, and objectively reasonable costs for the provider to access and use the right-of-way. Although we expect small governmental jurisdictions already keep such records, the *Notice's* proposals may necessitate more diligent recordkeeping and the need to report to the Commission any such evidence in the event a state or local requirement is challenged under Section 253(d).

We also propose to limit fees that state and local governments may collect to a reasonable approximation of the government's actual and direct costs of managing its public rights-of-way in connection with a particular wireline telecommunications authorization. Further, we propose that in-kind compensation received by state and local governments be subject to preemption. Finally, we propose that state and local governments be prohibited from exceeding the deadline for processing authorizations or any safe harbor fee levels that may be adopted on the grounds that the provider's wireline telecommunications infrastructure is capable of providing other services such as broadband internet access service.

E. Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities

The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities. The discussion is required to include alternatives such as: ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

In the *Notice,* the Commission seeks comment on a number of alternatives designed to codify standards for when small governmental jurisdictions must act on authorization requests to deploy wireline telecommunications infrastructure and provide wireline telecommunications services. The Commission also seeks comment on establishing standards for what types of fees state and local governments may charge providers seeking such authorizations. Further, the Commission proposes to apply these standards to commingled facilities, *i.e.,* wireline facilities that can be used to provide both telecommunications and other services. The Commission also seeks comment on alternatives such as setting timelines for small governmental jurisdictions to comply with Section 253 beyond the proposed 120 days, and whether this time period should start when a provider requests authorization or at some other point, or should be extended if the government entity cannot act on a provider's application because it is incomplete or otherwise deficient. Additionally, the Commission seeks comment on limiting the scope of authorization requests that a small governmental jurisdiction must act on concurrently, and establishing bases for rebutting any presumption that a small governmental jurisdiction has violated Section 253 of the Act. This may be contingent on how rights-of-way are granted (*i.e.,* by permit or contract), whether multiple authorizations are required to enable a provider to deploy service, or other factors that may increase the complexity of review. Additionally, the Commission considers different approaches to cost-based fees and alternative fee standards. These include safe harbors, which would permit small governmental jurisdictions to charge fees under a certain threshold that would be presumed reasonable under Section 253. The Commission also seeks comment on allowing overhead costs such as joint and common costs. Relatedly, the Commission seeks comment on in-kind compensation demands, such as requirements that providers make spare conduit available or to repair street curbs damaged in the process of deploying wireline telecommunications infrastructure, and whether it should enable small governmental jurisdictions to impose certain kinds of in-kind compensation requirements, or whether some demands (such as those related to public safety) should not be considered in-kind compensation at all.

In evaluating the proposals in the *Notice,* the Commission will fully consider the economic impact on small entities as it evaluates the comments filed, including comments related to costs and benefits. Alternative proposals and approaches from commenters will further develop the record and could help the Commission further minimize the economic impact on small entities.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

IV. Ordering Clauses

Accordingly, *it is ordered,* pursuant to sections 1, 4(i), 253, 303, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 253, 303, and 403, that this *Notice of Proposed Rulemaking* hereby *is adopted.*

It is further ordered that, pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on this *Notice of Proposed Rulemaking* on or before 45 days after publication in the **Federal Register**, and reply comments on or before 90 days after publication in the **Federal Register**.

It is further ordered that the Commission's Office of the Secretary, *shall send* a copy of this *Notice of Proposed Rulemaking,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for the Small Business Administration (SB) Office of Advocacy.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2026–16196 Filed 8–6–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, and 15

[ET Docket No. 21–232; FCC 26–50; FR ID 360965]

Protecting Against National Security Threats to the Communications Supply Chain Through the Equipment Authorization Program

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission (Commission or FCC) issues a Third Further Notice of Proposed Rulemaking seeking comment on a broad set of additional measures to strengthen the security and integrity of its equipment authorization program. The measures include bifurcating the Covered List into producer/provider-based and production location-based categories; addressing ''white labeling'' of covered equipment; hardware and software bill of materials (HBOM/SBOM) disclosure requirements; further prohibitions or presumptions against authorizing equipment containing Covered List components or software; certification requirements for devices in Covered List sectors; reforms to equipment importation, marketing, and pre-authorization operation rules; restrictions on use of the FCC logo; streamlined revocation procedures; codification of permissive-change waivers for software, firmware, and hardware updates to covered equipment; codified definitions for UAS, UAS critical components, and routers; term limits on equipment authorizations; registration of Supplier's Declaration of Conformity (SDoC) devices; modernization of the Commission's equipment authorization database; updates to submarine cable Covered List rules; and a proposal to require a U.S.-based liable party for FCC-certified equipment.

DATES: Comments are due on or before September 8, 2026 and reply comments are due on or before September 21, 2026.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section above. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). You may submit comments, identified by ET Docket No. 21–232, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs.*
- *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 FCC'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.

FOR FURTHER INFORMATION CONTACT: *FCC21-232@fcc.gov* for the Office of Engineering and Technology.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Third Further Notice of Proposed Rulemaking,* in ET Docket No. 21–232, FCC 26–50, adopted on July 22, 2026, and released on July 23, 2026. The full text of this document, including the accompanying Third Report and Order, is available for public inspection and can be downloaded at https://docs.fcc.gov/public/attachments/FCC-26-50A1.pdf. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice).

Ex Parte Presentations. The proceeding this document initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 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 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.

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 an Initial Regulatory Flexibility Analysis (IRFA) concerning the potential impact of the rule and policy proposals in this document on small entities. The IRFA is set forth in Appendix D to the *Third Further Notice of Proposed Rulemaking.* The Commission invites the general public, particularly small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the Third Further Notice of Proposed Rulemaking indicated in the **DATES** section above and must have a separate

and distinct heading designating them as responses to the IRFA.

Paperwork Reduction Act. This document contains proposed new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. 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 any information collection requirements contained in this document. 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.''

Providing Accountability Through Transparency Act. Consistent with the Providing Accountability Through Transparency Act, Public Law 1189–9, a summary of this Third Further Notice of Proposed Rulemaking will be available at *https://www.fcc.gov/proposed-rulemakings.*

OPEN Government Data Act. The OPEN Government Data Act requires agencies to make ''public data assets'' available under an open license and as ''open Government data assets,'' *i.e.,* in machine-readable, open format, unencumbered by use restrictions other than intellectual property rights, and based on an open standard that is maintained by a standards organization. This requirement is to be implemented ''in accordance with guidance by the Director'' of the OMB. The term ''public data asset'' means ''a data asset, or part thereof, maintained by the Federal Government that has been, or may be, released to the public, including any data asset, or part thereof, subject to disclosure under [the Freedom of Information Act (FOIA)].'' A ''data asset'' is ''a collection of data elements or data sets that may be grouped together,'' and ''data'' is ''recorded information, regardless of form or the media on which the data is recorded.''

Synopsis

Introduction. In this *Third Further Notice of Proposed Rulemaking,* the Commission identifies additional gaps in its equipment authorization framework that may present national security vulnerabilities, and proposes and seeks comment on targeted rules and clarifications to close them. Several of the proposals respond to the Covered List's recent expansion to include production location-based determinations (UAS, UAS critical components, and routers ''produced in a foreign country'') which, unlike prior producer/provider-based determinations, turn on where and how equipment is made rather than on the identity of a named producer.

Bifurcating Covered List Rules. In light of the Covered List's recent expansion to include production location-based entries, the Commission seeks comment on reorganizing its part 2 rules to distinguish rules that apply to producer/provider-based Covered List entries from rules that apply to production location-based entries and to ''Covered List sectors'' (*i.e.,* device categories, such as UAS or routers, subject to a production location-based entry). The Commission proposes to direct the Public Safety and Homeland Security Bureau (PSHSB) to redesign the Covered List website into two columns reflecting this bifurcation.

White Labeling. The Commission seeks comment on whether to codify a definition of ''produced by'' for Covered List purposes—for example, whether a device is ''produced by'' an entity that exercises substantial responsibility for, or control over, any major stage of the process by which the device comes into existence, and whether design-only contributions should be excluded under certain conditions, as one commenter proposes, or included more broadly, as another commenter proposes. The Commission also seeks comment on requiring applicants to disclose all entities that produced a device, and on measures to prevent abuse of the Commission's ''electrically identical'' and change-of-identification procedures to evade Covered List restrictions through undisclosed white-labeling or rebranding arrangements, including whether to require disclosure of all brand and model names associated with a given FCC ID.

Hardware and Software Bills of Materials. The Commission seeks comment on requiring applicants for equipment certification to submit a written and signed hardware bill of materials (HBOM) and software bill of materials (SBOM) identifying, for each component, its producer, production location(s), and the percentage of component value attributable to each location, with updates required within 30 days of any change. The Commission seeks comment on the costs and benefits of this approach, including preliminary cost estimates of under $5,000 per software program and up to $10,000 per hardware device, and on narrower alternatives, such as limiting HBOM/SBOM requirements to devices in Covered List sectors, to higher-risk equipment, or to specified categories of components (*e.g.,* logic-bearing hardware, modular transmitters, semiconductors).

Software and Other Components Produced by Covered List Entities. Building on the logic-bearing hardware component prohibition adopted in the Third Report and Order, the Commission seeks comment on prohibiting authorization of devices incorporating any component—not only logic-bearing hardware—produced by a Covered List entity, or, alternatively, adopting a rebuttable presumption against authorization that an applicant could overcome by demonstrating the device does not pose unacceptable national security risk. The Commission also seeks comment on prohibiting authorization of, or the downloading of, software or firmware produced or provided by a Covered List entity, and tentatively estimates the annual cost of such a prohibition at under $50 million.

Requiring Certification for Devices in Covered List Sectors. The Commission proposes to amend § 2.907(c) to require that devices in a Covered List sector (*e.g.,* UAS, UAS critical components, and routers)—regardless of producer—undergo the certification process even if they would otherwise be eligible for SDoC or exempt from authorization, mirroring the Commission's existing treatment of equipment produced by Covered List entities. The Commission seeks comment on this proposal, on whether to exempt categories such as UAS on the Defense Contract Management Agency's Blue UAS Cleared List, and on whether certification would close a potential loophole allowing Covered List sector devices to evade authorization requirements by incorporating previously authorized, non-covered modular transmitters.

Importation Under 47 CFR 2.1204. The Commission proposes to exclude covered equipment from the general importation conditions of § 2.1204(a) and to create a new subsection establishing a narrow set of conditions under which covered equipment may be imported: with a valid, unrestricted equipment authorization; in quantities of 40 or fewer units for testing, evaluation, or product development (down from the current 4,000-unit threshold generally applicable to unauthorized devices), absent written approval from the Chief of OET for a greater quantity; solely for export; for exclusive use by the U.S. Government; or solely to develop products for U.S. Government use. The Commission also proposes to eliminate the existing exception permitting marketing of unauthorized cellphone handsets that

are capable of functioning only outside the United States, and seeks comment on the personal-use importation exemption and other existing importation exceptions as applied to covered equipment.

Marketing Under 47 CFR 2.803. The Commission seeks comment on further marketing measures, including whether to require online marketplaces to verify (not merely display) FCC ID and SDoC compliance information; on expressly prohibiting the marketing of covered equipment under the Commission's pre-authorization marketing rule; on requiring disclosure of all brand and model names under which authorized equipment is marketed; and on rules restricting the marketing of otherwise-lawful devices (such as software-defined radios) in a manner that promotes illegal use or unauthorized modification, including a proposed point-of-sale warning notice for equipment restricted to licensed users.

Use of the FCC Logo, 47 CFR 2.1074. The Commission seeks comment on whether to extend the FCC logo's current voluntary-use framework to certified devices, prohibit its use on incidental radiators and on any device that has not been properly tested and authorized, and whether to require its use on all validly authorized devices.

Streamlined Revocation, 47 CFR 2.939. The Commission seeks comment on replacing the Commission's decades-old, radio-station-license-based revocation procedure with a streamlined process—paralleling the process adopted for covered equipment in the First Report and Order—for revocations involving willfulness, termination of a Conditional Approval, or willful failure to provide required information, and on extending a streamlined process to all revocations involving covered equipment consistent with the notice-and-opportunity-to-cure procedure required by the Administrative Procedure Act.

Permitting Permissive Changes for Basic Software and Hardware Updates to Covered Equipment. The Commission proposes to codify, and make permanent, OET's waivers (currently effective through January 1, 2029) permitting Class I and Class II software and firmware permissive changes—such as security patches and compatibility updates—to already-authorized covered equipment where the change mitigates consumer harm and does not alter the device's capability or marketed identity. The Commission also seeks comment on extending similar treatment to limited hardware component swaps for equipment in a producer/provider-based Covered List entry, subject to conditions including that the modification does not enhance capability, does not substitute a foreign-produced component for a U.S.-produced one, and that the device continues to be marketed as identical to the pre-modification product.

Operation of RF Devices Prior to Equipment Authorization. The Commission seeks comment on conforming § 2.805, which governs pre-authorization operation of RF devices, to the Commission's proposed marketing and importation reforms for covered equipment, including whether existing exceptions for trade-show demonstrations and pre-production evaluation should apply to covered equipment.

UAS and Router Covered List Definitions. The Commission proposes to codify definitions, previously articulated through Public Notices and FAQ guidance, for ''produced in a foreign country'' (tied to the ''domestic end product'' standard in 48 CFR 25.101(a)(1)), ''UAS critical components'' (an enumerated list including data transmission devices, communications systems, flight controllers, ground control stations, navigation systems, sensors and cameras, batteries and battery management systems, and motors, designed and intended primarily for UAS use), and ''routers'' (consumer-grade networking devices, primarily intended for residential use, that forward IP data packets between networked systems). The Commission seeks comment on these definitions and on whether ''produced in a foreign country'' should be interpreted more broadly (*e.g.,* aligned with the FTC's ''Made in USA'' standard) or more narrowly (*e.g.,* aligned with trade-law rules of origin).

Term Limits on Equipment Authorizations. The Commission seeks comment on whether equipment authorizations, which currently remain valid indefinitely absent revocation, should instead expire after a fixed term—tentatively suggesting ten years—and on associated renewal procedures, streamlined renewal or expedited re-authorization processes, and how any expiration requirement should apply to SDoC-authorized equipment.

Registration of SDoC Devices. Noting substantial changes in the equipment authorization landscape since the Commission's 1996 decision not to require registration of SDoC-authorized devices, the Commission proposes to require that all SDoC devices be registered with the Commission and assigned a unique, publicly listed identification number, and seeks comment on the scope of required registration information (including whether to include HBOM/SBOM data), whether the registration number should be displayed on the device label, and whether online marketplaces should be required to collect and verify SDoC compliance information or registration numbers at the point of sale, paralleling the FCC ID display requirement the Commission adopts in the concurrently released Third Report and Order.

Data Analytics Capability and Need for a Modern Equipment Authorization System (EAS) Database. The Commission seeks comment on modernizing its Equipment Authorization System database to better support enforcement priorities while streamlining and reducing administrative burden on TCBs and other participants in the equipment authorization process, including what data-sharing and system improvements would be most beneficial.

Submarine Cables. The Commission proposes to narrow its submarine cable Covered List certification and routine-condition requirements, adopted in the 2025 Submarine Cable First Report and Order, to apply to producer/provider-based Covered List determinations, rather than production location-based determinations, unless a location-based determination specifically references national security threats to submarine cable systems. The Commission seeks comment on this proposal and its effect on submarine cable infrastructure security.

Rule Clarification. The Commission proposes to amend § 2.903(c) to clarify that the prohibition on authorizing Covered List equipment applies to all equipment authorization pathways, not only the three categories currently enumerated in that paragraph, and seeks comment on whether this revision is necessary to prevent the rule from being construed to exclude equipment authorized through mechanisms other than certification, SDoC, or exemption.

Universal Service Fund and Supply Chain Annual Report. The Commission seeks comment on how the component-level prohibitions adopted in the Third Report and Order and the Covered List bifurcation proposed in this Further Notice would affect the supply-chain certification requirements in part 54 of the Commission's rules and the annual Universal Service Fund supply chain report.

Impact on Other Service Provider Certifications. The Commission seeks comment on how the determinations in the Third Report and Order and the proposals in this Further Notice—particularly the component-level prohibitions and the proposed Covered

List bifurcation—may affect other existing or proposed certifications, filings, or attestations that reference the Covered List.

U.S.-Based Liable Party for FCC-Certified Equipment. The Commission proposes to amend § 2.909 to require that every applicant or grantee of FCC certification have a U.S.-based liable party, paralleling the existing requirement for SDoC-authorized equipment. Under the proposal, the liable party would be the U.S.-based manufacturer or assembler; if none, the importer; a retailer or other party that assumes the liable-party role by agreement; or, following an unauthorized modification, the party performing the modification (if U.S.-based) or the importer. The Commission finds that its existing requirement to designate a U.S. agent for service of process has, in multiple instances, proven insufficient to ensure compliance, and seeks comment on the costs, benefits, and alternative approaches to this proposal.

The Commission seeks comment on appropriate transition periods and implementation timelines for each of the proposals discussed above.

Ordering Clauses

It is ordered, pursuant to the authority found in sections 4(i), 301, 302, 303, 403, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 301, 302a, 303, 403, 503; the Secure and Trusted Communications Networks Act of 2019, 47 U.S.C. 1601–1609; and the Secure Equipment Act of 2021, Public Law 117–55, 135 Stat. 423, 47 U.S.C. 1601 note, that this Third Further Notice of Proposed Rulemaking *is hereby adopted.*

It is further ordered that the Commission's Office of the Secretary *shall send* a copy of this Third Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel of the Small Business Administration Office of Advocacy.

List of Subjects in 47 CFR Parts 1, 2, and 15

Administrative practice and procedure, Communications equipment, Imports, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1, 2, and 15 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. Delayed indefinitely, amend § 1.70006 by revising paragraph (d) to read as follows:

§ 1.70006 Certifications.

* * * * *

(d) That the submarine cable system will not use equipment or services that are produced or provided by an entity identified on the Covered List that the Commission maintains on its website pursuant to the Secure Networks Act, 47 U.S.C. 1601–1609, or other covered communications equipment or services wherein the specific determination concerning such equipment or services specifically references national security threats involving submarine cable systems.

■ 3. Delayed indefinitely, amend § 1.70007 by revising paragraph (u) to read as follows:

§ 1.70007 Routine conditions.

* * * * *

(u) No licensee shall add to its submarine cable system(s) under its respective license(s) equipment or services that are produced or provided by an entity identified on the Covered List that the Commission maintains on its website pursuant to the Secure Networks Act, 47 U.S.C. 1601–1609; except, this paragraph (u) shall not apply to a licensee that is identified on the Covered List whose cable landing license was or is granted prior to November 26, 2025.

(1) A licensee whose application for a cable landing license is filed and granted after November 26, 2025, shall not use equipment or services that are produced or provided by an entity identified on the Covered List on its submarine cable system under the license.

(i) A licensee whose modification application to add a new segment is filed and granted after November 26, 2025, shall not use equipment or services that are produced or provided by an entity identified on the Covered List on the new segment and the new landing point.

(ii) [Reserved]

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 4. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336 unless otherwise noted.

■ 5. Amend § 2.803 by revising the heading, redesignating paragraphs (c) and (d) as paragraphs (d) and (e), reserving new paragraps (c), and adding paragraph (d)(3) to read as follows:

§ 2.803 Marketing of radiofrequency devices that lack an equipment authorization.

* * * * *

(d) * * *

(3) Notwithstanding paragraph (b) of this section, for devices that lack an equipment authorization and are listed on the Covered List, as established pursuant to § 1.50002 of this chapter, marketing is prohibited.

* * * * *

■ 6. Add § 2.804 to read as follows:

§ 2.804 Online marketing of radiofrequency devices subject to an equipment authorization.

(a) *Prohibited marketing representations.* Online marketplaces shall not market a radiofrequency device subject to equipment authorization in a manner that:

(1) Promotes or encourages operation of the device in violation of the Communications Act or the Commission's rules;

(2) Promotes or encourages modification of the device to operate outside the parameters authorized by the Commission; or

(3) Represents that the device may be used to evade, interfere with, disable, or circumvent lawful communications, regulatory requirements, or technical safeguards.

(b) *Required warning for licensed-use devices.* Online marketplaces marketing a device subject to authorization shall prominently display the following notice at the online point of sale:

''This equipment may only be sold to end users in the United States who hold the appropriate FCC license. Information regarding the purchase may be provided to the FCC upon request.''

(c) *Online marketplace obligations.* Online marketplaces shall:

(1) Collect the Supplier's Declaration of Conformity compliance information statement or equivalent compliance documentation;

(2) Take reasonable steps to verify that the device is authorized or exempt from authorization under Commission rules;

(3) Maintain such records for a period specified by the Commission; and

(4) Display equipment authorization or compliance information at the online point of sale.

■ 7. Amend § 2.902 by adding the following definitions, in alphabetical order, to read as follows:

§ 2.902 Terms and definitions.

Covered List sector. A category of equipment, the entirety of which or a subset of which is listed on the Covered List in § 1.50002 of this chapter.

Hardware bill of materials (HBOM). A formal record identifying the hardware components contained in a device and information regarding the origin and production of those components.

* * * * *

Personal use. Use of a device:

(1) In a manner not intended for sale, lease, marketing, distribution, or other commercial advantage; and

(2) Solely by an individual or a not-for-profit entity for noncommercial purposes.

Produced in a foreign country. A device is produced in a foreign country if it either:

(1) Does not qualify as a domestic end product as that term is defined in 48 CFR 25.101(a); and

(2) Is designed or developed in a foreign country.

* * * * *

Software bill of materials (SBOM). A formal record containing details and supply chain relationships of software and firmware components used in a device.

■ 8. Amend § 2.903 by revising paragraph (c) to read as follows:

§ 2.903 Prohibition on authorization of equipment on the Covered List.

* * * * *

(c) The prohibitions in paragraphs (a) and (b) of this section apply to all equipment, including:

(1) Equipment that would otherwise be subject to certification procedures;

(2) Equipment that would otherwise be subject to Supplier's Declaration of Conformity procedures; and

(3) Equipment that would otherwise be exempt from equipment authorization.

* * * * *

■ 9. Amend § 2.906 by revising paragraph (d) and adding paragraphs (e) and (f) to read as follows:

§ 2.906 Supplier's Declaration of Conformity.

* * * * *

(d) Notwithstanding other parts of this section, equipment otherwise subject to the Supplier's Declaration of Conformity process that is produced by any entity identified on the Covered List, established pursuant to § 1.50002 of this chapter, or a device within a Covered List sector are prohibited from obtaining equipment authorization through that process. The rules in this chapter governing certification apply to authorization of such equipment.

(e) Registration requirement. Devices authorized pursuant to the Supplier's Declaration of Conformity process shall be registered with the Commission prior to marketing.

(1) The Commission shall assign a unique identification number for each registered device.

(2) The responsible party shall provide information specified by the Commission, including compliance information, responsible party identification, and device identification information.

(3) Registration information shall be publicly available unless entitled to confidential treatment under § 0.459 of this chapter.

(f) Public Display Requirement. The unique registration identifier shall be displayed:

(1) On the device or its packaging;

(2) In the compliance information statement; and

(3) In online marketing and product listings.

■ 10. Amend § 2.907 by revising paragraph (c) to read as follows:

§ 2.907 Certification.

* * * * *

(c) Any equipment otherwise eligible for authorization pursuant to the Supplier's Declaration of Conformity, or exempt from equipment authorization, produced by any entity identified on the Covered List, established pursuant to § 1.50002 of this chapter, or devices within a Covered List sector must obtain equipment authorization through the certification process. Devices subject to this paragraph shall comply with all certification application requirements set forth in this subpart, including disclosure and reporting obligations applicable to certification applicants.

* * * * *

■ 11. Revise § 2.909 to read as follows:

§ 2.909 Responsible Party and Liable Party.

(a) Responsible Party.

(1) In the case of equipment that requires the issuance of a grant of certification, the party to whom that grant of certification is issued is responsible for the compliance of the equipment with the applicable technical and other requirements. If any party other than the grantee modifies the radio frequency equipment and that party is not working under the authorization of the grantee pursuant to § 2.929(b) of this chapter, the party performing the modification is responsible for compliance of the product with the applicable administrative and technical provisions in this chapter.

(2) For equipment subject to Supplier's Declaration of Conformity, the party responsible for the compliance of the equipment with the applicable standards, who must be located in the United States (see § 2.1077 of this chapter), is set forth as follows:

(i) The manufacturer or, if the equipment is assembled from individual component parts and the resulting system is subject to authorization under Supplier's Declaration of Conformity, the assembler.

(ii) If the equipment by itself, or a system assembled from individual parts and the resulting system is subject to Supplier's Declaration of Conformity and that equipment or system is imported, the importer.

(iii) Retailers or original equipment manufacturers may enter into an agreement with the responsible party designated in paragraph (a)(1) or (a)(2) of this section to assume the responsibilities to ensure compliance of equipment and become the new responsible party.

(iv) If the radio frequency equipment is modified by any party not working under the authority of the responsible party, the party performing the modifications, if located within the United States, or the importer, if the equipment is imported subsequent to the modifications, becomes the new responsible party.

(3) If the end product or equipment is subject to both certification and Supplier's Declaration of Conformity (*i.e.,* a composite system), all requirements of paragraphs (a) and (b) of this section apply.

(4) If, because of modifications performed subsequent to authorization, a new party becomes responsible for ensuring that a product complies with the technical standards and the new party does not obtain a new equipment authorization, the equipment shall be labeled, following the specifications in § 2.925(d) of this chapter, with the following: ''This product has been modified by [insert name, address and telephone number or internet contact information of the party performing the modifications].''

(5) In the case of transfer of control of equipment, as in the case of sale or merger of the responsible party, the new entity shall bear the responsibility of continued compliance of the equipment.

(b) Liable Party. In the case that the grantee of equipment authorization through certification is located in a foreign country, there must be a liable party located in the United States. The party liable for compliance of the equipment with the applicable standard and Commission rules is set forth as follows:

(1) The manufacturer or, if the equipment is assembled from individual component parts and the resulting system is subject to authorization under certification, the assembler.

(2) If the equipment by itself, or a system assembled from individual parts and the resulting system is subject to certification and that equipment or system is imported, the importer.

(3) Retailers or original equipment manufacturers may enter into an agreement with the liable party designated in paragraph (b)(1) or (b)(2) of this section to become the new liable party.

(4) If the radio frequency equipment is modified by any party not working under the authority of the responsible party, the party performing the modifications, if located within the United States, or the importer, if the equipment is imported subsequent to the modifications, becomes the new liable party.

■ 12. Amend § 2.911(d) by adding paragraphs (d)(8) through (11) to read as follows:

§ 2.911 Application requirements.

* * * * *

(d) * * *

(8) The applicant shall provide a written and signed certification identifying any and all entities that produced the device for which equipment authorization is sought.

(i) The certification shall identify each entity that produced the device, including any entity involved in the design, development, manufacturing, or assembly of the device.

(ii) The certification shall be signed by an authorized representative of the applicant.

(iii) The applicant shall update the certification if material changes occur prior to grant of the equipment authorization.

(iv) The Commission or Telecommunication Certification Body may request additional information reasonably necessary to determine whether an identified entity produced the device.

(9) Supply chain disclosure materials.

(i) An applicant for certification shall submit, as part of its application, a written and signed hardware bill of materials (HBOM) and software bill of materials (SBOM) for the device for which equipment authorization is sought.

(ii) The HBOM and SBOM shall identify all components of the device, including hardware, software, and firmware components of the device.

(iii) The HBOM and SBOM shall be certified as true and correct by an authorized representative of the applicant.

(iv) The Commission or Telecommunication Certification Body may require the applicant to provide supplemental documentation sufficient to verify the accuracy or completeness of the HBOM or SBOM.

(10) Required contents of HBOM and SBOM disclosures. The HBOM and SBOM required by paragraph (d)(9) of this section shall identify, for each critical component:

(i) The component name and function;

(ii) The producer of the component;

(iii) The location or locations where the component was designed, developed, manufactured, assembled, or otherwise produced; and

(iv) The percentage of component value attributable to each producer and production location.

(11) Producer contact information. For each producer identified pursuant to this section or within any required HBOM or SBOM submission, the applicant shall provide:

(i) The producer's legal name;

(ii) Any trade names or doing-business-as names used by the producer;

(iii) The producer's principal place of business;

(iv) The jurisdiction of incorporation or organization;

(v) Contact information for an authorized representative of the producer, including mailing address, telephone number, and electronic mail address; and

(vi) Any additional identifying or contact information required by the Commission or Telecommunication Certification Body for purposes of verifying production location or supply chain information.

* * * * *

■ 13. Amend § 2.931 by adding paragraph (f) to read as follows:

§ 2.931 Responsibilities.

* * * * *

(f) The responsible party shall update any HBOM or SBOM information submitted pursuant to § 2.911 within 30 days of any material change to the hardware, software, firmware, producer, or production location information contained therein.

■ 14. Amend § 2.932 by adding a final sentence to paragraph (b) introductory text and paragraphs (b)(1) through (6) to read as follows:

§ 2.932 Modification of equipment.

* * * * *

(b) * * * Notwithstanding this section, software or firmware updates to already-authorized covered equipment shall not constitute a request for a new equipment authorization where:

(1) The modification mitigates harm to consumers;

(2) The modification does not enhance the device's capability or alter its intended use;

(3) The modified device is marketed as identical to the pre-modified device;

(4) The modified device is equipment in a producer/provider-based Covered List entry, rather than a production location-based Covered List entry; and

(5) The modification does not involve the replacement of a U.S.-produced component for a foreign-produced component.

* * * * *

■ 15. Amend § 2.939 by redesignating paragraph (c) as paragraph (b), and revising redesignated paragraph (c) and paragraph (d) to read as follows:

§ 2.939 Revocation, withdrawal, or limitation of equipment authorization.

* * * * *

(c) Notwithstanding other provisions of this section, the Commission directs the Office of Engineering and Technology and the Public Safety and Homeland Security Bureau to revoke equipment authorizations using the streamlined process in paragraph (d) of this section for any of the following equipment authorizations:

(1) Any case of willfulness, such as false statements or misrepresentations to the Commission, by a test lab, a TCB, or another federal agency, involving an equipment authorization application or existing grant;

(2) Any willful failure to provide required information associated with the equipment authorization to the Commission, a test lab, a TCB, or another authorized federal agency;

(3) Any equipment authorization for equipment that has been granted a Conditional Approval, but which Conditional Approval has been subsequently terminated.

(d) The streamlined revocation process shall be:

(1) If the Office of Engineering and Technology and the Public Safety and Homeland Security Bureau determine that one of the conditions in paragraph (c) of this section is met, they will provide written notice to the grantee

that a revocation proceeding is being initiated and the grounds under consideration for such revocation.

(2) The grantee will have 10 days in which to respond in writing to the reasons cited for initiating the revocation proceeding. The Office of Engineering and Technology and the Public Safety and Homeland Security Bureau will then review the submissions, request additional information as may be appropriate, and make their determination as to whether to revoke the authorization, providing the reasons for such decision.

* * * * *

■ 16. Amend § 2.1043 by adding paragraph (m) to read as follows:

§ 2.1043 Changes in certificated equipment.

* * * * *

(m) Software, firmware, or hardware updates to already-authorized covered equipment shall constitute Class I or Class II permissive changes, respectively, shall not constitute applications for equipment authorization, and are not prohibited, so long as:

(1) The modification mitigates harm to consumers;

(2) The modification does not enhance the device's capability or alter its intended use;

(3) The modified device is marketed as an identical product to the pre-modified device; and

(4) The modification does not involve swapping a U.S.-made component for a non-U.S.-made component.

■ 17. Amend § 2.1074 by adding paragraphs (c) and (d) to read as follows:

§ 2.1074 Identification.

* * * * *

(c) The FCC logo shall not be affixed to, displayed on, or associated with incidental radiators or any other devices not subject to equipment authorization requirements under this chapter.

(d) The FCC logo shall not be used on, displayed in connection with, or associated with any device that:

(1) Has not been properly tested and authorized in accordance with the Commission's rules;

(2) Is marketed in violation of the Commission's equipment authorization requirements;

(3) Has had its equipment authorization revoked, withdrawn, suspended, or limited; or

(4) Is otherwise not eligible to bear the FCC logo under this chapter.

■ 18. Amend § 2.1204 by revising paragraph (a)(5) and adding paragraph (c) to read as follows:

§ 2.1204 Import conditions.

(a) * * *

(5) The radio frequency device is being imported solely for export. The device will not be marketed or offered for sale in the United States.

* * * * *

(c) Covered equipment. Notwithstanding paragraph (a) of this section, covered equipment may be imported only if one or more of the following conditions are satisfied:

(1) The equipment has a valid equipment authorization that has not been limited, revoked, or otherwise restricted pursuant to § 2.939(e) of this chapter;

(2) The equipment is imported in a quantity of 40 or fewer units for testing and evaluation or product development, unless the Chief of the Office of Engineering and Technology grants written approval for a greater quantity;

(3) The equipment is imported solely for export;

(4) The equipment is imported exclusively for use by the United States Government; or

(5) The equipment is imported solely for the purpose of developing products for use exclusively by the United States Government.

PART 15—RADIO FREQUENCY DEVICES

■ 19. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, 544a and 549.

■ 20. Amend § 15.101 by adding paragraph (f) to read as follows:

§ 15.101 Equipment authorization of unintentional radiators.

* * * * *

(f) Notwithstanding any other provision of this section, devices within a Covered List sector shall be subject to certification.

[FR Doc. 2026–16197 Filed 8–6–26; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 91, No. 151
Friday, August 7, 2026

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and approval under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology Comments regarding these information collections are best assured of having their full effect if received by September 8, 2026. 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

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Almonds Grown in California (7 CFR part 981).

OMB Control Number: 0581–0242.

Summary of Collection: The marketing order (7 CFR part 981) regulates the handling of almonds grown in California and is authorized by the Agricultural Marketing Agreement Act of 1937 (Act), Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674. The Act permits regulation of certain agricultural commodities for the purpose of providing orderly marketing conditions in interstate commerce and to improve returns to growers. Section 608 (d)(1) of the Act provides the Department of Agriculture (USDA) with the authority to request from the regulated handlers such information as is deemed necessary to determine the extent to which a marketing order has effectuated the declared policy of the Act.

Need and Use of the Information: The information collected is used only by authorized representatives of USDA, including AMS, Specialty Crops Program's regional and headquarters' staff, and authorized employees and agents of the Board. Authorized Board employees, agents, and the industry are the primary users of the information, and AMS is the secondary user.

Description of Respondents: Business or other for-profit.

Number of Respondents: 225.

Frequency of Responses: Recordkeeping; Reporting: Annually; On occasion.

Total Burden Hours: 4,210.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026–16122 Filed 8–6–26; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by September 8, 2026 will be considered. 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. An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Specimen Submission.

OMB Control Number: 0579–0090.

Summary of Collection: The Animal Health Protection Act of 2002 (AHPA) is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. Disease prevention is the most effective method for maintaining a healthy animal population and for enhancing the United States' ability to globally compete in the trade of animals and animal products. The current renewal consolidates the forms from 0579–0040, 0579–0090, 0579–0101, 0579–0146, and 0579–0189. VS Forms 10–4 and 10–4A, Specimen Submission are critical components of APHIS' disease

surveillance mission. They are used routinely when specimens (such as blood, milk, tissue, or urine) from any animal (including cattle, swine, sheep, goats, horses, and poultry) are submitted to APHIS' National Veterinary Services Laboratories (NVSL) for disease testing. VS Form 5–38, Parasite Submission form, is completed by State veterinarians or other State representatives, accredited veterinarians, private laboratories, research institutions, and owners or producers.

Need and Use of the Information: Using the Specimen Submission Form and Continuation Sheet (APHIS VS 10–4 & 10–4A), State or Federal veterinarians, accredited veterinarians, or other State and Federal representatives will document the collection and submission of specimens for laboratory analysis. The form identifies the individual animal from which the specimen is taken as well as the animal's herd or flock; the type of specimen submitted, and the purpose of submitting the specimen. Occasionally the time pressures exerted by or field conditions existing during a disease outbreak leave submitters no time to find or fill out the 10–4; thus, a Nonconforming Submission using whatever scrap of paper is handy. The National Tick Surveillance Program is based on the information submitted on the Parasite Submission Form (VS 5–38), in addition to critical surveillance information needed for the Cattle Fever Tick Eradication Program. This information identifies the individual submitting the tick samples. Without the information APHIS would not have the critical information necessary to effectively operate a disease surveillance program.

Description of Respondents: State, Local or Tribal Government; Business or other for-profit.

Number of Respondents: 14,860.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 30,930.

Animal and Plant Health Inspection Service

Title: Control of African Swine Fever; Restrictions on the Movement of Swine Products and Swine Byproducts from Puerto Rico and the U.S. Virgin Islands.

OMB Control Number: 0579–0480.

Summary of Collection: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*) the Secretary of the U.S. Department of Agriculture (USDA) is authorized to protect the health of the livestock, poultry, and aquaculture populations in the United States by preventing the introduction and interstate spread of serious diseases and pests, and for eradicating such diseases and pests from the United States, when feasible. Within the USDA, the Animal and Plant Health Inspection Service (APHIS Veterinary Services (VS) is tasked with preventing foreign animal disease outbreaks in the United States, and monitoring, controlling, and eliminating a disease outbreak should one occur. In the past several years, there have been significant worldwide outbreaks of African swine fever (ASF), a highly contagious and deadly viral disease affecting domestic and feral pigs. APHIS is committed to working with State and industry partners to keep the disease out of the United States.

Need and Use of the Information: To certify compliance with the restriction guidelines in the Federal Order for the interstate movement of swine products and byproducts from Puerto Rico and the U.S. Virgin Islands, commercial producers must meet the requirements as listed in the Federal Order or complete a VS Form 16–3, an application for a permit to import or transport controlled material or organisms or vectors. The collection of this information prevents unhealthy swine products and byproducts from being imported into the United States.

Description of Respondents: State animal health officials, and commercial producers of swine products and byproducts.

Number of Respondents: 11.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 30.

Rachelle Ragland-Greene,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026–16161 Filed 8–6–26; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Survey of Income and Program Participation (SIPP)

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act (PRA) of 1995, invites the general public and other Federal agencies to comment on proposed and continuing information collections. These comments help us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment on the proposed revision of the Survey of Income and Program Participation (SIPP), prior to the submission of the information collection request (ICR) to the Office of Management and Budget (OMB) for approval.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before October 6, 2026.

ADDRESSES: Interested persons are invited to submit written comments by email to *census.sipp@census.gov.* Please reference SIPP OMB Comments in the subject line of your comments. You may also submit comments, identified by Docket Number USBC–2026–0364, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Sharon Stern, Assistant Division Chief and SIPP Program Director, 301–763–5638, *census.sipp@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau plans to request clearance from the Office of Management and Budget (OMB) for a field test of the Survey of Income and Program Participation (SIPP) in calendar year 2027. This collection will be in lieu of a national collection using the questionnaires, systems, and processes in place since 2014.

Since 1983, SIPP has been the primary source of information about annual and sub-annual dynamics of income, families and households, movement into and out of government programs, and interactions of these topics in a single, unified dataset

allowing for in-depth, informed analyses. Government domestic policy formulators and evaluators depend heavily upon the information collected in the SIPP in their analyses of the distribution of income received either directly as money or indirectly as in-kind benefits and the effect of tax and transfer programs on that distribution. They also rely on the SIPP data to provide improved and expanded information on the dynamics of income and the general economic and financial situation of the U.S. population in the context of the household situation. The SIPP has measured levels of economic well-being and permitted measurement of sub-annual and annual changes in these levels over time.

Since the inception of the program, SIPP has been an interviewer-administered household-based survey. Each panel featured a nationally representative sample of addresses whose household members were interviewed either in person or over the phone several times over a multi-year period. In recent years, SIPP has been researching new methods to mitigate concerns related to increasing costs for interviewer-administered surveys, declining response rates among sampled addresses, and increasing attrition of responding households in subsequent panels.

At the forefront of SIPP modernization efforts is the adoption of a self-administered internet survey as the primary mode for data collection with targeted in-person interviewing of a select number of non-responding households. The addition of a SIPP self-response mode is one element of a larger, bureau-wide effort to modernize data collection systems.

As SIPP is the premier source of comprehensive information on the dynamics of income, employment, household composition, and government program participation, testing the impact of the multi-mode data collection, statistical methods improvements, and agency-wide collection and processing systems is critical. The Census Bureau is implementing a multi-year testing strategy. In the summer of 2026, the Census Bureau is conducting an internet self-response field test using a subset of the redesigned SIPP instrument items on a national sample to assess the feasibility of a self-administered data collection (OMB number 0607–0978).

The goals of the 2027 SIPP field test are to build upon the 2026 test by adding content to the questionnaire; introducing a multi-mode survey that incorporates both self-response and non-response computer assisted personal interviewing (CAPI); introducing alternative sample and weighting methodologies; and using the Census Bureau's Business Ecosystem entities for all aspects of the survey process. We will use the test to evaluate the frame, sample, weighting, and non-response bias; to demonstrate the application of the new systems and processes to the SIPP design; research additional opportunities to reduce respondent burden through the use of administrative data systems; and to assess the quality of key estimates using the new methodologies. The 2027 SIPP field test will be an important step toward building the modern program.

The design of the test survey is purposefully scalable, as the future SIPP design is expected to be. The sample size listed in this notice is based on initial budget estimates and allows for expansion. The multi-mode data collection vision for the SIPP program includes a dual-sample design. One part of the sample will be invited to respond through a web-mode instrument only. The second sample component will be invited to self-respond on the internet. Among that group, non-respondents will be contacted for in-person interviews.

II. Method of Collection

The 2027 SIPP will use a web instrument for both the internet Self-Response (ISR) and the CAPI modes of data collection. All sampled households will receivemail invitations to complete the survey online. To increase sample representativeness, field representatives will be sent to a small number of nonresponding ISR cases to administer the survey in person. The redesigned SIPP interview consists of one adult answering questions about each member of the household and uses a six-month reference period. In instances where the residence is not accessible or the respondent makes a request, the field representative may conduct the interview by telephone.

III. Data

OMB Control Number: 0607–1000.

Form Number(s): SIPP ISR Web Instrument (no form number), SIPP nonresponse follow-up CAPI electronic instrument (no form number).

Type of Review: Regular submission, New Information Collection Request.

Affected Public: Individuals or households.

Estimated Number of Respondents: 6,000.

Estimated Time per Response: 40 minutes to respond to survey and 10 total minutes for reading contact materials.

Estimated Number of Non-Respondents: 14,000.

Estimated Time per Non-response: 10 minutes.

Estimated Total Annual Burden Hours: We estimate 5,000 burden hours from those responding to the survey and 2,334 burden hours from households that do not respond to the survey for a total of 7,334 hours.

Estimated Total Annual Cost to Public: $0 (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Sections 141 and 182.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include, or summarize, each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2026–16188 Filed 8–6–26; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–99–2026]

Foreign-Trade Zone (FTZ) 21, Notification of Proposed Production Activity; Translucent Solar, LLC; (Solar Modules); Summerville, South Carolina

Translucent Solar, LLC submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Summerville, South Carolina within FTZ 21. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on July 31, 2026.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.*

The proposed finished product is solar photovoltaic modules, comprised of connected half cut monocrystalline silicon heterojunction photovoltaic cells sealed between two layers of low iron glass, framed with aluminum and with an added junction box on the back (duty-free).

The proposed foreign-status materials/components include low-iron patterned ARC solar glass double coating—1297*2378*2 mm, low iron solar patterned rear glass/float glass—1297*2378*2 mm, and G12 or G12R monocrystalline heterojunction cells (duty rate ranges from duty-free to 5%).

The request indicates that certain materials/components are subject to duties under section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign (PF) status (19 CFR 146.41). The request also indicates that crystalline photovoltaic cells are subject to an antidumping/countervailing duty (AD/CVD) order/investigation if imported from India. The Board's regulations (15 CFR 400.13(c)(2)) require that merchandise subject to AD/CVD orders, or items which would be otherwise subject to suspension of liquidation under AD/CVD procedures if they entered U.S. customs territory, be admitted to the zone in PF status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is September 16, 2026.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact Brian Warnes at *brian.warnes@trade.gov.*

Dated: August 4, 2026.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2026–16104 Filed 8–6–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–839]

Carbazole Violet Pigment 23 From India: Final Results of Fourth Sunset Review and Revocation of Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On May 1, 2026, the U.S. Department of Commerce (Commerce) initiated the fourth sunset review of the countervailing duty (CVD) order on carbazole violet pigment 23 (CVP–23) from India. Because no domestic party responded to the sunset review notice of initiation by the applicable deadline, consistent with section 751(c)(3)(A) of the Tariff Act of 1930, as amended (the Act), Commerce is revoking the CVD order on carbazole violet pigment 23 from India.

DATES: Applicable August 7, 2026.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley, AD/CVD Operations, Office of Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington DC 20230; telephone: (202) 482–3148.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 2004, Commerce published the *Order* on CVP–23 from India.[1] On May 1, 2026, Commerce initiated the fourth sunset review of the *Order* pursuant to section 751(c)(2) of the Act.[2] No domestic interested party responded to Commerce's *Initiation Notice.*[3]

Scope of the Order

The merchandise subject to this *Order* is carbazole violet pigment 23 (CVP–23) identified as Color Index No. 51319 and Chemical Abstract No. 6358–30–1, with the chemical name of diindolo [3,2-b:3′,2′-m]triphenodioxazine, 8,18-dichloro-5, 15-diethy-5, 15-dihydro-, and molecular formula of $C_{34}H_{22}C_{l2}N_4O_2$.[4] The subject merchandise includes the crude pigment in any form (*e.g.,* dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (*e.g.,* pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of the Order. The merchandise subject to this Order is classifiable under subheading 3204.17.9040 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this *Order* is dispositive.

Revocation

Pursuant to Section 751(c)(3)(A) of the Act, ''{i}f no interested party responds to the notice of initiation. . . {Commerce} shall issue a final determination, within 90 days after the initiation of a review, revoking the order.'' Because no domestic interested party responded to the notice of initiation in this segment of the proceeding,[5] Commerce is revoking the *Order.*

Effective Date of Revocation

Pursuant to section 751(c)(3)(A) of the Act and 19 CFR 351.222(i)(2)(i), Commerce intends to instruct U.S. Customs and Border Protection to terminate the suspension of liquidation of the merchandise subject to this *Order* entered, or withdrawn from the warehouse, on or after June 15, 2026, the fifth anniversary of the date of publication of the last continuation

[1] *See Notice of Countervailing Duty Order: Carbazole Violet Pigment 23 from India,* 69 FR 77995 (December 29, 2004) (*Order*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 91 FR 23395, (May 1, 2026) (*Initiation Notice*).

[3] *See* Memorandum, ''Notice of Intent Not to Participate,'' dated June 26, 2026 (stating that counsel for the petitioner ''informed Commerce that the petitioner does not intend to participate in these sunset reviews'') (Petitioner's Notice of Intent Not to Participate); *see also* Commerce's Letter, ''Sunset Reviews Initiated on May 1, 2026'', dated June 26, 2026.

[4] The bracketed section of the product description, [3,2-b:3′,2′-m], is not proprietary information. In this case, the brackets are simply part of the chemical nomenclature.

[5] *See* Petitioner's Notice of Intent Not to Participate.

notice of the *Order*.[6] Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and CVD deposit requirements. Commerce may conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(c) and 777(i)(1) of the Act.

Dated: July 30, 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. 2026–16146 Filed 8–6–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–883, A–489–857]

Tin Mill Products From Taiwan and the Republic of Türkiye: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable August 7, 2026.

FOR FURTHER INFORMATION CONTACT: Carter Sherwin at (202) 482–4260 (Taiwan); Joshua Jacobson at (202) 482–0266 or Paul Kebker at (202) 482–2254 (Republic of Türkiye (Türkiye)), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On April 29, 2026, the U.S. Department of Commerce (Commerce) initiated the less-than-fair-value (LTFV) investigations of imports of tin mill products from Taiwan and Türkiye.[1] Currently, the preliminary determinations are due no later than September 16, 2026.

Postponement of Preliminary Determinations

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in a LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1)(A)(b)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) the petitioner[2] makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On July 29, 2026, the petitioners submitted a timely request that Commerce postpone the preliminary determinations in these LTFV investigations.[3] The petitioners stated that it requests postponement in order to allow for sufficient time to analyze and comment on responses submitted on behalf of the company selected for individual examination in this review and to ensure Commerce has sufficient time to develop a comprehensive record of in this investigation.[4]

For the reasons stated above and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations by 50 days (*i.e.,* 190 days after the date on which these investigations were initiated). As a result, Commerce will issue its preliminary determinations no later than November 5, 2026. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: August 4, 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. 2026–16183 Filed 8–6–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–501]

Circular Welded Carbon Steel Standard Pipe and Tube Products From the Republic of Türkiye: Preliminary Results of Antidumping Duty Administrative Review; 2024–2025

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that the sole respondent, Borusan Birleçik Boru Fabrikalari Sanayi ve Ticaret A.Ş., subject to this review made sales of subject merchandise at less than normal value (NV) during the period of review (POR), May 1, 2024, through April 30, 2025. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable August 7, 2026.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0193.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1986, Commerce published in the **Federal Register** the antidumping duty order on circular welded carbon steel standard pipe and tube products (CWP) from the Republic of Türkiye (Türkiye).[1] On June 2, 2025, Commerce received a request for administrative review from Borusan Birleşik Boru Fabrikalari Sanayi ve Ticaret A.Ş. (formerly, Borusan

[6] *See Carbazole Violet Pigment 23 from India and the People's Republic of China: Continuation of Antidumping and Countervailing Duty Orders,* 86 FR 31699 (June 15, 2021).

[1] *See Tin Mill Products from The People's Republic of China, Taiwan, and the Republic of Türkiye: Initiation of Less-Than-Fair-Value Investigations,* 91 FR 24157 (May 5, 2026).

[2] The petitioners are United States Steel Corporation and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers Union.

[3] *See* Petitioners' Letters, ''Tin Mill Products from Turkey: Request to Extend the Deadline for the Prelimnary Determination,'' dated July 29, 2026; ''Tin Mill Products from Taiwan: Request to Extend the Deadline for the Preliminary Determination,'' dated July 29, 2026.

[4] *Id.*

[1] *See Antidumping Duty Order; Welded Carbon Steel Standard Pipe and Tube Products from Turkey,* 51 FR 17784 (May 15, 1986) (*Order*).

Mannesmann Boru Sanayi ve Ticaret A.S.) (Borusan Boru) and Borusan Pipe U.S., Inc.[2] On June 25, 2025, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order on CWP from Türkiye.[3]

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.[4] Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.[5]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[6] A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at *https://access.trade.gov*. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Scope of the Order

The merchandise subject to the *Order* is CWP from Türkiye. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Constructed export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following estimated weighted-average dumping margin exists for the period May 1, 2024, through April 30, 2025:

Producer/exporter	Weighted-average dumping margin (percent)
Borusan Istikbal Ticaret T.A.S.; Borusan Birlesik Boru Fabrikalari Sanayi ve Ticaret A.S.[7]	4.91

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice.[8] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[9] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[10] All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public executive summary for each issue raised in their briefs.[11] Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[12]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.[13]

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

If Borusan's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, Commerce intends to calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those sales. Where we

[2] *See* Borusan's Letter, ''Borusan's Request for Antidumping Duty Administrative Review,'' dated June 2, 2025

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 90 FR 26967 (June 25, 2025); *see also Order.*

[4] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[5] *See* Memorandum, ''Tolling of all Case Deadlines,'' dated November 24, 2025.

[6] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Circular Welded Carbon Steel Standard Pipe and Tube Products from the Republic of Türkiye; 2024–2025,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[7] In prior segments of this proceeding, we treated Borusan Birlesik Boru Fabrikalari ve Ticaret A.S. and Borusan Istikbal Ticaret T.A.S. as a single entity. *See, e.g., Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013–2014,* 80 FR 76674 (December 10, 2015). We determine that there is no evidence on the record of this review for altering our treatment of Borusan Birlesik Boru Fabrikalari Sanayi ve Ticaret A.S. and Borusan Istikbal Ticaret T.A.S. as a single entity.

[8] *See* 19 CFR 351.309.

[9] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

[10] *See* 19 CFR 351.309(c)(2) and (d)(2).

[11] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[12] *See APO and Service Procedures.*

[13] *See* 19 CFR 351.310(d).

do not have entered values for all U.S. sales to a particular importer, we will calculate an importer-specific, per-unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total quantity of those sales.[14] If Borusan's weighted-average dumping margin is zero or *de minimis* or where an importer-specific *ad valorem* assessment rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[15]

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by Borusan for which it did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate those entries at the all-others rate calculated in the less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction.[16]

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[17] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated or reviewed companies not covered by this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the LTFV investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 14.74 percent, the all-others rate established in the LTFV investigation.[18] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, no later than 120 days after the date of publication of this notice in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: July 31, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Affiliation
V. Discussion of the Methodology
VI. Currency Conversion
VII. Recommendation

[FR Doc. 2026–16182 Filed 8–6–26; 8:45 am]

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[14] *See* 19 CFR 351.212(b)(1).

[15] *See* 19 CFR 351.106(c)(2); *see also Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[16] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[17] *See* section 751(a)(2)(C) of the Act.

[18] *See Order.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–455–806]

Certain Preserved Mushrooms From Poland: Preliminary Results of Antidumping Duty Administrative Review; 2024–2025

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that the sole mandatory respondent, Okechamp S.A. (Okechamp), made sales of subject merchandise at less than normal value (NV) during the period of review (POR), May 1, 2024, through April 30, 2025. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable August 7, 2026.

FOR FURTHER INFORMATION CONTACT: Monica Gillis, 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) 482–6384.

SUPPLEMENTARY INFORMATION:

Background

On June 25, 2025, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order on certain preserved mushrooms (mushrooms) from Poland.[1]

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 90 FR 26967 (June 25, 2025); *see also Certain Preserved Mushrooms from Poland: Antidumping Duty Order,* 88 FR 33096 (May 23, 2023) (*Order*).

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.[2] Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.[3] On March 17, 2026, we extended the preliminary results of this review to no later than July 31, 2026.[4]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[5] A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS, which is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Scope of the Order

The merchandise subject to the *Order* is mushrooms from Poland. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following weighted-average dumping margin exists for the period May 1, 2024, through April 30, 2025:

Producer/exporter	Weighted-average dumping margin (percent)
Okechamp S.A	0.54

Disclosure

Commerce intends to disclose its calculations to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the information relied upon in making its final results because we find good cause for verification exists.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the verification report is issued in this review. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[6] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[7] All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public executive summary for each issue raised in their briefs.[8] Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[9]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.[10]

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

If Okechamp's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, Commerce intends to calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those sales. Where we do not have entered values for all U.S. sales to a particular importer, we will calculate an importer-specific, per-unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total quantity of those sales.[11] To determine whether an importer-specific, per-unit assessment rate is *de minimis,* in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values. If Okechamp's weighted-average dumping margin is zero or *de minimis* or where an importer-specific

[2] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[3] *See* Memorandum, ''Tolling of all Case Deadlines,'' dated November 24, 2025.

[4] *See* Memorandum, ''Extension of Deadline for Preliminary Results of 2024–2025 Antidumping Duty Administrative Review,'' dated March 17, 2026.

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Certain Preserved Mushrooms; 2024–2025,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

[7] *See* 19 CFR 351.309(c)(2) and (d)(2).

[8] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[9] *See APO and Service Procedures.*

[10] *See* 19 CFR 351.310(d).

[11] *See* 19 CFR 351.212(b)(1).

ad valorem assessment rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[12]

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by Okechamp for which it did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate those entries at the all-others rate calculated in the less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction.[13] If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated or reviewed companies not covered by this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the LTFV investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 34.32 percent, the all-others rate established in the LTFV investigation.[14] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: July 31, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Discussion of the Methodology
V. Currency Conversion
VI. Recommendation

[FR Doc. 2026–16186 Filed 8–6–26; 8:45 am]

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[12] *See* 19 CFR 351.106(c)(2); *see also Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[13] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[14] *See Order.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–886]

Polyethylene Retail Carrier Bags From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2024–2025

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that that Crown Polyethylene Products (International) Ltd. (Crown) is not eligible for a separate rate and is part of the China-wide entity in the administrative review of the antidumping duty (AD) order on polyethylene retail carrier bags from the People's Republic of China (China) for the period of review (POR) August 1, 2024, through July 31, 2025.

DATES: Applicable August 7, 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 April 6, 2026, Commerce published the preliminary results of this administrative review of the AD order on polyethylene retail carrier bags from China in the **Federal Register** and invited interested parties to comment.[1] We received no comments from interested parties on the *Preliminary Results* and have made no changes to the *Preliminary Results.* Accordingly, no decision memorandum accompanies this **Federal Register** notice and the *Preliminary Results* are hereby adopted in these final results. Commerce conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order [2]

The merchandise subject to the *Order* is polyethylene retail carrier bags from China. For a complete description of the scope of the *Order, see* the *Preliminary Results.*[3]

China-Wide Entity

As stated in the *Preliminary Results,* because no party requested a review of the China-wide entity in this review, the China-wide entity is not under review and the China-wide entity's rate, *i.e.,* 77.57 percent, is not subject to change.[4]

Disclosure

Normally, Commerce discloses to interested parties the calculations of the final results of an administrative review within five days of a public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because we have made no changes to the *Preliminary Results,* there are no calculations to disclose.

[1] *See Polyethylene Retail Carrier Bags from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Administrative Review; 2024–2025,* 91 FR 17247 (April 6, 2026) (*Preliminary Results*).

[2] *See Antidumping Duty Order: Polyethylene Retail Carrier Bags from the People's Republic of China,* 69 FR 48201 (August 9, 2004) (*Order*).

[3] *See Preliminary Results,* 91 FR at 17249–50.

[4] *Id.* at 17248–49; *see also Order,* 69 FR at 48203.

Assessment Rates

Consistent with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

We have not calculated any assessment rates in this administrative review. As Commerce continues to find that Crown is part of the China-wide entity, we will instruct CBP to assess any suspended entries of subject merchandise associated with Crown at the China-wide rate, *i.e.,* 77.57 percent.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided in section 751(a)(2)(C) of the Act: (1) for previously investigated or reviewed Chinese and non-Chinese exporters that are not under review in this segment of the proceeding but have separate rates, the cash deposit rate will continue to be the exporter's existing cash deposit rate; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the existing rate for the China-wide entity, *i.e.,* 77.57 percent; and (3) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

These final results are issued and published in accordance with sections 751(a)(1)(B) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: August 4, 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. 2026–16184 Filed 8–6–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–838, A–570–892]

Carbazole Violet Pigment 23 from India and the People's Republic of China: Final Results of Sunset Reviews and Revocation of the Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On May 1, 2026, the Department of Commerce (Commerce) initiated the fourth sunset reviews of the antidumping duty (AD) orders on carbazole violet pigment 23 (CVP–23) From India and the People's Republic of China (China). Because no domestic interested party responded to the sunset review notice of initiation by the applicable deadline, consistent with section 751(c)(3)(A) of the Tariff Act of 1930, as amended (the Act), Commerce is revoking the AD orders on CVP–23 from India and China.

DATES: Applicable August 7, 2026.

FOR FURTHER INFORMATION CONTACT: Henry Wolfe or Enio Guevara, 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) 482–0574, and (202) 482–4986, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 2004, Commerce published the *Orders* on CVP–23 from India and China.[1] On May 1, 2026, Commerce initiated the fourth sunset reviews of the *Orders* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] No domestic interested party responded to Commerce's *Initiation Notice.*[3]

Scope of the Orders

The merchandise subject to the *Orders* is carbazole violet pigment (CVP–23) identified as Color Index No. 51319 and Chemical Abstract No. 6358–30–1, with the chemical name of diindolo [3,2-b:3′,2′-m] [4] triphenodioxazine, 8,18-dichloro-5, 15-diethy-5, 15-dihydro-, and molecular formula of C_{34} H_{22} Cl_2 N_4 O_2. The subject merchandise includes the crude pigment in any form (*e.g.,* dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (*e.g.,* pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of the *Orders.* The merchandise subject to the *Orders* is classifiable under subheading 3204.17.9040 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the *Orders* is dispositive.

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Carbazole Violet Pigment 23 from India,* 69 FR 77988 (December 29, 2004); and *Antidumping Duty Order: Carbazole Violet Pigment 23 from the People's Republic of China,* 69 FR 77987 (December 29, 2004) (collectively, *Orders*).

[2] *See Initiation of Five-year (Sunset) Reviews,* 91 FR 23395 (May 1, 2026) (*Initiation Notice*).

[3] *See* Memorandum, ''Notice of Intent Not to Participate,'' dated June 26, 2026 (stating that counsel for the petitioner ''informed Commerce that the petitioner does not intend to participate in these sunset reviews'') (Petitioner's Notice of Intent Not to Participate); *see also* Commerce's Letter, ''Sunset Reviews Initiated on May 1, 2026'', dated June 26, 2026.

[4] The bracketed section of the product description, [3,2-b:3′,2′-m], is not business proprietary information. In this case, the brackets are simply part of the chemical nomenclature.

Revocation

Pursuant to section 751(c)(3)(A) of the Act, ''{i}f no domestic interested party responds to a notice of initiation . . . {Commerce} shall issue a final determination, within 90 days after the initiation of a review, revoking the order.'' Because no domestic interested party responded to the notice of initiation in this segment of the proceeding,[5] Commerce is revoking the *Orders.*

Effective Date of Revocation

Pursuant to section 751(c)(3)(A) of the Act and 19 CFR 351.222(i)(2)(i), Commerce intends to instruct U.S. Customs and Border Protection to terminate the suspension of liquidation of the merchandise subject to the *Orders* entered, or withdrawn from the warehouse, on or after June 15, 2026, the fifth anniversary of the date of the publication of the last continuation notice of the *Orders.*[6] Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and AD deposit requirements. Commerce may conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for reviews.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(c) and 777(i)(1) of the Act.

Dated: July 30, 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. 2026–16143 Filed 8–6–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–813]

Polyethylene Retail Carrier Bags From Malaysia: Final Results of Antidumping Duty Administrative Review; 2023–2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that polyethylene retail carrier bags (PRCBs) from Malaysia were not sold in the United States at less than normal value during the period of review (POR), August 1, 2023, through July 31, 2024.

DATES: Applicable August 7, 2026.

FOR FURTHER INFORMATION CONTACT: Kyle Clahane, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5449.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 2026, Commerce published the *Preliminary Results* of this review in the **Federal Register** and invited interested parties to comment on those results.[1] For a summary of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[2] Commerce conducted this administrative review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). On May 29, 2026, we extended the deadline for these final results to July 31, 2026.[3]

Scope of the Order[4]

The merchandise covered by this *Order* is polyethylene retail carrier bags from Malaysia. For a complete description of the scope, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum is attached at an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Changes Since the Preliminary Results

Based on our review of the record and comments received from interested parties regarding the *Preliminary Results,* we made certain changes to the margin calculation for Euro SME Sdn Bhd and Euro Nature Green Sdn. Bhd (collectively, Euro SME or respondent). For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Results of Review

Commerce determines that the following weighted-average dumping margin exists for the period August 1, 2023, through July 31, 2024:

Producer or exporter	Weighted-average dumping margin (percent)
Euro SME Sdn Bhd and Euro Nature Green Sdn. Bhd[5] (collectively, Euro SME)	0.00

Disclosure

Commerce intends to disclose to interested parties the calculations performed for these final results in this review within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rate

Consistent with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), upon completion of the administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise covered this review. Because the respondent's weighted-average dumping margins or importer-specific assessment rate is zero, we intend to instruct CBP to liquidate entries without regard to antidumping duties.[6] The final results of this

[1] *See Polyethylene Retail Carrier Bags from Malaysia: Preliminary Results of Antidumping Duty Administrative Review; 2023–2024,* 91 FR 5924 (February 10, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Polyethylene Retail Carrier Bags from Malaysia; 2023–2024,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated May 29, 2026.

[4] *See Antidumping Duty Order: Polyethylene Retail Carrier Bags from Malaysia,* 69 FR 48203 (August 9, 2004) (*Order*).

[5] *See* Petitioner's Notice of Intent Not to Participate.

[6] *See Carbazole Violet Pigment 23 from India and the People's Republic of China: Continuation of Antidumping and Countervailing Duty Orders,* 86 FR 31699 (June 15, 2021).

[5] In the 2018–2019 review, Commerce treated Euro SME and Euro Nature Green Sdn. Bhd. (Nature Green) as a single entity. *See Polyethylene Retail Carrier Bags from Malaysia: Preliminary Results of Antidumping Duty Administrative Review; 2018–2019,* 85 FR 83515 (December 22, 2020), and accompanying PDM at 3–5, unchanged in *Polyethylene Retail Carrier Bags from Malaysia: Final Results of Antidumping Duty Administrative Review; 2018–19,* 86 FR 22019 (April 26, 2021). Our treatment of Euro SME and Nature Green remains unchanged in this review.

[6] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and*

administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[7]

Commerce's ''automatic assessment'' will apply to entries of subject merchandise during the POR produced by Euro SME for which the company did not know that the merchandise it sold to an intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate (*i.e.,* 84.94 percent),[8] if there is no rate for the intermediate company(ies) involved in the transaction.[9]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rates for the company identified above in the ''Final Results of Review'' section will be equal to the company-specific weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by a company not covered in this administrative review but covered in a completed prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review or completed prior segment of this proceeding but the producer is, the cash deposit rate will be the company-specific rate established for the most recently-completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 84.94 percent, the rate established in the investigation of this proceeding.[10] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5) and 19 CFR 351.213(h)(1).

Dated: July 31, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Changes Since the *Preliminary Results*
V. Discussion of the Issues
Comment 1: Treatment of the Constructed Export Price (CEP) Profit Ratio
Comment 2: Treatment of Certain Indirect Selling Expenses
Comment 3: Treatment of Marine Insurance and U.S. Duties
Comment 4: Treatment of Movement Expenses and Commissions
VI. Recommendation

[FR Doc. 2026–16185 Filed 8–6–26; 8:45 am]

BILLING CODE 3510–DS–P

Assessment Rate in Certain Antidumping Proceedings; Final Modification, 77 FR 8101, 8102–03 (February 14, 2012); *see also* 19 CFR 351.106(c)(2).

[7] *See* section 751(a)(2)(C) of the Act.

[8] *See Order,* 69 FR at 48204.

[9] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[10] *See Order,* 69 FR at 48204.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF831]

Fisheries of the Gulf of America; Southeast Data, Assessment, and Review; Public Meeting

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

ACTION: Notice of review workshop.

SUMMARY: The Southeast Data Assessment and Review (SEDAR) 98 assessment process of Gulf red snapper will consist of a Data Workshop, and a series of assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 98 Review Workshop will be held from 8:30 a.m. on September 22, 2026, until 12 p.m. on September 25, 2026.

ADDRESSES:

Meeting address: The SEDAR 98 Review Workshop will be held at the Hilton Tampa Airport Westshore, 2225 N Lois Ave., Tampa, FL 33607.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366. Email: *Julie.neer@safmc.net*.

SUPPLEMENTARY INFORMATION: The Gulf, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the SEDAR process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data/Assessment Workshop, and (2) a series of webinars. The product of the Data/Assessment Workshop is a report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses, and describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions,

and recommends research and monitoring needs. Participants for SEDAR Workshops are appointed by the Gulf, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations; International experts; and staff of Councils, Commissions, and state and Federal agencies.

The items of discussion in the Review Workshop are as follows:

Participants will evaluate the data and assessment reports, as specified in the Terms of Reference for the workshop and determine if they are scientifically sound.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

(Authority: 16 U.S.C. 1801 *et seq.*)

Dated: August 4, 2026.

Anna Michelle Harrison,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–16093 Filed 8–6–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF941]

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review; Public Meeting

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

ACTION: Notice of webinar.

SUMMARY: The Southeast Data Assessment and Review (SEDAR) 90 assessment process of South Atlantic Red Snapper will consist of a Data Workshop, a series of Assessment Webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 90 Assessment Webinar 9 will be held from 9 a.m. until 12 p.m. EDT on August 24, 2026.

ADDRESSES: *SEDAR address:* 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405. *Meeting address:* The SEDAR 90 Assessment Webinar 9 will be held via webinar. The webinar is open to members of the public. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from or completed prior to the time established by this notice. *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Emily Ott, SEDAR Coordinator; (843) 302–8434. Email: *Emily.Ott@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with the NMFS and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the SEDAR process. SEDAR is a participatory process for developing, evaluating and reviewing information used for fisheries management advice. This multi-step process for determining the status of fish stocks in the Southeast Region may include (1) a data stage, (2) an assessment stage, and (3) a review stage. Each stage produces a report summarizing decisions made during that stage. A final stock assessment report is produced at the end of a SEDAR process documenting data sets used, model configurations, and the opinions from the independent peer review. Participants for SEDAR projects are appointed by the Gulf, South Atlantic, and Caribbean Fishery Management Councils and National Marine Fisheries Service Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants may include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations; International experts; and staff of Councils, Commissions, and State and Federal agencies.

The items of discussion in the SEDAR 90 Assessment Webinar 9 are as follows:

Participants will review recommendations made on Assessment Webinar 8 and continue discussion of new modeling topics. Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

(Authority: 16 U.S.C. 1801 *et seq.*)

Dated: August 4, 2026.

Anna Michelle Harrison,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–16103 Filed 8–6–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF952]

Fisheries of the Gulf of America; Southeast Data, Assessment, and Review; Public Meeting

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

ACTION: Notice of webinar.

SUMMARY: The Southeast Data Assessment and Review (SEDAR) 105 assessment process of Gulf gag grouper will consist of a series of assessment webinars. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 105 Topical Working Group Red Tide Mortality II webinar will be held September 8, 2026, from 11 a.m.–2 p.m. Eastern Time.

ADDRESSES:

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (See **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366. Email: *Julie.neer@safmc.net*.

SUPPLEMENTARY INFORMATION: The Gulf, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with the National Marine Fisheries Service and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the SEDAR process. SEDAR is a participatory process for developing, evaluating and reviewing information used for fisheries management advice. This multi-step process for determining the status of fish stocks in the Southeast Region may include (1) a Data stage, and (2) an Assessment stage, and (3) a Review stage. Each stage produces a report summarizing decisions made during that stage. A final stock assessment report is produced at the end of a SEDAR process documenting data sets used, model configurations and the opinions from the independent peer review. Participants for SEDAR projects are appointed by the Gulf, South Atlantic, and Caribbean Fishery Management Councils and National Marine Fisheries Service Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants may include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations; International experts; and staff of Councils, Commissions, and state and Federal agencies.

The items of discussion during the SEDAR 105 Topical Working Groups Data Recommendations webinar are as follows:

Participants will review the data analyses and make recommendations.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

(Authority: 16 U.S.C. 1801 *et seq.*)

Dated: August 4, 2026.

Anna Michelle Harrison,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–16095 Filed 8–6–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF923]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will hold an online meeting of its Ad Hoc Highly Migratory Species (HMS) Fisheries Innovation Workgroup (FIW) to discuss procedures to facilitate the development of new HMS gears and achieve the goals of the HMS Roadmap. This meeting is open to the public.

DATES: The meeting will be held on 2 separate days: Monday, August 24, 2026, from 12 p.m. to 5 p.m. Pacific Time, and Thursday, August 27, 2026, from 8:30 a.m. to 12:30 p.m. Pacific Time.

ADDRESSES: The meeting will be held online. Webinar instructions, the meeting agenda, and any additional materials will be provided in the meeting announcement on the Pacific Council's website (see *https://www.pcouncil.org*). You may send an email to Mr. Hayden York (*Hayden.York@pcouncil.org*) or contact him at 503–820–2424 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, Oregon 97220–1384.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Pacific Council; telephone: 503–820–2409.

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting is to review and discuss the draft exempted fishing permit (EFP) Evaluation Framework. The FIW will also continue discussing EFP bycatch and economic performance benchmarks and metrics. The FIW will provide final recommendations for evaluating HMS EFP performance at the November 2026 Pacific Council meeting in Garden Grove, California.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Hayden York *(Hayden.York@pcouncil.org;* 503–820–2424) at least 10 days prior to the meeting date.

(Authority: 16 U.S.C. 1801 *et seq.*)

Dated: August 4, 2026.

Anna Michelle Harrison,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–16094 Filed 8–6–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2310–266]

Pacific Gas & Electric Company; Notice of Application for Minimum Flow Variance Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Application for Temporary Variance of Minimum Flow Releases into Bear River at YB–44.

b. *Project No:* 2310–266.

c. *Date Filed:* July 30, 2026.

d. *Applicant:* Pacific Gas & Electric Company.

e. *Name of Project:* Drum Spaulding Hydroelectric Project.

f. *Location:* The project is located on the Bear River below the Drum Afterbay in Nevada and Placer counties, California. The project occupies federal lands managed by the U.S. Forest Service, U.S. Bureau of Reclamation, and Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Trevor Moore; P.O. Box 28209, Oakland, California 94604; *TQMI@pge.com;* and (530) 205–7345.

i. *FERC Contact:* Katherine Schmidt, (415) 369–3348, and *katherine.schmidt@ferc.gov.*

j. *Cooperating agencies:* With this notice, the Commission is inviting federal, state, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

l. *Deadline for filing comments, motions to intervene, and protests:* September 3, 2026 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the docket number P–2310–266. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

m. *Description of Request:* The licensee requests a temporary variance of required minimum flows under Article 39 in Bear River, as measured at compliance gage YB–44, from September 14 through September 30, 2026. The licensee proposes to maintain a minimum of 5 cubic feet per second (cfs) during this period; Article 39 normally requires, in part, that the licensee maintain 10 cfs until the end of September. Granting this variance will enable the licensee to conduct inspection of the Drum Afterbay facilities and the Nevada Irrigation District to inspect and perform maintenance of the Dutch Flat 2 Flume and its intake gate. Releases will be passed through the dam's low-level outlet during the work, and license-required minimum flows will be re-established after the variance period ends.

n. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

o. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

p. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; and (3) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

r. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

(Authority: 18 CFR 2.1.)

Dated: August 4, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–16171 Filed 8–6–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC26–136–000.
Applicants: Panoche Energy Center, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act of Panoche Energy Center, LLC.
Filed Date: 7/29/26.
Accession Number: 20260729–5177.
Comment Date: 5 p.m. ET 8/19/26.

Docket Numbers: EC26–137–000.
Applicants: Twin Eagle Resource Management, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act of Twin Eagle Resource Management, LLC.
Filed Date: 7/31/26.
Accession Number: 20260731–5301.
Comment Date: 5 p.m. ET 8/21/26.

Docket Numbers: EC26–138–000.
Applicants: Vulcan Infrastructure and Power, Inc.
Description: Application for Authorization Under Section 203 of the Federal Power Act of Vulcan Infrastructure and Power, Inc.
Filed Date: 7/31/26.
Accession Number: 20260731–5302.
Comment Date: 5 p.m. ET 8/21/26.

Docket Numbers: EC26–139–000.
Applicants: TENASKA GEORGIA PARTNERS, L.P., Gulf Pacific Power, LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Tenaska Georgia Partners, L.P., *et al.*
Filed Date: 8/3/26.
Accession Number: 20260803–5272.
Comment Date: 5 p.m. ET 8/24/26.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG26–283–000.
Applicants: Edge Solar LLC.
Description: Edge Solar LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 7/31/26.
Accession Number: 20260731–5288.
Comment Date: 5 p.m. ET 8/21/26.

Docket Numbers: EG26–284–000.
Applicants: Camp Creek Wind, LLC.
Description: Camp Creek Wind, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 7/31/26.
Accession Number: 20260731–5289.
Comment Date: 5 p.m. ET 8/21/26.

Docket Numbers: EG26–285–000.
Applicants: SF Jasmine, LLC.
Description: SF Jasmine, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 7/31/26.
Accession Number: 20260731–5292.
Comment Date: 5 p.m. ET 8/21/26.

Docket Numbers: EG26–286–000.
Applicants: Greenalia Solar Power Misae III, LLC.
Description: Greenalia Solar Power Misae III, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 8/3/26.
Accession Number: 20260803–5260.
Comment Date: 5 p.m. ET 8/24/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1586–014; ER10–1630–014.
Applicants: Wolf Hills Energy, LLC, Big Sandy Peaker Plant, LLC.
Description: Notice of Change in Status of Big Sandy Peaker Plant, LLC, *et al.*
Filed Date: 7/28/26.
Accession Number: 20260728–5174.
Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER10–2126–013.
Applicants: Idaho Power Company.
Description: Notice of Change in Status of Idaho Power Company.
Filed Date: 7/28/26.
Accession Number: 20260728–5172.
Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER12–2510–016; ER15–2014–013; ER25–3260–003; ER17–256–025; ER22–1566–008; ER12–2512–016; ER17–243–024; ER19–481–009; ER18–2252–008; ER15–2022–012; ER17–1847–003; ER15–2026–012; ER23–2941–003; ER15–2013–019; ER23–2943–003; ER17–245–024.
Applicants: Waterford Power, LLC, Talen Keystone LLC, Talen Energy Marketing, LLC, Talen Conemaugh LLC, Susquehanna Nuclear, LLC, Moxie Freedom LLC, Montour, LLC, MC Project Company LLC, LMBE Project Company LLC, Lawrenceburg Power, LLC, H.A. Wagner LLC, Guernsey Power Station LLC, Darby Power, LLC, Lightstone Marketing LLC, Brunner Island, LLC, Brandon Shores LLC.
Description: Notice of Change in Status of Brandon Shores LLC, *et al.*
Filed Date: 7/28/26.
Accession Number: 20260728–5176.
Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER15–793–008.
Applicants: Southern Indiana Gas and Electric Company, Inc.
Description: Notice of Change in Status of Southern Indiana Gas and Electric Company, Inc.
Filed Date: 7/24/26.
Accession Number: 20260724–5431.
Comment Date: 5 p.m. ET 8/14/26.

Docket Numbers: ER24–343–006.
Applicants: Nestlewood Solar I LLC.
Description: Notice of Non-Material Change in Status of Nestlewood Solar I LLC.
Filed Date: 7/28/26.
Accession Number: 20260728–5171.
Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER25–1989–002; ER23–2759–004; ER25–3431–002; ER25–3432–002; ER25–3434–002.
Applicants: Mammoth South LLC, Mammoth Central II LLC, Mammoth Central LLC, Mammoth North LLC, Great Bend Solar, LLC.
Description: Notice of Non-Material Change in Status of Great Bend Solar, LLC, *et al.*
Filed Date: 7/27/26.
Accession Number: 20260727–5344.
Comment Date: 5 p.m. ET 8/17/26.

Docket Numbers: ER25–2211–004.
Applicants: American Beech Solar LLC.
Description: Notice of Non-Material Change in Status of American Beech Solar LLC.
Filed Date: 7/28/26.
Accession Number: 20260728–5170.
Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER25–2447–002; ER25–2449–002.
Applicants: ER South Street Storage, LLC,ER Nava Storage, LLC.
Description: Notice of Non-Material Change in Status of ER Nava Storage, LLC, *et al.*
Filed Date: 7/27/26.
Accession Number: 20260727–5343.
Comment Date: 5 p.m. ET 8/17/26.

Docket Numbers: ER26–865–003.
Applicants: Energy Prepay XV, LLC.
Description: Notice of Non-Material Change in Status of Energy Prepay XV, LLC.
Filed Date: 7/28/26.
Accession Number: 20260728–5173.
Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER26–2304–001.
Applicants: Guess & Co. Power, Inc.
Description: Notice of Non-Material Change in Status of Guess & Co. Power, Inc.
Filed Date: 7/28/26.
Accession Number: 20260728–5175.
Comment Date: 5 p.m. ET 8/18/26.

Docket Numbers: ER26–3410–000.
Applicants: Willis Pond PV1, LLC.
Description: Request for Prospective Tariff Waiver, *et al.* of Willis Pond PV1, LLC.

Filed Date: 7/31/26.
Accession Number: 20260731–5285.
Comment Date: 5 p.m. ET 8/21/26.
Docket Numbers: ER26–3411–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2026–08–04_SA 4826 ITC Midwest-Interstate Power and Light GIA (E0049) to be effective 7/21/2026.
Filed Date: 8/4/26.
Accession Number: 20260804–5030.
Comment Date: 5 p.m. ET 8/25/26.
Docket Numbers: ER26–3413–000.
Applicants: Vacherie Solar Energy Center, LLC.
Description: Request for Limited and Prospective Waiver, *et al.* of Vacherie Solar Energy Center, LLC.
Filed Date: 8/4/26.
Accession Number: 20260804–5053.
Comment Date: 5 p.m. ET 8/25/26.
Docket Numbers: ER26–3414–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2026–08–04_SA 4821 NSP–NSP GIA (E0041) to be effective 7/22/2026.
Filed Date: 8/4/26.
Accession Number: 20260804–5082.
Comment Date: 5 p.m. ET 8/25/26.
Docket Numbers: ER26–3415–000.
Applicants: Public Service Company of Colorado.
Description: Tariff Amendment: 2026–08–04–TWE3 PLGIA–800–NOC to be effective 8/5/2026.
Filed Date: 8/4/26.
Accession Number: 20260804–5099.
Comment Date: 5 p.m. ET 8/25/26.
Docket Numbers: ER26–3416–000.
Applicants: American Transmission Company LLC, Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: American Transmission Company LLC submits tariff filing per 35.13(a)(2)(iii: 2026–08–04_SA 4822 ATC–REC PCA (Innovation Park) to be effective 10/4/2026.
Filed Date: 8/4/26.
Accession Number: 20260804–5101.
Comment Date: 5 p.m. ET 8/25/26.
Docket Numbers: ER26–3417–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2026–08–04_SA 4820 MEC-Beeline Solar Energy FCA (GEN–2018–043) to be effective 7/29/2026.
Filed Date: 8/4/26.
Accession Number: 20260804–5108.
Comment Date: 5 p.m. ET 8/25/26.
Docket Numbers: ER26–3418–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2026–08–04_SA 4823 City of Rochester-City of Rochester GIA (E0028) to be effective 7/23/2026.
Filed Date: 8/4/26.
Accession Number: 20260804–5129.
Comment Date: 5 p.m. ET 8/25/26.
Docket Numbers: ER26–3419–000.
Applicants: Central Maine Power Company.
Description: § 205(d) Rate Filing: Executed Wholesale Distribution Service Agreement Between Central Maine and MRRA to be effective 9/1/2026.
Filed Date: 8/4/26.
Accession Number: 20260804–5131.
Comment Date: 5 p.m. ET 8/25/26.
Docket Numbers: ER26–3420–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Northwest Rural Public Power District Withdrawal Agreement to be effective 10/5/2026.
Filed Date: 8/4/26.
Accession Number: 20260804–5132.
Comment Date: 5 p.m. ET 8/25/26.
Docket Numbers: ER26–3421–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) Rate Filing: Ameren Illinois Company submits tariff filing per 35.13(a)(2)(iii: 2026–08–04_SA 4830. Ameren IL-Solar Newco I E&P (J2171) to be effective 8/5/2026.
Filed Date: 8/4/26.
Accession Number: 20260804–5140.
Comment Date: 5 p.m. ET 8/25/26.
Docket Numbers: ER26–3422–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) Rate Filing: Ameren Illinois Company submits tariff filing per 35.13(a)(2)(iii: 2026–08–04_SA 4831 Ameren IL-Stone's Throw Solar E&P (J2808) to be effective 8/5/2026.
Filed Date: 8/4/26.
Accession Number: 20260804–5148.
Comment Date: 5 p.m. ET 8/25/26.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES26–58–000; ES26–59–000; ES26–60–000; ES26–61–000.
Applicants: Evergy Missouri West, Inc. Evergy Metro, Inc. Evergy Kansas South, Inc. Evergy Kansas Central, Inc.
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Evergy Kansas Central, Inc., *et al.*
Filed Date: 7/29/26.
Accession Number: 20260729–5176.
Comment Date: 5 p.m. ET 8/19/26.
Docket Numbers: ES26–62–000; ES26–63–000; ES26–64–000; ES26–65–000; ES26–66–000; ES26–67–000.
Applicants: System Energy Resources, Inc., Entergy Texas, Inc., Entergy New Orleans, LLC, Entergy Mississippi, LLC, Entergy Louisiana, LLC, Entergy Arkansas, LLC.
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Entergy Arkansas, LLC, *et al.*
Filed Date: 7/31/26.
Accession Number: 20260731–5303.
Comment Date: 5 p.m. ET 8/21/26.

The filings are accessible in the Commission's eLibrary system by clicking on the links or 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: August 4, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–16127 Filed 8–6–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2569–169]

Erie Boulevard Hydropower, L.P.; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2569–169.

c. *Date Filed:* August 30, 2024.

d. *Applicant:* Erie Boulevard Hydropower, L.P. (Erie).

e. *Name of Project:* Black River Hydroelectric Project (project).

f. *Location:* On the Black River in Jefferson County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Steven P. Murphy, Director—U.S. Licensing, Brookfield Renewable, 33 West 1st Street South, Fulton, NY 13069; telephone at (315) 598–6130; email at *Stephen.Murphy@brookfieldrenewable.com.*

i. *FERC Contact:* Nicholas Ettema, Project Coordinator, Great Lakes Branch, Division of Hydropower Licensing; telephone at (312) 596–4447; email at *nicholas.ettema@ferc.gov.*

j. *Deadline for filing motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions:* October 5, 2026, by 5:00 p.m. Eastern Time. Deadline for filing reply comments: November 17, 2026, by 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 10,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include docket number P–2569–169.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. *Project Description:* The project consists of the following five developments from upstream to downstream: the 5.0625-megawatt (MW) Herrings Development, the 10.8–MW Deferiet Development, the 5.4–MW Kamargo Development, the 6–MW Black River Development, and the 1.875–MW Sewalls Development.

Project Facilities

Herrings Development

The Herrings Development consists of a 729-foot-long, 25-foot-high dam (Herrings dam) that includes: (1) a 512-foot-long ogee spillway with 1-foot-high flashboards that have a crest elevation of 680.1 feet North American Vertical Datum of 1988 (NAVD 88); (2) a stoplog gate; and (3) a 137-foot-long powerhouse that includes: (a) an intake structure with a stoplog gate, nine slide gates, a skimmer with stoplog gate, and a trashrack with 2-inch clear bar spacing and (b) three 1.6875–MW vertical propeller turbine-generators. The dam creates an impoundment that has a surface area of 140 acres at an elevation of 680.1 feet NAVD 88.

From the impoundment, water flows through the powerhouse to a tailrace that discharges into the Black River. The project generators are connected to the regional electric grid by two generator lead lines and a transformer. The project recreation facilities include a hand-carry boat access site that includes a picnic area and parking area on the north shoreline of the impoundment, a portage trail, a put-in site, and two fishing access sites.

Deferiet Development

The Deferiet Development consists of a 926.9-foot-long, 18-foot-high dam (Deferiet dam) that includes: (1) a 503.9-foot-long spillway with a 3-foot-high inflatable rubber crest gate with a maximum crest elevation of 659.53 feet NAVD 88; (2) eleven stoplog gates; and (3) a canal headworks structure with ten sluice gates. The dam creates an impoundment that has a surface area of 70 acres at 659.53 feet NAVD 88.

From the impoundment water flows through the canal headworks structure to a 4,200-foot-long power canal. From the power canal, water enters a powerhouse that includes: (1) an intake structure with three sluice gates and a trashrack with 2-inch clear bar spacing; and (2) three 3.6–MW vertical Francis turbine-generators. From the powerhouse, water flows to a tailrace that discharges into the Black River. The development creates an approximately 1.73-mile-long bypassed reach.

The generators are connected to the regional electric grid by three overhead generator lead lines and a transformer. The project recreation facilities include two impoundment access sites for hand-carry boats, a portage trail, a put-in site downstream of the dam, a hiking trail, and a boat access site and parking area downstream of the powerhouse.

Kamargo Development

The Kamargo Development consists of a 188-foot-long headgate structure that includes fourteen sluice gates and an 886-foot-long, 24-foot-high dam (Kamargo dam) that includes a 647-foot-long ogee spillway with 2-foot-high flashboards that have a crest elevation of 565.48 feet NAVD 88 and a 5.7-foot-long, 6-foot-high notch. The dam creates an impoundment that has a surface area of 40 acres at 565.48 feet NAVD 88.

From the impoundment, water flows through the headgate structure to a 3,850-foot-long power canal that includes a 160.8-foot-long ogee spillway with twelve stoplog gates and low-level sluice gate that discharge into the Black River. From the power canal, water enters a powerhouse that includes: (1) an intake structure with nine sluice gates and a trashrack with 2-inch clear bar spacing; and (2) three 1.8–MW vertical Francis turbine-generators. From the powerhouse, water flows to a tailrace that discharges into the Black River. The development creates a 0.69-mile-long bypassed reach.

The generators are connected to the regional electric grid by four generator lead lines and a transformer. The project includes the Poors Island Recreation Area that includes two portage trails, fishing access areas, a picnic area, a bicycle rack, a hiking trail, and parking area.

Black River Development

The Black River Development consists of a 362.5-foot-long, 27.8-foot-high dam (Black River dam) that includes: (1) two sluice gates, a 291-foot-long ogee spillway with a 4.5-foot-long, 3.5-foot-high notch and 2-foot-high flashboards that have a crest elevation of 535.68 feet NAVD 88, and a stoplog gate; and (2) a 99.6-foot-long headgate structure with five sluice gates. The dam creates an impoundment that has a surface area of 25 acres at 535.68 feet NAVD 88.

From the impoundment, water flows through the headgate structure to a 2,250-foot-long power canal that includes: (1) a 250-foot-long waste weir with a crest elevation of 537.68 NAVD 88; and (2) a 134-foot-long waste weir with 2-foot-high flashboards and a low-level outlet gate. From the power canal, water enters a powerhouse that includes: (1) an intake structure with nine sluice gates, a skimmer equipped with two sluice gates, and a trashrack with 2-inch clear bar spacing; and (2) three 2–MW vertical Francis turbine-generators. From the powerhouse water flows to a tailrace that discharges into the Black River. The development creates an approximately 0.6-mile-long bypassed reach of the Black River.

The generators are connected to the regional electric grid by two underground generator lead lines and a transformer. The project recreation facilities include: (1) a parking area, picnic area, and fishing platform, referred to as the ''Stone Drive Recreation Area,'' located on the north shoreline of the impoundment; (2) a hand-carry boat portage route with an impoundment take-out site, a portage trail, and a put-in site downstream of the dam; and (3) a picnic and parking area southeast of the dam.

Sewalls Development

The Sewalls Development consists of: (1) a 345-foot-long, 15.5-foot-high south dam (Sewalls dam) that includes a 243-foot-long ogee spillway with a crest elevation of 463.73 feet NAVD 88, two stoplog gates, and two sluice gates; and (2) a north dam that includes a 95.9-foot-long, 18.5-foot-high spillway with a crest elevation of 463.73 feet NAVD 88 and a 3.61-foot-long, 2-foot-high notch. The dam creates an impoundment that has a surface area of 4 acres at 463.73 feet NAVD 88.

From the impoundment water flows through the sluice gates to a 400-foot-long power canal with 2-foot-high flashboards, a sluice gate, and a low-level outlet gate. From the power canal, water enters a powerhouse that includes: (1) an intake structure with four sluice gates and a trashrack with 2-inch clear bar spacing; and (2) two 0.9375–MW vertical propeller turbine-generators. From the powerhouse, water flows to a tailrace that discharges into the Black River. The development creates an approximately 400-foot-long bypassed reach of the Black River downstream of the south dam (south channel bypassed reach); and an approximately 0.25-mile-long bypassed reach downstream of the north dam (north channel bypassed reach).

The generators are connected to the regional electric grid by two underground generator lead lines and a transformer. The project recreation facilities include a parking area and scenic overlook on the south shoreline of the impoundment, a portage trail, and an impoundment take-out site.

Proposed Project Operation and Environmental Measures

Erie proposes to: (1) continue to operate the project so that the water levels at each development's impoundment are maintained no lower than 0.5 foot below the crest of the dam or flashboards, if present; (2) continue to operate the Sewalls Development in run-of-river mode from May 1 through September 30 when flows in the Black River are less than 2,000 cfs; (3) continue to install flashboards at all developments by May 1 of each year, or as soon as possible thereafter; (4) continue to release a minimum flow of 1,000 cfs, or inflow, whichever is less, downstream of each development; (5) continue to release the following minimum flows or inflow, whichever is less, to the bypassed reaches: (a) 20 cfs at the Herrings Development; (b) 245 cfs at the Deferiet Development, with 800 cfs during the walleye spawning season in the spring; (c) 120 cfs at the Kamargo Development; (d) 80 cfs at the Black River Development with 300 cfs during the walleye spawning season; and (e) 32 cfs into the north channel bypassed reach and 137 cfs into the south channel bypassed reach at the Sewalls Development; (6) continue to maintain seasonal trashracks with 1-inch clear bar spacing in the top half of the water column from May 1 to October 1 at each development except the Sewalls Development; (7) continue to implement the Streamflow and Headpond Monitoring Plan; (8) continue to implement the Minimum Flow and Fish Conveyance Plan; (9) continue to maintain woodland buffers along the shorelines of each development; (10) update and continue to implement the Recreation Plan that requires operation and maintenance of the project recreation facilities described above; (11) notify the public via an online platform of bypassed reach flow and relevant safety information for the Deferiet Development; (12) enhance a fishing area at the Herrings Development by formalizing and maintaining a designated trail to the water's edge; (13) enhance a staircase at the put-in site downstream of the dam at the Deferiet Development to improve access for whitewater boaters; (14) continue to maintain project facilities, including fencing and outbuildings, in a dark brown/green color; and (15) develop a historic properties management plan.

m. A copy of the application can 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 (*i.e.,* P–2569). For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the Roswell P. Flower Memorial Library, located at 229 Washington Street, Watertown, NY 13601.

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE,'' ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''PRELIMINARY TERMS AND CONDITIONS,'' or ''PRELIMINARY FISHWAY PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this

proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

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.*

o. *The applicant must file on or before 5:00 p.m. Eastern Time on October 5, 2026:* (1) a copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

p. Final amendments to the application must be filed with the Commission on or before 5:00 p.m. Eastern Time on September 3, 2026.

(Authority: 18 CFR 2.1)

Dated: August 4, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–16169 Filed 8–6–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL26–68–000]

Southwest Power Pool, Inc.; AEP Oklahoma Transmission Company, Inc.; AEP Southwestern Transmission Company, Inc.; Deseret Generation & Transmission Co-Operative, Inc.; Empire District Electric Company; Evergy Kansas Central, Inc.; Evergy Kansas South, Inc.; Evergy Metro, Inc.; Evergy Missouri West, Inc.; GridLiance High Plains LLC; ITC Great Plains, LLC; Mountrail-Williams Electric Cooperative; NextEra Energy Transmission Southwest, LLC; NorthWestern Energy Public Service Corporation; Oklahoma Gas and Electric Company; Prairie Wind Transmission, LLC; Public Service Company of Oklahoma; Southwestern Electric Power Company; Southwestern Public Service Company; Transource Missouri, LLC; Transource Oklahoma, LLC; Tri-State Generation and Transmission Association, Inc.; Upper Missouri G. & T. Electric Cooperative, Inc.; Notice Establishing Answer Period

On August 3, 2026, pursuant to Rule 212 of the Commission's Rules of Practice and Procedure,[1] Southwest Power Pool, Inc. (SPP), American Electric Power Service Corporation, Evergy, Inc., GridLiance High Plains LLC, ITC Great Plains, LLC, Mountrail-Williams Electric Cooperative, NextEra Energy Transmission Southwest, LLC, Northwestern Energy, Upper Missouri G. & T. Electric Cooperative, Inc., Oklahoma Gas and Electric Company, Tri-State Generation and Transmission Association, Inc., and Xcel Energy Services Inc. (collectively, Joint Movants) filed a motion to hold the show cause proceeding in Docket No. EL26–68–000 in abeyance for 95 days. Joint Movants request that the Commission shorten the answer period for the motion to five days, such that answers to the motion would be due on or by August 10, 2026.

Upon consideration, notice is hereby given that answers in response to the motion for abeyance are due by 5:00 p.m. Eastern Time on August 7, 2026.

Dated: August 4, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–16174 Filed 8–6–26; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.212 (2025).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL26–69–000]

New York Independent System Operator, Inc.; Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; LS Power Grid New York Corporation I; New York State Electric & Gas Corporation; New York Transco LLC; NextEra Energy Transmission New York, Inc.; Niagara Mohawk Power Corp.; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; Notice Establishing Answer Period

On August 3, 2026, pursuant to Rule 212 of the Commission's Rules of Practice and Procedure,[1] New York Independent System Operator, Inc. (NYISO); the New York Transmission Owners (NYTOs); [2] and Non-Incumbent Transmission Owners (NTOs) [3] each filed motions to hold the show cause proceeding in Docket No. EL26–69–000 in abeyance for 90 days. NYISO, NYTOs, and NTOs each request that the Commission shorten the answer period for the motion to five days, such that answers to the motion would be due on or by Monday, August 10, 2026.

Upon consideration, notice is hereby given that answers in response to the motion for abeyance are due by 5:00 p.m. Eastern Time on August 7, 2026.

Dated: August 4, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–16173 Filed 8–6–26; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.212 (2025).

[2] The NYTOs include: Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation; Orange and Rockland Utilities, Inc.; and Rochester Gas and Electric Corporation.

[3] The NTOs include LS Power Grid New York Corporation I and New York Transco LLC.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2645–176]

Erie Boulevard Hydropower, L.P.; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2645–176.

c. *Date Filed:* July 30, 2024.

d. *Applicant:* Erie Boulevard Hydropower, L.P. (Erie).

e. *Name of Project:* Beaver River Hydroelectric Project (project).

f. *Location:* On the Beaver River in Lewis and Herkimer Counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Steven P. Murphy, Director—U.S. Licensing, Brookfield Renewable, 33 West 1st Street South, Fulton, NY 13069; telephone at (315) 598–6130; email at *Stephen.Murphy@brookfieldrenewable.com.*

i. *FERC Contact:* Nicholas Ettema, Project Coordinator, Great Lakes Branch, Division of Hydropower Licensing; telephone at (312) 596–4447; email at *nicholas.ettema@ferc.gov.*

j. *Deadline for filing motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions:* October 5, 2026, by 5:00 p.m. Eastern Time. Deadline for filing reply comments: November 17, 2026, by 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file motions to

intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 10,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include docket number P–2645–176.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. *Project Description:* The project consists of the following eight developments from upstream to downstream: the 8-megawatt (MW) Moshier Development, the 5.81–MW Eagle Development, the 12.145–MW Soft Maple Development, the 2.8–MW Effley Development, the 1.5–MW Elmer Development, the 4.645–MW Taylorville Development, the 2.21–MW Belfort Development, and the 4.8–MW High Falls Development.

Project Facilities

Moshier Development

The Moshier Development consists of an approximately 1,132-foot-long, 93-foot-high dam (Moshier dam) that includes an intake structure with two slide gates and two trashracks with 1-inch clear bar spacing, a sluice gate, and a 200-foot-long ogee spillway with 2-foot-high flashboards that have a crest elevation of 1,641.48 feet North American Vertical Datum of 1988 (NAVD 88). The dam creates an impoundment that has a surface area of 340 acres at 1,641.48 feet NAVD 88. From the impoundment, water flows through the intake structure to an approximately 1.9-mile-long penstock. The penstock bifurcates into two 70-foot-long penstocks that convey water to a powerhouse that includes two 4–MW vertical Francis turbine-generators. From the powerhouse, water flows to the tailrace and discharges into the Beaver River. Water also flows through the sluice gate to provide minimum flows to a 2.1-mile-long bypassed reach of the Beaver River. The generators are connected to the regional electric grid by two overhead generator lead lines and a transformer. The project recreation facilities include an impoundment take-out site, a portage trail, a hand-carry boat put-in site downstream of the powerhouse, 2 parking areas, and a whitewater boating put-in site in the bypassed reach.

Eagle Development

The Eagle Development consists of a 369.5-foot-long, 21-foot-high dam (Eagle dam) that includes a headgate structure that includes four stoplog gates and four trashracks with 1-inch clear bar spacing, a sluice gate, a 183-foot-long ogee spillway with 1-foot-high flashboards that have a crest elevation of 1,426.65 feet NAVD 88, and two low-level needle beam gates. The dam creates an impoundment that has a surface area of 138 acres at 1,426.65 feet NAVD 88.

From the impoundment, water flows through the headgate structure to a forebay canal with a stoplog gate. From the forebay canal, water enters an intake structure with three slide gates and a trashrack with 1.25-inch clear bar spacing. From the intake structure, water enters a 2,725-foot-long penstock that conveys water to a powerhouse that includes three 1.35–MW horizontal Francis turbine-generators and a 1.79–MW horizontal Francis turbine-generator. Water is discharged from the turbines to a tailrace. Water also flows through the sluice gate to provide minimum flows to the 0.73-mile-long bypassed reach. The generators are connected to the regional electric grid by a generator lead line and a step-up transformer. The project recreation facilities include: (1) a hand-carry boat portage route with an impoundment take-out site, a portage trail, and a put-in site downstream of the powerhouse; (2) a fishing access trail to the bypassed reach; and (3) a boat put-in site downstream of the dam for whitewater flow release events.

Soft Maple Development

The Soft Maple Development includes: (1) a 307-foot-long, 40-foot-high earthen dam with an intake structure with six slide gates and three trashracks with 1-inch clear bar spacing; (2) a 720-foot-long, 124-foot-high earthen dam (Terminal dam); (3) a 173-foot-long, 20-foot-high concrete dam with two sluice gates and a 144-foot-long ogee spillway with 1.5-foot-high flashboards that have a crest elevation of 1,289.9 feet NAVD 88; (4) a 910-foot-long, 67-foot-high earthen dam (Diversion dam) that includes an intake structure with a butterfly gate and a trashrack with 5-inch clear spacing; and (5) five earthen dikes. The dams and dikes create an impoundment that has a surface area of 400 acres at 1,289.9 feet NAVD 88.

From the impoundment, water flows through the intake structure to two 530-foot-long penstocks that provide water to a powerhouse that includes a 6.045–MW and a 6.1–MW vertical Francis turbine-generator. Water is discharged from the turbines to a tailrace. Minimum flows are provided from the impoundment through: (1) the two sluice gates; and (2) a 263.9-foot-long pipe equipped with a screen with 0.5-inch openings housed in a diversion tunnel that extends from the Diversion dam's intake structure. The generators are connected to the regional electric grid by two generator lead lines and a step-up transformer. The project recreation facilities include: (1) a hand-carry boat portage route with an impoundment take-out site, a portage trail, and a put-in site downstream of the powerhouse, with a parking area; (2) a campground adjacent to the impoundment, with 10 tent sites, an access road, a parking area, a car-top boat launch, and four restrooms; (3) seven primitive campsites on islands within the impoundment; (4) a picnic area; and (5) a trail to a scenic overlook with a view of the bypassed reach and a parking area.

Effley Development

The Effley Development consists of a 1,370.8-foot-long, 30-foot-high dam (Effley dam) that includes a south intake structure with a slide gate and a trashrack with 1-inch clear bar spacing, a north intake structure with three slide gates and a trashrack with 1-inch clear bar spacing, and a section that includes: (1) a 69.7-foot-long south ogee spillway with a crest elevation of 1,162.95 feet NAVD 88; (2) a stoplog gate and two low-level outlet gates; and (3) a 360.5-foot-long north ogee spillway with a crest elevation of 1,162.95 feet NAVD 88

and a sluice gate. The dam creates an impoundment that has a surface area of 340 acres at 1,162.95 feet NAVD 88.

From the impoundment, water enters through the south intake structure to a 148-foot-long penstock that provides water to a south powerhouse that includes a 1.44–MW vertical Francis turbine-generator. Water enters through the north intake structure to: (1) a 109.7-foot-long penstock that provides water to a 0.56–MW horizontal Francis turbine-generator; and (2) two 87-foot-long penstocks that each provides water to a 0.4–MW horizontal Francis turbine-generator, located in a north powerhouse. Water is discharged from the powerhouses to a tailrace. Water also flows through sluice gate at the north spillway to provide minimum flows to the 0.11-mile-long bypassed reach. The generators are connected to the regional electric grid by two generator lead lines and a step-up transformer. The project recreation facilities include a hand-carry boat portage route that includes an impoundment take-out site, a portage trail, and a put-in site downstream of the dam.

Elmer Development

The Elmer Development consists of a 326.6-foot-long, 23-foot-high dam (Elmer dam) that includes an intake structure with four slide gates and two trashracks with 1-inch clear bar spacing, a 122-foot-long west ogee spillway with a crest elevation of 1,107.96 feet NAVD 88, a needle beam gate, and a 113.8-foot-long east ogee spillway with a crest elevation of 1,107.96 feet NAVD 88. The dam creates an impoundment that has a surface area of 34 acres at 1,107.96 feet NAVD 88.

From the impoundment, water flows through the intake structure to a powerhouse that includes two 0.75–MW vertical Francis turbine-generator units. Water is discharged from the powerhouse to a tailrace. Water also flows through an opening at the bottom of the needle beam gate that provides minimum flows to a 260-foot-long bypassed reach of the Beaver River. The generators are connected to the regional electric grid by a generator lead line and a step-up transformer. The project recreation facilities include a hand-carry boat portage route with an impoundment take-out site, a portage trail, and a put-in site downstream of the dam.

Taylorville Development

The Taylorville Development consists of a 23-foot-high concrete dam (Taylorville dam) that includes a 348-foot-long ogee spillway with 0.8-foot-high flashboards that have a crest elevation of 1,070.46 feet NAVD 88 and a section that includes two sluice gates and two low-level stoplog gates, a 119.5-foot-long ogee spillway with 0.8-foot-high flashboards that have a crest elevation of 1,070.46 feet NAVD 88, a sluice gate, and an intake structure with three slide gates and a trashrack with 1-inch clear bar spacing. The development also includes two earthen dikes. The dam and dikes create an impoundment that has a surface area of 170 acres at 1,070.46 feet NAVD 88.

From the impoundment, water flows through the intake structure to a 2,725-foot-long penstock. The penstock conveys water to a powerhouse that includes two 1.1–MW, one 1.245–MW, and one 1.2–MW horizontal Francis turbine-generator. Water is discharged from the powerhouse to a tailrace. Water also flows through the sluice gates to provide minimum flows to a 0.86-mile-long bypassed reach of the Beaver River. The generators are connected to the regional electric grid by a generator lead line, a step-up transformer, and a 200-foot-long transmission line. The project recreation facilities include: (1) a hand-carry boat portage route that includes an impoundment access site, a portage trail, and a put-in site downstream of the powerhouse; (2) a walking trail that begins near the impoundment access site; (3) a picnic area near the boat take-out site with picnic tables, grills, and a parking; and (4) a picnic area near the boat put-in site.

Belfort Development

The Belfort Development consists of a 600.5-foot-long, 17-foot-high dam (Belfort dam) that includes a 161.1-foot-long ogee spillway with 2-foot-high flashboards that have a crest elevation of 965.64 feet NAVD 88, a sluice gate, a low-level outlet gate, and an intake structure with two slide gates and two trashracks with 1-inch clear bar spacing. The dam creates an impoundment that has a surface area of 50 acres at 965.64 feet NAVD 88.

From the impoundment, water flows through the intake structure to a 52-foot-long penstock that provides water to a 0.4–MW horizontal Francis turbine-generator and a 0.64–MW double horizontal Francis turbine-generator, and a 52-foot-long penstock that provides water to a 1.17–MW double Francis turbine-generator. The turbine-generators are located in a powerhouse. Water is discharged from the powerhouse to a tailrace. Water also flows through the sluice gate at the spillway to provide minimum flows to a 0.13-mile-long bypassed reach of the Beaver River. The generators are connected to the regional electric grid by a generator lead line and a step-up transformer. The project recreation facilities include: (1) a hand-carry boat portage route with an impoundment take-out site, a portage trail, and a put-in site downstream of the powerhouse; and (2) a fishing platform adjacent to the dam that provides anglers with access to the impoundment.

High Falls Development

The High Falls Development includes a 1,559.9-foot-long, 50-foot-high concrete dam (High Falls dam) that includes an intake structure with four slide gates and four trashracks with 1-inch clear bar spacing, a 204-foot-long ogee spillway with a crest elevation of 914.82 feet NAVD 88, a non-operational stoplog gate and low-level outlet gate, and a 445.9-foot-long ogee spillway with a crest elevation of 914.82 feet NAVD 88 and a sluice gate. The development also includes two dikes. The dam and dikes create an impoundment that has a surface area of 145 acres at the spillway crest elevation of 914.82 feet NAVD 88.

From the impoundment, water flows through the intake structure to a 605-foot-long penstock that provides water to a powerhouse that includes three 1.6–MW vertical Francis turbine-generators. Water is discharged from the powerhouse to a tailrace. Water also flows through the sluice gate at the spillway to provide minimum flows to a 0.21-mile-long bypassed reach of the Beaver River. The generators are connected to the regional electric grid by two generator lead lines and a step-up transformer. The project recreation facilities include: (1) a hand-carry boat portage route that includes an impoundment take-out site, a portage trail, and a put-in site downstream of the powerhouse; (2) five campsites on the islands in the impoundment; and (3) an impoundment access site that includes a hand-carry boat launch, picnic area, and parking area.

Proposed Project Operation and Environmental Measures

Erie proposes to: (1) continue to limit impoundment fluctuations by: (a) 1 foot from May 1 through June 30 and 1.5 feet from July 1 through April 30, for the Moshier, Soft Maple, and Effley Developments; (b) 1 foot at the Eagle, Elmer, Taylorville, and Belfort Developments; and (c) 1.5 feet at the High Falls Development, in the downward direction from the crest of the dam or the flashboards, if present; (2) continue to release the following minimum flows or inflow, whichever is less, to the bypassed reaches: (a) 45 cfs at the Moshier and Eagle Developments;

(b) 35 cfs at the Soft Maple Development; (c) 20 cfs at the Effley, Elmer, and Belfort Developments; (d) 60 cfs at the Taylorville Development; and (e) 30 cfs at the High Falls Development; (3) continue to release a minimum flow of 250 cfs downstream of the High Falls Development's powerhouse; (4) continue to implement the Low Flow Augmentation Plan, including consultation with the New York DEC to determine any alternative flow releases; (5) continue to implement the Streamflow and Headpond Elevation Monitoring Plan; (6) continue to implement the Minimum Flow and Fish Conveyance Plans for the Moshier, Soft Maple, Effley, Elmer, Belfort, Soft Maple, and High Falls Developments; (7) update and continue to implement the Recreation Plan that requires operation and maintenance of the project recreation facilities described above and releasing the following whitewater flows: (a) one 4-hour release of 400 cfs from Moshier dam; (b) five 4-hour releases of 200 cfs from the Taylorville dam; and (c) five 4-hour releases of 200 cfs from Eagle dam; (8) maintain a fishing access area at the Moshier Development and bypassed reach trails at the Taylorville Development as project recreation facilities, including installing signage at the facilities; and (9) develop a historic properties management plan.

m. A copy of the application can 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 (*i.e.,* P–2645). For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at Lowville Free Library, located at 5387 Dayan St., Lowville, NY 13367, or the Frank J. Basloe Library, located at 245 Main St., Herkimer, NY 13350.

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE,'' ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''PRELIMINARY TERMS AND CONDITIONS,'' or ''PRELIMINARY FISHWAY PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

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.*

o. The applicant must file on or before 5:00 p.m. Eastern Time on October 5, 2026: (1) a copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

p. Final amendments to the application must be filed with the Commission on or before 5:00 p.m. Eastern Time on September 3, 2026.

(Authority: 18 CFR 2.1.)

Dated: August 4, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–16168 Filed 8–6–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL26–72–000]

ISO New England Inc.; Central Maine Power Company; The Connecticut Light and Power Company; Fitchburg Gas and Electric Light Company; Green Mountain Power Corporation; Maine Electric Power Company; The Narragansett Electric Company; New England Power Company; New Hampshire Transmission, LLC; NSTAR Electric Company; Public Service Company of New Hampshire; The United Illuminating Company; Unitil Energy Systems, Inc.; Vermont Electric Power Company, Inc.; Vermont Transco LLC; Versant Power; Notice Establishing Answer Period

On August 3, 2026, pursuant to Rule 212 of the Commission's Rules of Practice and Procedure,[1] ISO New England Inc. (ISO–NE) and the Participating Transmission Owners Administrative Committee (PTO–AC) on behalf of the Participating Transmission Owners[2] filed a motion to hold the show cause proceeding in Docket No. EL26–72–000 in abeyance for 90 days. ISO–NE and PTO–AC request that the Commission shorten the answer period for the motion to five days, such that answers to the motion would be due on or by August 10, 2026.

Upon consideration, notice is hereby given that answers in response to the motion for abeyance are due by 5:00 p.m. Eastern Time on August 7, 2026.

[1] 18 CFR 385.212 (2025).

[2] The Participating Transmission Owners include: Town of Braintree Electric Light Department; Central Maine Power Company; Chicopee Municipal Lighting Plant; Connecticut Municipal Electric Energy Cooperative; Connecticut Transmission Municipal Electric Energy Cooperative; Eversource Energy Service Company on behalf of The Connecticut Light and Power Company, Public Service Company of New Hampshire and NSTAR Electric Company; Fitchburg Gas and Electric Light Company; Green Mountain Power Corporation; The City of Holyoke Gas and Electric Department; Town of Hudson Light and Power Department; Maine Electric Power Company; Massachusetts Municipal Wholesale Electric Company; Town of Middleborough Gas & Electric Department; The Narragansett Electric Company; New England Power Company; New Hampshire Electric Cooperative, Inc.; New Hampshire Transmission, LLC; Town of Norwood Municipal Light Department; Town of Reading Municipal Light Department; Shrewsbury Electric and Cable Operations; Town of Stowe Electric Department; Taunton Municipal Lighting Plant; The United Illuminating Company; Unitil Energy Systems, Inc.; Vermont Electric Cooperative, Inc.; Vermont Electric Power Company, Inc.; Vermont Public Power Supply Authority; Vermont Transco LLC; Versant Power; and Town of Wallingford, CT, Department of Public Utilities, Electric Division.

Dated: August 4, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–16172 Filed 8–6–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2538–102]

Erie Boulevard Hydropower, L.P.; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2538–102.

c. *Date Filed:* August 30, 2024.

d. *Applicant:* Erie Boulevard Hydropower, L.P. (Erie).

e. *Name of Project:* Beebee Island Hydroelectric Project (project).

f. *Location:* On the Black River in Jefferson County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Steven P. Murphy, Director—U.S. Licensing, Brookfield Renewable, 33 West 1st Street South, Fulton, NY 13069; telephone at (315) 598–6130; email at *Stephen.Murphy@brookfieldrenewable.com.*

i. *FERC Contact:* Nicholas Ettema, Project Coordinator, Great Lakes Branch, Division of Hydropower Licensing; telephone at (312) 596–4447; email at *nicholas.ettema@ferc.gov.*

j. *Deadline for filing motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions:* October 5, 2026, by 5:00 p.m. Eastern Time. Deadline for filing reply comments: November 17, 2026, by 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 10,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include docket number P–2538–102.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. *Project Description:* The existing project includes: (1) a 92-foot-long, 26.25-foot-high dam (South Channel dam) with a crest elevation of 443.62 feet North American Vertical Datum of 1988 (NAVD 88); and (2) a 357.6-foot-long, 18-foot-high dam (Beebee Island dam) that includes: (a) an 81.5-foot-long powerhouse that is integral with the dam that includes: (i) a debris/ice chute with a 2.4-foot-long stoplog gate; (ii) an intake structure with a trashrack with 2-inch clear bar spacing, four sluice gates, and a skimmer; (iii) a 3.75-megawatt (MW) vertical propeller turbine-generator and a 4–MW vertical Kaplan turbine-generator; (b) a 42-foot-long and 50.5-foot-long spillways with 3-foot-high inflatable rubber crest gates that have a crest elevation of 430.62 feet NAVD 88; (c) 97.4-foot-long and 61-foot-long spillways with 3-foot-high wooden flashboards that have a crest elevation of 430.62 feet; and (d) a bulkhead section with a 3-foot-long sluice gate. Erie proposes to replace the wooden flashboards with 3-foot-high inflatable rubber crest gates.

The project's dams create a 20-acre impoundment at a water surface elevation of 430.62 NAVD 88. From the impoundment, water flows through the powerhouse to a 15-foot-long tailrace that discharges into the Black River. From the impoundment, water also flows through a 24-inch diameter pipe controlled by a valve in the South Channel dam to provide minimum flows to an approximately 1,000-foot-long bypassed reach. The generators are connected to the regional electric grid by an underground generator lead line. The current license requires a hand-carry boat access site upstream of the dam and directional signage to downstream boat put-in locations.

Erie proposes to: (1) continue operating the project in a run-of-river mode and maintain water levels in the impoundment that are no lower than 0.5 foot below the crest of the dam or flashboards, if present; (2) continue to release a minimum flow of 1,000 cfs or inflow, whichever is less, downstream of the project; (3) continue to release a year-round minimum flow of 14 cfs from the project impoundment into the bypassed reach; (4) continue to implement a Streamflow and Headpond Monitoring Plan; (5) continue to implement a Minimum Flow and Fish Conveyance Plan, including a provision to release 37 cfs from the ice chute from April 1 through November 30; (6) continue to operate and maintain the hand-carry boat access site; (7) continue to provide one-half inch veiling flows over the center section of Beebee Island dam from May 1 to October 31; (8) continue to maintain project facilities, including fencing and outbuildings, in a dark brown/green color; and (9) develop a historic properties management plan.

m. A copy of the application can 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 (*i.e.,* P–2538). For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the Roswell P. Flower Memorial Library, located at 229 Washington Street Watertown, NY 13601.

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the

proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE,'' ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''PRELIMINARY TERMS AND CONDITIONS,'' or ''PRELIMINARY FISHWAY PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

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*.

o. The applicant must file on or before 5:00 p.m. Eastern Time on October 5, 2026: (1) a copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

p. Final amendments to the application must be filed with the Commission on or before 5:00 p.m. Eastern Time on September 3, 2026.

(Authority: 18 CFR 2.1.)

Dated: August 4, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–16170 Filed 8–6–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP26–1037–000.

Applicants: Southeast Supply Header, LLC.

Description: § 4(d) Rate Filing: Negotiated Rate—Koch Energy 840313 to be effective 8/1/2026.

Filed Date: 8/3/26.

Accession Number: 20260803–5163.

Comment Date: 5 p.m. ET 8/17/26.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

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: August 4, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–16126 Filed 8–6–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL26–70–000]

Midcontinent Independent System Operator, Inc.; AEP Indiana Michigan Transmission Company, Inc.; ALLETE, Inc.; Ameren Illinois Company; Ameren Transmission Company of Illinois; American Transmission Company, LLC; Cleco Power LLC; Duke Energy Indiana, LLC; Entergy Arkansas, LLC; Entergy Louisiana, LLC; Entergy Mississippi, LLC; Entergy New Orleans, LLC; Entergy Texas, Inc.; GridLiance Heartland LLC; Indianapolis Power & Light Company; International Transmission Company; ITC Midwest LLC; Michigan Electric Transmission Company, LLC; MidAmerican Energy Company; Montana-Dakota Utilities Company; Northern Indiana Public Service Company LLC; Northern States Power Company, a Minnesota; Corporation; Northern States Power Company, a Wisconsin Corporation; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Pioneer Transmission, LLC; Republic Transmission, LLC; Southern Indiana Gas & Electric Company; Union Electric Company; Wabash Valley Power Association, Inc.; Wolverine Power Supply Cooperative, Inc.; Notice Establishing Answer Period

On August 3, 2026, pursuant to Rule 212 of the Commission's Rules of Practice and Procedure,[1] Midcontinent Independent System Operator, Inc. (MISO) and the MISO Transmission Owners [2] filed a motion to hold the show cause proceeding in Docket No. EL26–70–000 in abeyance for 90 days. MISO and the MISO Transmission Owners request that the Commission shorten the answer period for the motion to five days, such that answers to the motion would be due on or by August 10, 2026.

Upon consideration, notice is hereby given that answers in response to the motion for abeyance are due by 5:00 p.m. Eastern Time on August 7, 2026.

Dated: August 4, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–16167 Filed 8–6–26; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.212 (2025).

[2] The MISO Transmission Owners for this filing include: AEP Indiana Michigan Transmission Company; Ameren Services Company, as agent for Union Electric Company, Ameren Illinois Company and Ameren Transmission Company of Illinois; American Transmission Company LLC; Big Rivers Electric Corporation; Central Minnesota Municipal Power Agency; Citizens Electric Corporation; City Water, Light & Power (Springfield, IL); Cleco Power LLC; Cooperative Energy; Dairyland Power Cooperative; Duke Energy Business Services, LLC for Duke Energy Indiana, LLC; East Texas Electric Cooperative, Inc.; Entergy Arkansas, LLC; Entergy Louisiana, LLC; Entergy Mississippi, LLC; Entergy New Orleans, LLC; Entergy Texas, Inc.; Great River Energy; GridLiance Heartland LLC; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; International Transmission Company; ITC Midwest LLC; Lafayette Utilities System; Michigan Electric Transmission Company, LLC; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; Montana-Dakota Utilities Co.; Northern Indiana Public Service Company LLC; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power, Inc.; Republic Transmission, LLC; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company; Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL26–71–000]

California Independent System; Operator Corporation; Citizen S-Line Transmission LLC; Citizens Sunrise Transmission LLC; Citizens Sycamore-Penasquitos Transmission LLC; City of Anaheim, California; City of Azusa, California; City of Banning, California; City of Colton, California; City of Pasadena, California; City of Riverside, California; DCR Transmission, L.L.C.; DesertLink, LLC; GridLiance West LLC; Horizon West Transmission, LLC; LS Power Grid California, LLC; Morongo Transmission LLC; Pacific Gas and Electric Company; San Diego Gas & Electric Company; Southern California Edison Company; Startrans IO, L.L.C.; SunZia Transmission, LLC; Trans Bay Cable LLC; Valley Electric Association, Inc.; Viridon Path 15, LLC; Western Area Power Administration; Notice Establishing Answer Period

On August 3, 2026, pursuant to Rule 212 of the Commission's Rules of Practice and Procedure,[1] California Independent System Operator Corporation; DCR Transmission, L.L.C.; and Joint Participating Transmission Owners (PTOs) [2] each filed motions to hold the show cause proceeding in Docket No. EL26–71–000 in abeyance for 90 days. Also on August 3, 2026, Six Cities [3] filed a conditional motion to hold the show cause proceeding in Docket No. EL26–71–000 in abeyance for 90 days.[4]

Upon consideration, notice is hereby given that answers in response to the motions for abeyance are due by 5:00 p.m. Eastern Time on August 7, 2026.

Dated: August 4, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–16166 Filed 8–6–26; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.212 (2025).

[2] Joint PTOs include: Southern California Edison Company; Pacific Gas and Electric Company; San Diego Gas & Electric Company; Citizens Sunrise Transmission LLC; Citizens Sycamore-Penasquitos Transmission LLC; Citizens S-Line Transmission LLC; SunZia Transmission, LLC; LS Power Grid California, LLC; DesertLink, LLC; GridLiance West LLC; Horizon West Transmission, LLC; Trans Bay Cable LLC; Viridon Path 15 LLC; Valley Electric Association, Inc.; and Startrans IO, LLC.

[3] Six Cities include the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California.

[4] Six Cities state that the motion is conditional because they have filed a motion to rescind the show cause proceeding, which if granted will moot their abeyance request.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL26–67–000]

PJM Interconnection, L.L.C., AEP Appalachian Transmission Company, Inc., AEP Indiana Michigan Transmission Company, Inc., AEP Kentucky Transmission Company, Inc., AEP Ohio Transmission Company, Inc., AEP West Virginia Transmission Company, Inc., Allegheny Electric Cooperative, Inc., American Transmission Systems, Incorporated, Appalachian Power Company, Atlantic City Electric Company, Baltimore Gas and Electric Company, Commonwealth Edison Company, Commonwealth Edison Company of Indiana, Inc., Dayton Power and Light Company, Delmarva Power & Light Company, Duke Energy Kentucky, Inc., Duke Energy Ohio, Inc., Duquesne Light Company, Essential Power Rock Springs, LLC, Hudson Transmission Partners, LLC, Indiana Michigan Power Company, Jersey Central Power & Light Company, Kentucky Power Company, Keystone Appalachian Transmission Company, Kingsport Power Company, Linden VFT, LLC, Mid-Atlantic Interstate Transmission, LLC, Monongahela Power Company, Neptune Regional Transmission System, LLC, NextEra Energy Transmission MidAtlantic Indiana, Inc., Ohio Power Company, Ohio Valley Electric Corporation, Old Dominion Electric Cooperative, PECO Energy Company, PPL Electric Utilities Corporation, The Potomac Edison Company, Potomac Electric Power Company, Public Service Electric and Gas Company, Rockland Electric Company, Silver Run Electric, LLC, Trans-Allegheny Interstate Line Company, Transource West Virginia, LLC, UGI Utilities, Inc., Virginia Electric and Power Company, Wabash Valley Power Association, Inc., Wheeling Power Company; Notice Establishing Answer Period

On August 3, 2026, pursuant to Rule 212 of the Commission's Rules of Practice and Procedure,[1] Silver Run Electric, LLC (Silver Run) filed a motion to hold the show cause proceeding in Docket No. EL26–67–000 in abeyance for 90 days. Silver Run requests that the Commission shorten the answer period for the motion to five days, such that answers to the motion would be due on or by Monday, August 10, 2026.

[1] 18 CFR 385.212 (2025).

Upon consideration, notice is hereby given that answers in response to the motion for abeyance are due by 5:00 p.m. Eastern Time on Friday, August 7, 2026.

Dated: August 4, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–16175 Filed 8–6–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL26–71–000]

California Independent System, Operator Corporation, Citizen S-Line Transmission LLC, Citizens Sunrise Transmission LLC, Citizens Sycamore-Penasquitos Transmission LLC, City of Anaheim, California, City of Azusa, California, City of Banning, California, City of Colton, California, City of Pasadena, California, City of Riverside, California, DCR Transmission, L.L.C., DesertLink, LLC, GridLiance West LLC, Horizon West Transmission, LLC, LS Power Grid California, LLC, Morongo Transmission LLC, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, Startrans IO, L.L.C., SunZia Transmission, LLC, Trans Bay Cable LLC, Valley Electric Association, Inc., Viridon Path 15, LLC, Western Area Power Administration; Notice of Shortened Answer Period

On July 31, 2026, pursuant to Rule 212 of the Commission's Rules of Practice and Procedure,[1] the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (Six Cities) filed a motion to rescind the June 18, 2026, show cause order issued by the Commission in the above-referenced proceeding[2] as directed to each of the Six Cities as Participating Transmission Owners in the California Independent System Operator Corporation. Six Cities request that the Commission waive the answer period applicable to this motion.

On August 3, 2026, pursuant to Rule 212 of the Commission's Rules of Practice and Procedure, Western Area Power Administration (WAPA) filed a motion to rescind the June 18, 2026, show cause order issued by the Commission in the above-referenced proceeding as directed to WAPA in its capacity as a Participating Transmission Owner in the California Independent System Operator Corporation. WAPA requests that the Commission waive the answer period applicable to this motion.

Upon consideration, notice is hereby given that answers in response to the motions are due by 5:00 p.m. Eastern Time on August 7, 2026.

Dated: August 4, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–16165 Filed 8–6–26; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.212 (2025).

[2] *Cal. Indep. Sys. Operator Corp.,* 195 FERC ¶ 61,214 (2026).

ENVIRONMENTAL PROTECTION AGENCY

[FRL OPRM–FAD–234]

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 27, 2026 10 a.m. EST Through August 3, 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. 20260090, Draft, USAF, SD, Optimization of Powder River Training Complex, Ellsworth Air Force Base, South Dakota, Comment Period Ends: 09/08/2026, Contact: Grace Keesling 210–925–4534.

EIS No. 20260091, Final, FHWA, MA, Cape Cod Bridges Program Bourne MA FEIS–ROD, Contact: Kenneth Miller, P.E. 617–494–2164.

EIS No. 20260092, Final Supplement, FAA, AR, Adoption—Expansion of the Foreign Military Sales F–35 Pilot Training Center at Ebbing Air National Guard Base, Arkansas, Contact: John MacFarlane 817–222–5681.

The Federal Aviation Administration (FAA) has adopted the United States Air Force's Final Supplement EIS No. 20260039 filed 04/09/2026 with the Environmental Protection Agency. The FAA was a cooperating agency on this project. Therefore, republication of the document is not necessary.

EIS No. 20260093, Final Supplement, NMFS, HI, Adoption—Surveillance Towed Array Sensor System Low Frequency Active Sonar Training and Testing in the Western North Pacific and Indian Oceans, Contact: Alyssa Clevenstine 301–427–8401.

The National Marine Fisheries Service (NMFS) has adopted the United States Navy's Final Supplement EIS No. 20260054 filed 05/01/2026 with the Environmental Protection Agency. The NMFS was a cooperating agency on this project. Therefore, republication of the document is not necessary.

Dated: August 4, 2026.

Nancy Abrams,

Deputy Director, Federal Activities Division.

[FR Doc. 2026–16150 Filed 8–6–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–13410–01–R10]

Proposed Reissuance of NPDES General Permit for Oil and Gas Exploration Facilities in Federal Waters of Cook Inlet (AKG51000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed reissuance of NPDES General Permit and request for public comment.

SUMMARY: The Environmental Protection Agency (EPA), Region 10, proposes to reissue the National Pollutant Discharge Elimination System (NPDES) General Permit for Oil and Gas Exploration Facilities in Federal Waters of Cook Inlet (draft GP). The draft GP proposes to authorize certain discharges of pollutants into the federal waters of Cook Inlet from oil and gas exploration facilities subject to limits and requirements designed to minimize pollution and protect water quality.

DATES: Comments must be received by September 21, 2026.

ADDRESSES: Comments and requests regarding the draft GP must be submitted to *epar10wd-npdes@epa.gov* with the subject line: Public Comments on AKG51000. The draft GP, Fact Sheet, and Ocean Discharge Criteria Evaluation are available on the EPA Region 10 website at *https://www.epa.gov/npdes-permits/npdes-general-permit-oil-and-gas-exploration-facilities-federal-waters-cook-inlet.*

FOR FURTHER INFORMATION CONTACT: Copies of the administrative record and additional information concerning the draft GP are also available upon request. Requests may be made to Abigail Conner at *conner.abigail@epa.gov* or (206) 553–6358.

SUPPLEMENTARY INFORMATION: Please see the draft GP and Fact Sheet.

Other Legal Requirements

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review. Compliance with Endangered Species Act, Essential Fish Habitat, Paperwork Reduction Act, and other requirements are discussed in the fact sheet to the proposed permit.

This notice is given pursuant to 40 CFR 124.10(c)(2)(i).

Krishnaswamy Viswanathan,

Director, Water Division.

[FR Doc. 2026–16089 Filed 8–6–26; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Issuance of Technical Release 24, Implementation Guidance for SFFAS 49, Public-Private Partnerships

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Federal Accounting Standards Advisory Board has issued Technical Release (TR) 24 titled *Implementation Guidance for SFFAS 49, Public-Private Partnerships.*

ADDRESSES: TR 24 is available on the FASAB website at *http://www.fasab.gov/accounting-standards/.* Copies can be obtained by contacting FASAB at (202) 512–7350.

FOR FURTHER INFORMATION CONTACT: Ms. Monica R. Valentine, Executive Director, 441 G Street NW, Washington, DC 20548, or call (202) 512–7350.

Authority: 31 U.S.C. 3511(d); Federal Advisory Committee Act, 5 U.S.C. 1001–1014.

Dated: August 4, 2026.

Monica R. Valentine,

Executive Director.

[FR Doc. 2026–16105 Filed 8–6–26; 8:45 am]

BILLING CODE 1610–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than September 8, 2026.

A. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001. Comments can also be sent electronically to *KCApplicationComments@kc.frb.org:*

1. *American Exchange Company, Henryetta, Oklahoma;* to become a bank holding company by acquiring American Exchange Bank, Henryetta, Oklahoma.

Board of Governors of the Federal Reserve System.

Erin Cayce,

Assistant Secretary of the Board.

[FR Doc. 2026–16154 Filed 8–6–26; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Award of a Single Source Cooperative Agreement To Fund Institute of Epidemiology, Disease Control and Research, Bangladesh; National Institute of Public Health, Cambodia; Institut Pasteur de Madagascar; National Health Laboratory Service, South Africa; L.Sakvarelidze National Center for Disease Control and Public Health, Georgia.

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces five separate awards to fund Institute of Epidemiology, Disease Control and Research, Bangladesh; National Institute of Public Health, Cambodia; Institut Pasteur de Madagascar; National Health Laboratory Service, South Africa; L.Sakvarelidze National Center for Disease Control and Public Health, Georgia. For Institute of Epidemiology, Disease Control and Research, Bangladesh, the award is for approximately $1,000,000 in Federal Fiscal Year (FFY) 2026, subject to the availability of funds. For National Institute of Public Health, Cambodia, the award is for approximately $1,000,000 in FFY 2026, subject to the availability of funds. For Institut Pasteur de Madagascar, the award is for approximately $800,000 in FFY 2026, subject to the availability of funds. For National Health Laboratory Service, South Africa, the award is for approximately $1,000,000 in FFY 2026, subject to the availability of funds. For L. Sakvarelidze National Center for Disease Control and Public Health, Georgia, the award is for approximately $800,000 in FFY 2026, subject to the availability of funds. The total FFY 2026 funding amount for the five recipients is $4,600,000. Funding amounts for years 2–5 for each recipient will be set at continuation The awards will enhance health security by strengthening global influenza and other priority pathogen surveillance networks to detect and respond to infectious disease threats.

DATES: The period for these awards will be September 30, 2026, through September 29, 2031.

FOR FURTHER INFORMATION CONTACT: CAPT E Azziz-Baumgartner, USPHS, Global Influenza Branch Chief, Influenza Division, National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, 1600 Clifton Rd., Atlanta, GA, Global Influenza Branch, Phone: 404–639–2555.

SUPPLEMENTARY INFORMATION: These sole source awards will support the recipients to improve or maintain capacity to conduct seasonal influenza surveillance and detect and respond to pandemic and novel influenza. In addition, these awards will enhance capacity to detect and respond to novel influenza viruses, such as highly pathogenic avian influenza, as well as identify outbreaks of severe respiratory illness syndrome and other infectious disease threats through both epidemiologic and virologic detection. These activities will strengthen connections between national institutions, especially National Influenza Centers, to fully participate in data sharing and maintain capacity to share specimens, as well as clinical and epidemiologic data related to influenza circulation.

These entities are in a unique position to conduct this work, as they are either subsidiaries of the host government ministries of health or they are the designated entities responsible for leading influenza surveillance. They have the expertise to support health service delivery and oversee the national coordination of surveillance, preparedness, prevention, and response activities to all forms of health threats and public health emergencies.

Summary of the Awards

Recipients: Institute of Epidemiology, Disease Control and Research, Bangladesh; National Institute of Public Health, Cambodia; Institut Pasteur de Madagascar; National Health Laboratory Service, South Africa; L.Sakvarelidze National Center for Disease Control, and Public Health, Georgia.

Purpose of the awards: The purpose of these awards is to support surveillance and response for pandemic and novel influenza and other infectious disease threats in Bangladesh, Cambodia, Madagascar, South Africa, and Georgia.

Authority: This program is authorized under §§ 307 and 317(k) of the Public Health Service Act (42 U.S.C. *242l* and 247b(k)).

Period of performance: September 30, 2026, through September 29, 2031.

Jamie Legier,

Chief Grants Management Officer, Centers for Disease Control and Prevention.

[FR Doc. 2026–16110 Filed 8–6–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974; System of Records

AGENCY: Office of Family Assistance (OFA), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Delay of the effective date of the new routine use under modified system of records.

SUMMARY: The Department of Health and Human Services (HHS) is delaying the effective date of the new routine use under the modified system of records maintained by the Office of Family Assistance (OFA) within HHS' Administration for Children and Families (ACF), System No. 09–80–0375, Temporary Assistance for Needy Families (TANF) Data that appeared in the **Federal Register** of June 23, 2026.

DATES: ACF is delaying the effective date of the new routine use under the modified system of records published June 23, 2026 (91 FR 37406). In accordance with 5 U.S.C. 552a(e)(4) and (11), the notice was effective June 23, 2026, with the exception of subparagraph (a) under routine use 1 and the new routine use 10, which will now be effective September 1, 2026. Please submit any comments on the notice by August 11, 2026.

ADDRESSES: Comments may be submitted to the Federal eRulemaking Portal electronically at *http://www.regulations.gov* or mailed to John Talieri, Senior Official for Privacy, Administration for Children and Families, 330 C Street SW, Washington, DC 20201. Please include ''09–80–0375'' in the subject line or *regulations.gov* comment. Comments received will be available at *regulations.gov* for public viewing, inspection or copies. ACF does not edit personally identifiable information from submissions; therefore, commenters should submit only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: General questions about the modified system of records may be submitted by mail or email to TANF Data Division, Office of Family Assistance, Administration for Children and Families, 330 C Street SW, Washington, DC 20201, or *tanfdata@acf.hhs.gov;* or may be submitted by telephone to John Talieri, Senior Official for Privacy, at (202) 969–3581.

Dated: August 5, 2026.

David M. Swegle,

Director, Office for Family Assistance, Administration for Children and Families.

[FR Doc. 2026–16176 Filed 8–6–26; 8:45 am]

BILLING CODE 4184–42–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Office of Management and Budget #: 0970–0610]

Submission for Office of Management and Budget Review; National Communication System for Runaway and Homeless Youth, Currently Operated by the National Runaway Safeline Data Collection

AGENCY: Family and Youth Services Bureau, Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for Public Comments.

SUMMARY: The Family and Youth Services Bureau's (FYSB) Runaway and Homeless Youth Division has a legislative requirement to fund a National Communication System, which is currently operated by the National Runaway Safeline (NRS). The NRS provides information, referral services, crisis intervention, and prevention resources to vulnerable youth at risk of running away and/or becoming homeless and their families or legal guardians at no cost. When necessary, the NRS refers runaway and homeless youth to shelters, counseling, medical assistance, and other vital services. The NRS collects information from all contacts with youth and adults connecting with the NRS (*i.e.,* parents, family members, legal guardians, service providers) on a voluntary basis to inform crisis services and develop an annual report on the information collected during calls, chats, emails, and forum posts from young people who reached out to the NRS's crisis services. This information collection is approved under Office of Management and Budget (OMB)#: 0970–0610. FYSB plans to submit a request to OMB to extend

approval of these activities beyond the current expiration date of May 31, 2026.

DATES: *Comments due* September 8, 2026.

ADDRESSES: The public may view and comment on this information collection request at: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202608-0970-001.* You can also obtain copies of the proposed collection of information by emailing *infocollection@acf.hhs.gov.* Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The NRS is required to have a system for collecting and analyzing data to report on calls, emails, chat, texts, and online messages received as well as other information, such as prevention resources, referrals, demographics, and visitors to the NRS website. The NRS must submit to FYSB monthly and semi-annual reports that include the following:

- Number of calls received, answered, and missed.
- Number of chats, emails, and texts received; number of chats, emails, and texts answered; and number of chats, emails, and texts that were missed and did not receive a response, in which the users are youth in crisis, runaway youth, and youth experiencing homelessness.
- Number of parents, legal guardians, and service providers contacting the NRS and the type of resources, interventions, and technical support/assistance requested and provided.
- Number and type of prevention materials disseminated to communities, especially to underserved populations.
- Number and type of unique visitors to the NRS' website.
- Information on referrals provided and where youth were referred for services.
- Information on the callers' or users' demographics and where they were located when contacting the NRS.
- Information on the prevention materials developed and disseminated by the NRS.
- Information and analysis of the latest trends and their impact on runaway prevention.

The NRS will continue to use two online forms, one form to collect relevant information disclosed during calls, emails, and forum posts and a second online form to collect information from chats. All data will be provided to FYSB in the aggregate and no personally identifiable data are collected.

The information collected will allow FYSB to better understand the types of services needed by youth contacting the NRS, as well as to identify outreach and prevention strategies to increase the visibility of the NRS services among youth experiencing housing instability, homelessness, youth who run away, and youth in crisis. Additionally, The findings from this data collection will be included in a required report to Congress to provide accurate information on the status of youth in crisis and runaway and homeless youth nationwide.

Respondents: Youth and adults who contact the NRS during calls, chats, emails, and forum posts.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Youth in Crisis Form	47,175	1	.23	10,850	3,617
NRS Live Chat Form	29,679	1	.65	19,291	6,430
Estimated Total Annual Burden Hours					10,047

Authority: Section 331 of the Runaway and Homeless Youth Act authorize the award of grants for the National Communication System for Runaway and Homeless Youth (34 U.S.C. 11231).

Mary C. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2026–16187 Filed 8–6–26; 8:45 am]

BILLING CODE 4182–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for 0MB Review; 30-Day Comment Request

NIH Office of Intramural Training & Education—Application, Registration, and Alumni AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (0MB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received by September 8, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Patricia Wagner, Program Analyst, Office of Intramural Training & Education (OITE), Office of Intramural Research (OIR), Office of the Director (OD), National Institutes of Health (NIH); 2 Center Drive: Building 2/2nd Floor; Bethesda, MD 20892 or call non-toll-free number 240–476–3619 or email your request, including your address to: *pat.wagner@nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on April 30, 2026 on pages 23290–23291 (Volume 91 No. 83) and allowed 60 days for public comment. Zero public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The Office of the Director (OD), National Institutes of Health (NIH), may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays

a currently valid Office of Management and Budget (OMB) control number.

In compliance with Section 3507(a)(l)(D) of the Paperwork Reduction Act of 1995, NIH has submitted to the OMB a request for review and approval of the information collection listed below.

Proposed Collection: NIH Office of Intramural Training & Education—Application, Registration, and Alumni Systems, 0925–0299, exp., date, 31-May-2027, REVISION, Office of Intramural Training & Education (OITE), Office of Intramural Research (OIR), Office of the Director (OD), National Institutes of Health (NIH).

Need and Use of Information Collection: The Office of Intramural Training & Education (OITE) administers a variety of programs and initiatives to recruit pre-college through post-doctoral educational level individuals into the National Institutes of Health Intramural Research Program (NIH–IRP) to facilitate their development into future biomedical scientists. The proposed information collection is necessary to assess the eligibility and quality of potential awardees for traineeships in these programs.

The OITE collection systems use templates that have features that may be enabled based on that particular program need, this includes the following categories: number of recommendation letters, financial need statement, NIH campus location, etc. In addition, these templates allow for program specific labeling and directions to ensure each collection form is tailored for a specific training program, including but not limited to: Summer Internship Program (SIP), Postbaccalaureate Program (PBP), Graduate Partnerships Program (GPP), Undergraduate Scholarship Program (UGSP), and Fellows Award for Research Excellence (FARE).

The collection forms solicit the following information categories: personal information, eligibility criteria, contact information, university-assigned student identification number, training program selection, scientific discipline interests, educational level, educational history, reference information, resume components, employment history, employment interests, research abstract, personal statement, letters of recommendation, financial aid need, and sensitive data.

Additional collection forms are designed to collect information relevant to on-boarding paperwork, event registrations, offboarding paperwork, interview experience feedback, and training program experience feedback. Sensitive data collected on the applicants: race/ethnicity, sex, relatives at NIH, and recruitment method, are made available only to select OITE staff members or in aggregate form to select NIH offices; no sensitive information is provided to the admission committees for admission consideration.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 14,311.

ESTIMATED ANNUALIZED BURDEN HOURS

Type	Number of respondents	Number of responses annually per respondent	Average time/ response (hours)	Total annual burden hours
NIH–AC Account	2,250	1	1/60	38
NIH–AC Applications	10,000	1	45/60	7,500
NIH–AC Reference Letters	25,000	1	10/60	4,167
NIH–AC Financial Need	150	1	10/60	25
UGSP Interview Experience Survey	30	1	10/60	5
UGSP Contract	25	1	10/60	4
UGSP Payback Evaluation	40	1	10/160	7
UGSP Deferment Form	50	1	10/60	8
GPP Interview Experience Survey	90	1	10/60	15
GPP Awards Certificate	75	1	3/60	4
FARE Application	950	1	10/60	158
FARE Judge Registration	375	1	3/60	19
Trainee Onboarding Survey	1,300	1	10/60	217
Trainee Offboarding Survey	1,300	1	10/60	217
Trainee Feedback Survey	2,000	1	20/60	667
OITE Website Accounts	5,200	1	3/60	260
Event Registrations	20,000	1	3/60	1,000
Totals	.....	68,835	.....	14,311

Dated: July 30, 2026.

Matthew J. Memoli,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2026–16138 Filed 8–6–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, National Eye Institute.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Eye Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Eye Institute.

Date: September 9–11, 2026.
Time: September 09, 2026, 9:00 a.m. to 5:15 p.m.
Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.
Address: National Institutes of Health, Natcher Building, Room A–H, 45 Center Drive, Bethesda, MD 20892.
Meeting Format: In Person.
Time: September 10, 2026, 8:30 a.m. to 5:55 p.m.
Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.
Address: National Institutes of Health, Natcher Building, Room A–H, 45 Center Drive, Bethesda, MD 20892.
Meeting Format: In Person.
Time: September 11, 2026, 8:30 a.m. to 3:05 p.m.
Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.
Address: National Institutes of Health, Natcher Building, Room A–H, 45 Center Drive, Bethesda, MD 20892.
Meeting Format: In Person.
Contact Person: David M. Schneeweis, Ph.D., Acting Scientific Director, National Eye Institute, National Institutes of Health, Building 31, Room 6A22, Bethesda, MD 20892, 301–451–6763, *David.schneeweis@nih.gov*.

Information is also available on the Institute's/Center's home page: *https://www.nei.nih.gov/about/advisory-committees,* where an agenda and any additional information for the meeting will be posted when available.

Dated: August 4, 2026.

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–16163 Filed 8–6–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Review of Career Development Awards in Epidemiology and Population Health.
Date: August 24, 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: Lan Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–8877, *lan.tian@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Risk, Prevention and Health.
Date: August 24, 2026.
Time: 11:00 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Gianina R. Dumitrescu, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, (301) 827–0696, *ramona.dumitrescu@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: August 4, 2026.

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–16162 Filed 8–6–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket Number USCG–2023–0063]

Port Access Route Study: Approaches to Galveston Bay and Sabine Pass, Texas and Calcasieu Pass, Louisiana

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of availability; final report.

SUMMARY: The Coast Guard Heartland District announces the completion of the Approaches to Galveston Bay and Sabine Pass, Texas and Calcasieu Pass, Louisiana Port Access Route Study (PARS). The study was conducted to evaluate the adequacy of existing vessel routing measures and determine whether additional vessel routing measures are necessary for port approaches to Galveston Bay and Sabine Pass, Texas, Calcasieu Pass, Louisiana, and international and domestic transit areas in the Heartland Coast Guard District area of responsibility (AOR).

ADDRESSES: The PARS final report is available for viewing and download from the docket by searching USCG–2023–0063 at *http://www.regulations.gov,* or from the Coast Guard Navigation Center website at *https://www.navcen.uscg.gov/port-access-route-study-reports.*

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice, call or email Ms. Brandi Canada, Heartland Coast Guard District (dpw), U.S. Coast Guard: telephone (504) 671–2107, email *SMB-Heartland-waterwaysmgmt@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

AOR Area of Responsibility
DHS Department of Homeland Security
FR Federal Register
LNM Local Notice to Mariners
MSIB Marine Safety Information Bulletin
MTS Marine Transportation System
NAD 83 North American Datum of 1983
PARS Port Access Route Study
PWSA Ports and Waterways Safety Act
TSS Traffic Separation Scheme
USCG United States Coast Guard

II. Background and Purpose

When did the Coast Guard conduct this port access route study (PARS)?

We conducted this PARS following our announcement in a notice published in the **Federal Register** (FR) on March 1, 2023, entitled ''Port Access Route Study: Approaches to Galveston Bay and Sabine Pass, Texas and Calcasieu Pass, Louisiana,'' (88 FR 12966). The public was afforded a 47-day comment period. On March 28, 2023, we published a supplemental notice of study, to correct agency contact information and extend the comment period an additional 10 days (88 FR 18326).

The Coast Guard received seven comments to this document in response to our **Federal Register** notice. All comments and supporting documents to this document are available in a public docket and can be viewed by searching docket number USCG–2023–0063 at *http://www.regulations.gov.* A synopsis of the comments and copies of the Coast Guard Heartland District's public outreach can be found in the report.

What is the study area?

The study area includes the Gulf of America regions within the Coast Guard Heartland District AOR encompassed by

a line connecting the following geographic points: beginning where the coast intersects longitude 95°25′00″ N; thence south to latitude 28°16′00″ N, longitude 95°25′00″ W; thence southeast to latitude 28°00′00″ N, longitude 94°36′00″ W; thence east to latitude 28°00′00″ N, longitude 92°37′00″ W; thence north along latitude 92°37′00″ W to the coast. This area extends approximately 106 nautical miles seaward at its greatest distance and covers approximately 13,100 square nautical miles. All geographic points are based on North American Datum of 1983 (NAD 83). An illustration showing the study area is below:

Why did the Coast Guard conduct this PARS?

The United States Coast Guard Heartland District conducted the PARS to examine the approaches to Galveston Bay and Sabine Pass, Texas, Calcasieu Pass, Louisiana (TX/LAPARS), and the study area's international and domestic transit routes. The purpose of this study evaluates the efficiency of current vessel routing measures to determine the need and applicability for modifications or the establishment of new routing measures. In addition to determining the need for adjusting or establishing new Traffic Separation Schemes (TSSs) and shipping safety fairways, other measures, including two-way routes, recommended routes, deep-water routes, precautionary areas, and non-navigable waterways, were also considered.

PARS are conducted anytime the Coast Guard considers a need to recommend routing changes, within the territorial seas, for any port. According to 46 U.S.C. 70003, the Coast Guard must conduct a study of port access routes before determining the need for establishing or adjusting current fairways or TSSs. U.S. waterways support multiple uses, such as commercial shipping, tug and barge operations, commercial and recreational fishing, research vessels, offshore support vessels, military vessels, and aquaculture apparatus.

How did the Coast Guard Heartland District conduct this PARS?

The PARS was conducted in alignment with guidance outlined in Coast Guard Commandant Instruction 16003.2C (series), Marine Planning of the Marine Transportation System (MTS).

The objectives of the study were to:

i. Determine potential traffic density;
ii. Determine if existing vessel routing measures are adequate;
iii. Determine if existing vessel routing measures require modifications;
iv. Determine the type of modifications;
v. Define and justify the need for new vessel routing measures;
vi. Determine the type of new vessel routing measures; and
vii. Determine if the usage of the vessel routing measures must be mandatory for specific classes of vessels.

III. Viewing the Report

The PARS report is available for viewing and download from the **Federal Register** docket at *http://www.regulations.gov* or the Coast Guard Navigation Center website at *https://www.navcen.uscg.gov/port-access-route-study-reports.*

To view the PARS report in the docket, go to *http://www.regulations.gov,* and insert ''USCG–2023–0063'' in the ''search box.'' Click ''Search''. Then scroll down to the document entitled ''Port Access Route Study: Approaches to Galveston Bay and Sabine Pass, Texas, and Calcasieu Pass, Louisiana TX/LAPARS March 2026'' under the document type ''Supporting & Related Material.''

IV. Conclusion

As described in the March 1, 2023 **Federal Register** Notice of study; request for comments (88 FR 12966), the Heartland Coast Guard District evaluated the adequacy of existing vessel routing measures and determined whether additional vessel routing measures are necessary for port approaches to Galveston Bay and Sabine Pass, Texas, Calcasieu Pass, Louisiana, and international and domestic transit areas in the Coast Guard Heartland District area of responsibility (AOR).

The Coast Guard Heartland District analyzed all available sources of data relevant to this process, including existing and potential traffic patterns, existing regulations, public submissions, and other factors.

As detailed in the final report, the United States Coast Guard Heartland District determined that safety fairways within the study area are adequate; however, the safety fairways cannot be widened as recommended due to established infrastructure within the Gulf of America. The PARS report does recommend implementing several new fairway anchorages to provide vessels a safe waiting area as they await clearance into port.

The United States Coast Guard Heartland District provided recommendations for the siting and layout of potential offshore mineral and non-mineral energy areas within the study area. It will continue to serve as a cooperating agency to BOEM's environmental review of each proposed project. In that role, the United States Coast Guard will evaluate the navigational safety risk of each proposal on a case-by-case basis.

This notice is published under the authority of 46 U.S.C. 70003 and 70004 and 5 U.S.C. 552(a).

W.E. Watson,

Rear Admiral, U.S. Coast Guard, Commander, Heartland District.

[FR Doc. 2026–16119 Filed 8–6–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2026–0463; OMB No. 1660–0100]

Agency Information Collection Activities: Proposed Collection; Comment Request; General Admissions Applications (Long and Short) and Stipend Forms

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 admission applications and student stipend agreements for FEMA courses and programs that are delivered on-campus and throughout the Nation, in coordination with State and local training officials and local colleges and universities.

DATES: Comments must be submitted on or before October 6, 2026.

ADDRESSES: To avoid duplicate submissions to the docket, please submit comments at *www.regulations.gov* under Docket ID FEMA–2026–0463. 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: Smiley White, Supervisory Program Specialist, United States Fire Administration, 301–447–1055. 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: FEMA offers courses and programs that are delivered at National Emergency Training Center (NETC) in Emmitsburg, Maryland, the Center for Domestic Preparedness (CDP) in Anniston, Alabama, and throughout the Nation in coordination with State and local training officials and local colleges and universities to carry out the authorities listed below. To facilitate meeting these requirements, FEMA collects information necessary to be accepted for courses and for the student stipend or travel reimbursement program for these courses. There are several organizations within FEMA that deliver training and education in support of the FEMA mission.

The authorities under which FEMA delivers this training are as follows:

1. Section 7 of the Federal Fire Prevention and Control Act of 1974, Public Law 93–498, 88 Stat. 1535, as amended (15 U.S.C. 2206), established the National Fire Academy (NFA) to advance the professional development of fire service personnel and of other persons engaged in fire prevention and control activities.

2. Section 611(f). of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Public Law 93–288, as amended, 88 Stat. 143 (42 U.S.C. 5196(f)), authorizes FEMA to conduct or arrange, by contract or otherwise, for training programs for the instruction of emergency preparedness officials and other persons in the organization, operation, and techniques of emergency preparedness; conduct or operate schools or classes, including the payment of travel expenses, in accordance with subchapter I of chapter 57 of title 5, United States Code, and the Standardized Government Travel Regulations, and per diem allowances, in lieu of subsistence for trainees in attendance or the furnishing of subsistence and quarters for trainees and instructors on terms prescribed by FEMA; and provide instructors and training aids as deemed necessary. This training is conducted through the National Disaster and Emergency Management University (NDEMU) (formerly known as the Emergency Management Institute).

3. Title XIV of the National Defense Authorization Act of 1997, Public Law 104–201, 110 Stat. 2432 (53 U.S.C. 2301 note); Title I of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1998'; Sections 403 and 430 of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 203, 238); and Section 611 of the Post-Katrina Emergency Management Reform Act of 2006, Public Law 109–295, 120 Stat. 1355, all authorize CDP to serve as a training facility for all relevant Federally supported training efforts that target State and local law enforcement, firefighters, emergency medical personnel, and other key agencies such as public works and State and local emergency management. The focus of the training is to prepare relevant State and local officials to deal with chemical, biological, or nuclear terrorist acts and handle incidents dealing with hazardous materials.

4. Section 1204 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53, 121 Stat. 386 (6 U.S.C. 1102) established a National Domestic Preparedness Consortium within the Department of Homeland Security. The Consortium is mandated to identify, test, and deliver training to State, local, and tribal emergency response providers, provide on-site and mobile training at the performance, management, and planning levels, and

facilitate the delivery of training by the training partners of the Department.

5. Consistent with requirements under Occupational Safety and Health Administration (OSHA) Appendix C Respirator Medical Evaluation Questionnaire (29 CFR 1910.134, Respiratory Protection) in any workplace where respirators are necessary to protect the health of the employee or whenever respirators are required by the employer, the employer shall establish and implement a written respiratory protection program with worksite-specific procedures. The program shall be updated as necessary to reflect those changes in workplace conditions that affect respirator use. The employer shall include in the program the following provisions of this section, as applicable:1910.134(c)(1)(ii) Medical evaluations of employees required to use respirators.

Under the authorities of Executive Orders 12127 and 12148, the Administrator, Federal Emergency Management Agency, is responsible for carrying out the mandates of the public laws mentioned above.

Collection of Information

Title: General Admissions Applications (Long and Short) and Stipend Forms.

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0100.

FEMA Forms: FEMA Form FF–USFA–FY–21–101, (formerly 119–25–0–1), General Admission Application; FEMA Form FF–USFA–FY–21–102, (formerly 119–25–0–6), Training Registration Form; FEMA Form FF–USFA–FY–21–103, (formerly 119–25–3), Student Stipend Agreement; FEMA Form FF–USFA–FY–21–104, (formerly 119–25–4), Student Stipend Agreement (Amendment); FEMA Form FF–USFA–FY–21–105, (formerly 119–25–5) National Fire Academy Executive Fire Officer Program Application for Admission; and FEMA Form FF–008–FY–22–125, Respiratory Medical Evaluation Questionnaire For Students.

Abstract: FEMA provides training to advance the professional development of personnel engaged in fire prevention and control, and emergency management activities through CDP, National Disaster and Emergency Management University (formerly known as the Emergency Management Institute), NFA, National Training and Education Division, National Domestic Preparedness Consortium, and Rural Domestic Preparedness Consortium.

Affected Public: Federal, State, local, Tribal and territorial Governments.

Estimated Number of Respondents: 223,300.

Estimated Number of Responses: 223,300.

Estimated Total Annual Burden Hours: 21,644.

Estimated Total Annual Respondent Cost: $1,373,361.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $191,087.

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.

Nigel S. Allicock,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2026–16114 Filed 8–6–26; 8:45 am]

BILLING CODE 9111–45–P

DEPARTMENT OF JUSTICE

Meeting of the Religious Liberty Commission

AGENCY: Office of the Associate Attorney General, United States Department of Justice (DOJ).

ACTION: Notice of federal advisory committee meeting.

SUMMARY: The DOJ is publishing this notice to announce the eighth Federal advisory committee meeting of the Religious Liberty Commission (Commission).

DATES: Open to the public via livestream on August 17, 2026, from 9:30 a.m. to 11:00 a.m. ET.

ADDRESSES: The meeting will be held virtually. The virtual meeting will be recorded and broadcast. A viewing link will be available at *justice.gov/religious-liberty-commission/upcoming-events.*

Registration Information: Registration is not required for this event. Members of the public may view the event by clicking the livestream link on the events page of the Religious Liberty Commission website, *justice.gov/religious-liberty-commission/upcoming-events.*

FOR FURTHER INFORMATION CONTACT: Mary Margaret Bush, Religious Liberty Commission Director and Designated Federal Officer, *RLC@usdoj.gov,* 202–297–3196. Mrs. Bush can also be contacted to request a reasonable accommodation to attend the meeting.

SUPPLEMENTARY INFORMATION: The Religious Liberty Commission is a federal advisory committee established by the President through Executive Order 14291. The Commission is composed of a chair, a vice chair, and eleven members appointed by the President, including representatives from the private sector, employers, educational institutions, religious communities and States, and three ex-officio members. The Commission advises the Domestic Policy Council and the White House Faith Office on religious liberty policies of the United States, and will produce a comprehensive report to the President on the foundations of religious liberty in America, the impact of religious liberty on American society, current threats to domestic religious liberty, strategies to preserve and enhance religious liberty protections for future generations, and programs to increase awareness of and celebrate America's peaceful religious pluralism.

Agenda: During its eighth meeting on August 17, 2026, the Commission will finalize the Religious Liberty Commission report.

Public Comment: The public comment period for the report concluded on July 13, 2026. Other comments may be sent by email to *RLC@usdoj.gov* or by mail to U.S. Department of Justice, Office of the Associate Attorney General, ATTN: Religious Liberty Commission, 950 Pennsylvania Avenue NW, Room 5706, Washington, DC 20530. The deadline for additional comments is August 11, 2026.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. 1001 *et seq.*).

Dated: August 5, 2026.

Mary Margaret Bush,

Designated Federal Officer, Religious Liberty Commission.

[FR Doc. 2026–16178 Filed 8–6–26; 8:45 am]

BILLING CODE 4410–21–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0366]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired: Title—Census of Tribal Law Enforcement Agencies (CTLEA)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Bureau of Justice Statistics (BJS), 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 September 8, 2026.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Steven W. Perry (email: *bjspra.comments@ojp.usdoj.gov;* telephone: 202–307–0765), Bureau of Justice Statistics, 999 North Capital Street NE, Washington, DC 20531.

SUPPLEMENTARY INFORMATION:

The proposed information collection was previously published in the **Federal Register** on June 4, 2026, allowing a 60-day comment period. BJS received one comment that will be addressed in the supporting statement. 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 1121–0366. 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 to Steven W. Perry, *bjspra.comments@ojp.usdoj.gov,* (202) 307–0765, and reference OMB # 1121–0366 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, with change, of a previously approved collection for which approval has expired.

2. *Title of the Form/Collection:* 2025 Census of Tribal Law Enforcement Agencies (CTLEA).

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* The form number is CTLEA–25. The applicable component within the Department of Justice is the Bureau of Justice Statistics (BJS), in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as a brief abstract: Affected Public:* Affected public are tribal law enforcement agencies. The 2025 CTLEA is revised from the 2018 CTLEA. BJS plans to field the 2025 CTLEA from September through December 2026. Respondents will be the staff at tribal law enforcement agencies. The obligation to respond is voluntary.

5. *Abstract:* The Bureau of Justice Statistics (BJS) has previously conducted the Census of Tribal Law Enforcement (CTLEA) through a survey that collects data on the staffing, functions, workloads, training, and operations of tribal law enforcement agencies serving tribal lands. 2025 CTLEA will be the second administration of this collection. It will provide insight into emerging issues and challenges facing tribal law enforcement agencies since it was last conducted in 2018 and establish a time series of the data collection. BJS uses the information gathered in the CTLEA in published reports and statistics. The reports will be made available to the U.S. Congress, Executive Office of the President, tribal nations and justice agencies, practitioners, researchers, students, the media, others interested in criminal justice statistics, and the public via the BJS website.

6. *Obligation to Respond:* The obligation to respond is voluntary.

7. *Total Estimated Number of Respondents:* A projected 303 respondents from tribal law enforcement agencies.

8. *Estimated Time per Respondent:* A projected 303 respondents from tribal law enforcement agencies will take an average of 30 minutes (0.5 hours) each to complete the web form CTLEA. The time to review the invitation materials is 5 minutes and to complete the Question Guide is estimated to be 15 minutes to research or find information not readily available. In addition, an estimated 30 respondents will be contacted for data quality follow-up at 15 minutes (.25 hours) per respondent.

9. *Frequency:* Each respondent will complete the CTLEA–25 once.

10. *Total Estimated Annual Time Burden:* The total estimated burden hours for this collection is 260 hours.

11. *An estimate of the total annual cost burden associated with the collection, if applicable:* BJS estimates the total annual cost burden to the respondents based on the mean hourly rate for police officer ($38.16) for 260 burden hours is $ 9,921.60.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response	Total annual burden (hours)
CTLEA Invitation Materials	303	1	303	5 min.	25.25 hrs.
CTLEA Question Guide	303	1	303	15 min.	75.75 hrs.
CTLEA Web Survey	303	1	303	30 min.	151.50 hrs.
Data Quality Follow-Up	30	1	30	15 min.	7.50
Unduplicated Totals	939				260 hrs.

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: August 5, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–16117 Filed 8–6–26; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–NEW]

Agency Information Collection Activities; Proposed New Collection; Comments Requested; Cigarettes and Smokeless Tobacco Record-Keeping and Reporting Requirements

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives; Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), will be submitting the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: ATF encourages comments on this information collection. You may submit written comments for 30 days, until midnight on September 8, 2026.

FOR FURTHER INFORMATION CONTACT: If you have questions, please contact: Andrew Blacker, either by mail at 99 New York Avenue NE, Washington, DC 20226, by email at *Andrew.blacker@atf.gov,* or by telephone at 202–648–9446.

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register**, 91 FR 28620, on May 18, 2026, allowing a 60-day comment period. We encourage written comments and suggestions from the public and affected agencies concerning the proposed information collection. Your comments should address one or more of the following four points:

—Evaluate whether the proposed information collection is necessary to properly perform ATF's functions, including whether the information will have practical utility;

—Evaluate the agency's estimate of the proposed information collection's burden for accuracy, including validity of the methodology and assumptions used;

—Evaluate whether the quality, utility, and clarity of the collected information can be enhanced, and if so, how; and

—Minimize the information collection's burden on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting people to submit electronic responses.

Written comments and recommendations for this information collection to 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: 1140–0NEW. This information collection does not have a collection instrument.

You may also view this information collection request at *www.reginfo.gov.* Follow the instructions to view Department of Justice information collections currently under review by OMB and look for 1140–NEW. Please send copies of public comments to the POC—Andrew Blacker, 99 New York Avenue NE, Washington, DC 20226, or by telephone (202) 648–9446.

DOJ seeks PRA authorization for this information collection for three years. OMB authorization for an ICR cannot be for more than three years without renewal. DOJ notes that information collection requirements submitted to OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

Abstract: The Contraband Cigarette Trafficking Act and ATF regulations at 27 CFR 646 require that each person who ships, sells, or distributes cigarettes or smokeless tobacco must keep copies of invoices, bills of lading, or other suitable commercial records relating to each disposition of more than 10,000 cigarettes or smokeless tobacco in excess of 500 single-unit consumer-sized cans or packages, and must report the purchaser or recipient's name; destination street address; and quantity of cigarettes distributed.

Type of information collection: new collection.

Title of the form/collection: Cigarettes and Smokeless Tobacco Record-Keeping and Reporting Requirements.

Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form number: none. *Component:* Bureau of Alcohol, Tobacco, Firearms, and Explosives.

Affected public who will be asked or required to respond, and obligation to respond: Affected public: private sector-for profit institutions. *Obligation to respond:* mandatory per the Patriot Improvement and Reauthorization Act of 2005, which amended the Contraband Cigarette Trafficking Act (CCTA) (18 U.S.C. 2341–2346).

Total estimated number of respondents: 14,311 respondents.

Estimated time per respondent: 0 total hours.

Frequency: once annually.

Total estimated annual time burden: 0 total hours.

Total estimated annual other costs burden: $0.

Revisions to This Information Collection

This is a new information collection.

Public Comments

ATF did not receive comments on this information collection during the 60-day notice and comment period.

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: August 5, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–16160 Filed 8–6–26; 8:45 am]

BILLING CODE 4410–FY–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–619; NRC–2026–2641]

Eden Radioisotopes, LLC; Eden Isotope Production Complex; Notice of Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Construction permit application; notice of uncontested hearing.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is providing public notice of an uncontested hearing on a construction permit application from Eden Radioisotopes, LLC (Eden) for construction of the Eden Isotope Production Complex near Eunice, Lea County, New Mexico.

DATES: The hearing is scheduled for September 29, 2026, starting at 5:30 p.m. Mountain Time in the Eunice Community Center located at 1115 Avenue I, Eunice, NM 88231. This meeting will be preceded by an open house beginning at 5 p.m. at the same location.

ADDRESSES: Please refer to Docket ID NRC–2026–2641 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–2641. Address questions about Docket IDs in *Regulations.gov*to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the document.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Andrew Miller, Office of Advanced Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1080; email: *Andrew.Miller@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

By letter dated May 5, 2026, Eden filed, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, and part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities,'' an application for a construction permit for a medical isotope production complex consisting of a non-power, open-pool reactor facility, a separation processing hot cell facility, a target fabrication facility, and a waste packaging, handling, and storage facility (the Eden Isotope Production Complex). This complex would be located near Eunice, Lea County, New Mexico. The reactor facility would use light water as the moderator, and coolant and individual annular low-enriched uranium fueled targets.

The publicly available version of the construction permit application is available in ADAMS under Package Accession No. ML26125A060. Along with other documents, the ADAMS package includes the transmittal letter (ADAMS Accession No. ML26125A061), the preliminary safety analysis report and environmental report (ADAMS Accession No. ML26125A141), and the quality assurance program description (ADAMS Accession No. ML26125A071). The information submitted by Eden includes certain general information such as financial qualifications submitted pursuant to 10 CFR 50.33, ''Contents of applications; general information,'' certain technical information submitted pursuant to 10 CFR 50.34, ''Contents of applications; technical information,'' and an environmental report submitted pursuant to 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.''

Pursuant to Section 189a. of the Atomic Energy Act of 1954, as amended, and the Commission Policy Statement on Mandatory Hearings for Reactor Licensing (published in the **Federal Register** at 91 FR 34661), notice is hereby given that the uncontested (*i.e.,* mandatory) hearing will be held on September 29, 2026, starting at 5:30 p.m. Mountain Time in the Eunice Community Center located at 1115 Avenue I, Eunice, NM 88231. Members of the public are invited to attend the hearing. There will be an opportunity for members of the public to ask questions and provide feedback on the application. This is not an opportunity to request a contested hearing, where petitioners can file intervention requests that contain the contentions they wish to litigate pursuant to 10 CFR 2.309, ''Hearing requests, petitions to intervene, requirements for standing, and contentions.'' The opportunity to request a contested hearing and petition for leave to intervene was noticed on July 16, 2026 (91 FR 43673).

An open house will be held before the hearing begins, from 5 to 5:30 p.m., to give the public an opportunity to speak with the NRC staff. The hearing will then convene at 5:30 p.m. and begin with a presentation by the NRC staff that will explain the review process and provide a brief overview of the application, followed by a comment period of up to 3 hours. During the comment period, the public will be provided an opportunity to speak on the record. Each member of the public will be allowed to speak for no more than 5 minutes at a time, in an effort to ensure that all stakeholders who wish to provide oral comments or ask questions will have the opportunity to do so. The applicant has been made aware of the hearing and was invited to provide a presentation of no more than 30 minutes following the NRC staff presentation.

The hearing record will remain open until October 13, 2026. Further written comments and questions must be submitted to the following email address: *EdenEIPC-CPHearing@nrc.gov.*

In order to be included in the hearing record, written comments and questions must be received by October 13, 2026. The NRC staff will not consider comments or questions received by other means or after the deadline of October 13, 2026. The NRC staff will treat any written comments or questions received consistent with the Commission Policy Statement on Mandatory Hearings for Reactor Licensing.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: August 4, 2026.

For the Nuclear Regulatory Commission.

Ravi Penmetsa,

Director, Division of Advanced Reactor Science, Office of Advanced Reactors.

[FR Doc. 2026–16113 Filed 8–6–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–0001]

Sunshine Act Meetings

TIME AND DATE: Week of August 3, 2026.

PLACE: Via Teleconference.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Week of August 3, 2026

Friday, August 7, 2026.

2:00 p.m. Affirmation Session (Public Meeting) (Tentative)

(a) Long Mott Energy, LLC (Long Mott Generating Station); Appeal Of LBP–26–1 (Ruling On Intervention Petition) (Tentative)

(b) Notice and Order for Orano Enrichment USA LLC, Project Ike Enrichment Facility (Tentative)

(Contact: Wesley Held: 301–287–3591)

Additional Information: By a vote of 5–0 on August 3 and August 4, 2026, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and 10 CFR 9.107 that item (a) be affirmed with less than one week notice to the public. By a vote of 5–0 on August 4 and August 5, 2026, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and 10 CFR 9.107 that item (b) be affirmed with less than one week notice to the public. These items will be affirmed in the meeting being held on August 7, 2026. The public is invited to attend the Commission's meeting live; via teleconference. Details for joining the teleconference in listen only mode can be found at *https://www.nrc.gov/pmns/mtg.*

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 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.*

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.

Members of the public may request to receive this information 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.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: August 5, 2026.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2026–16152 Filed 8–5–26; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

738th Meeting of the Advisory Committee on Reactor Safeguards (ACRS)

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232(b)), the U.S. Nuclear Regulatory Commission's (NRC) Advisory Committee on Reactor Safeguards (ACRS) will hold meetings on September 3 through 4, 2026. In addition, the ACRS is implementing Section 4.(b) of Executive Order (E.O.) 14300, ''Ordering the Reform of the Nuclear Regulatory Commission,'' dated May 23, 2025, which states, in part, that the functions of the ACRS shall be reduced to the minimum necessary to fulfill ACRS's statutory obligations and that review by ACRS of permitting and licensing issues shall focus on issues that are truly novel and noteworthy. The ACRS will only undertake other work as directed by the Commission in accordance with Sections 29 and 182b of the Atomic Energy Act.

The Committee will be conducting meetings that will include some Members being physically present at the headquarters of the NRC while other Members participate remotely. Interested members of the public are encouraged to participate remotely in any open sessions via Microsoft Teams or via phone at 301–576–2978, passcode 818985424#. A more detailed agenda, including the Microsoft Teams link, may be found at the ACRS public website at *https://www.nrc.gov/reading-rm/doc-collections/acrs/agenda/index.html.* If you would like the Microsoft Teams link forwarded to you, please contact: *Quynh.Nguyen@nrc.gov*or *Lawrence.Burkhart@nrc.gov.*

Thursday, September 3, 2026

8:30 a.m.–8:35 a.m.: *Opening Remarks by the ACRS Chairman* (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–2:00 p.m.: *Proposed Rulemaking on Regulatory Enhancements for Reactor*

Licensing, Decommissioning, and Operational Oversight (Related to Executive Order (E.O.) 14300) (Open)—The Committee will hear presentations from and have discussions with NRC staff regarding the subject topic.

2:00 p.m.–6:00 p.m.: *Information Session on Artificial Intelligence* (Open)—The Committee will deliberate on the subject topic.

6:00 p.m.–6:30 p.m.: *Committee Deliberation on Proposed Rulemaking on Regulatory Enhancements for Reactor Licensing, Decommissioning, and Operational Oversight* (Open)—The Committee will deliberate on the subject topic.

Friday, September 4, 2026

8:30 a.m.–5:00 p.m.: *Planning and Procedures Session/Future ACRS Activities/Reconciliation of ACRS Comments and Recommendations/Preparation of Reports* (Open/Closed)—The Committee will discuss planning and procedures topics including items proposed for consideration by the Full Committee during future ACRS meetings; deliberate; and proceed to preparation of reports. [Note: Pursuant to 5 U.S.C. 552b(c)(2), a portion of this meeting may be closed to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS.]. [Note: Pursuant to 5 U.S.C 552b(c)(4), a portion of this session may be closed in order

to discuss and protect information designated as proprietary.]

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on July 22, 2025 (90 FR 34522). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff and the Designated Federal Officer (Email: *Quynh.Nguyen@nrc.gov*), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the ACRS Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the cognizant ACRS staff if such rescheduling would result in major inconvenience. Registration for this meeting is not required.

An electronic copy of each presentation should be emailed to the cognizant ACRS staff at least three days before the meeting.

In accordance with 5 U.S.C. 552b(c) and 1009(d), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the ACRS Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

Please contact the Designated Federal Officer if you would like to submit a request for physical or electronic meeting accommodation.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room (PDR) at *pdr.resource@nrc.gov,* the ACRS public website, or by calling the PDR at 1–800–397–4209 *or 301–415–4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays,* or from the Publicly Available Records System component of NRC's Agencywide Documents Access and Management System, which is accessible from the NRC website at *https://www.nrc.gov/reading-rm/adams.html* or *https://www.nrc.gov/reading-rm/doc-collections/#ACRS/*.

Dated: August 5, 2026

For the Nuclear Regulatory Commission

Russell E. Chazell,

Federal Advisory Committee Management Officer, Office of the Secretary.

[FR Doc. 2026–16144 Filed 8–6–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 11006679; NRC–2026–3532]

Energy Solutions, LLC; Application for Class A Low-Level Radioactive Waste Import License

AGENCY: Nuclear Regulatory Commission.

ACTION: Opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of an import license application dated June 5, 2026, submitted by Energy*Solutions,* LLC (Energy*Solutions*) to import Class A low-level radioactive waste (LLRW) from the Province of Ontario, Canada to Clive, Utah for disposal at Energy*Solutions'* disposal facility in Clive, Utah. The NRC is providing notice of the opportunity to comment, request a hearing, and petition for leave to intervene on Energy*Solutions'* application.

DATES: Submit comments by September 8, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date. A request for a hearing or petition for leave to intervene must be filed by September 8, 2026.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–3532. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Hearing.Docket@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. eastern time (ET) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Michelle Rome, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7000; email: *Michelle.Rome@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–3532 when contacting the NRC about the availability of information for these actions. You may obtain publicly available information related to these actions by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–3532.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include

Docket ID NRC–2026–3532 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On June 5, 2026, Energy*Solutions* submitted an application to the NRC for an import license (non-public ADAMS Accession No. ML26204A205). If approved, the license would allow Energy*Solutions* to transport Class A LLRW from the Province of Ontario, Canada for disposal at Energy*Solutions'* disposal facility in Clive, Utah. Energy*Solutions* requested a 10-year license to transport and dispose of up to 130,800 cubic yards (100 Terabecquerels [TBqs]) of Class A LLRW that has been generated by the civilian nuclear power industry within the Province of Ontario, Canada. Energy*Solutions* stated in its application that the total quantity of waste transported and disposed of under the proposed license would not exceed the amount allowed within Energy*Solutions'* radioactive material license (UT 2300249). The application specifies that the material may enter the continental United States from Ontario, Canada through entry ports in Port Huron, Michigan; Detroit, Michigan; or Buffalo, New York; and transit to Clive, Utah.

On December 19, 2025, the Northwest Interstate Compact on Low-Level Radioactive Waste Management (NWIC) and the State of Utah (as a voting member of the NWIC) approved the import of Class A LLRW from the Province of Ontario, Canada into the NWIC for disposal at the Energy*Solutions'* Clive, Utah disposal facility (non-public ADAMS Accession No. ML26204A205). This authorizing resolution limits the volume of waste to 1,305,000 cubic yards and describes additional permitting and licensing requirements that Energy*Solutions* must satisfy prior to disposal, such as obtaining an import waste permit from the NRC and a General Site Access Permit from the Utah Department of Environmental Quality Division of Waste Management and Radiation Control.

III. Opportunity To Comment

The NRC is providing notice of the receipt of the application and providing the opportunity to submit written comments concerning the actions in this application. Within 30 days from the date of publication of this notice, persons may submit written comments regarding the proposed import of Class A LLRW, as provided in section 110.81 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Written comments.'' The NRC will consider and may, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the ''Addresses'' section of this notice.

IV. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 30 days after the date of publication of this notice any person may file a request for a hearing or petition for leave to intervene with respect to the actions in this notice. A hearing request or petition for leave to intervene must include the information specified in 10 CFR 110.82(b). Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner in accordance with 10 CFR 110.89(a), either by delivery, by mail, or filed with the NRC electronically in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). Detailed guidance on electronic submissions may be found in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website (*https://www.nrc.gov/site-help/e-submittals.html*).

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

The information concerning this application for an import license follows.

NRC IMPORT LICENSE APPLICATION

Application Information	
Name of Applicant	Energy*Solutions, LLC.*
Date of Application	June 5, 2026.
Application No.	IW035.
Docket No.	11006679.
ADAMS Accession No.	ML26204A205.
Description of Waste	
Waste Type	Class A LLRW generated by the civilian nuclear power industry within the Province of Ontario, Canada.
Total Quantity	130,800 cubic yards (100 TBq).
End Use	Disposal at the Energy*Solutions* disposal facility in Clive, Utah.
Initiation Country	Canada.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: August 5, 2026.

For the Nuclear Regulatory Commission.

David Skeen,

Director, Office of International Programs.

[FR Doc. 2026–16115 Filed 8–6–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–9075; NRC–2024–0129]

Powertech (USA) Inc.; Dewey-Burdock Uranium In-Situ Recovery Project; License Renewal

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a renewed license to enCore Energy Corporation (Powertech (USA) Incorporated) for its Dewey-Burdock Uranium *In-Situ* Recovery (ISR) Project in Fall River and Custer Counties, South Dakota. Under conditions listed in the renewed license, the Source and Materials License SUA–1600 authorizes enCore Energy Corporation (Powertech (USA) Incorporated) to operate its facilities as proposed in its license renewal application, as amended, and to possess uranium source and byproduct material at the Dewey-Burdock Uranium ISR Project.

DATES: The NRC issued Source and Materials License SUA–1600 on June 18, 2026.

ADDRESSES: Please refer to Docket ID NRC–2024–0129 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2024–0129. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual(s) listed in the ''For Further Information Contact'' section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tom Lancaster, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6563; email: *Thomas.Lancaster@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

Part 40 of title 10 of the *Code of Federal Regulations* (10 CFR). ''Domestic Licensing of Source Material,'' authorizes the NRC to issue a renewed license to enCore Energy Corporation (Powertech (USA) Incorporated) for its Dewey-Burdock Uranium ISR Project in Fall River and Custer Counties, South Dakota. Renewed Source and Byproduct Materials License SUA–1600 authorizes enCore Energy Corporation (Powertech (USA) Incorporated) to operate its facilities as proposed in its license renewal application, as amended, and to possess uranium source and byproduct material at the Dewey-Burdock Uranium ISR Project, subject to conditions set forth in renewed License SUA–1600.

The record of decision for the NRC decision to approve the enCore Energy Corporation (Powertech (USA) Incorporated) application for the Dewey-Burdock ISR Project and issue Materials License SUA–1600 is available in section II of this notice.

The NRC considers the entire publicly available record for a license application to constitute the agency's record of decision. Documents related to the application carry Docket ID 40–9075.

EnCore Energy Corporation (Powertech (USA) Incorporated)'s request for a renewed materials license was previously noticed in the **Federal Register** on August 8, 2024 (89 FR 65401), with a notice of an opportunity to request a hearing.

In accordance with 10 CFR 2.390 of the NRC's ''Rules of Practice,'' the details with respect to this action, including the Safety Evaluation Report and accompanying documentation and license, are available electronically at the NRC's Electronic Reading Room at *https://www.nrc.gov/reading-rm/adams.html.*

II. Availability of Documents

The documents identified in the following table are available to interested persons through ADAMS, as indicated.

Document Description	ADAMS Accession NO.
Powertech's license renewal application for the Dewey-Burdock uranium recovery facility in Custer and Fall River counties, South Dakota, dated March 1, 2024.	ML24081A108 (Package).
Powertech's updated license renewal application in response to Request for Additional Information, dated March 31, 2025.	ML25091A216 (Package).
Environmental Assessment for the License Renewal for the Dewey-Burdock Uranium Recovery Project in Fall River and Custer Counties, South Dakota, dated June 2026.	ML26163A295.
NRC Safety Evaluation Report, dated December 16, 2025	ML25268A069.
NRC Transmittal Letter for the Source Materials License for Powertech (USA) Inc. Uranium Corporation, dated June 18, 2026.	ML26156A027.
Source Materials License for Powertech (USA) Inc. Uranium Corporation, dated June 18, 2026.	ML26156A025.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: August 5, 2026.

For the Nuclear Regulatory Commission.

Candace Spore,

Acting Chief, Uranium Recovery and Materials Decommissioning Branch Division of Decommissioning, Closure, Analysis, and Financial Oversight, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2026–16132 Filed 8–6–26; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2026–332 and K2026–327]

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.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *https://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Public Proceeding(s)
III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

None. *See* Section III for summary proceedings.

[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).

III. Summary Proceeding(s)

1. *Docket No(s).:* MC2026–332 and K2026–327; *Filing Title:* USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 1057, and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 4, 2026; *Filing Authority:* 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,

Legal Assistant.

[FR Doc. 2026–16131 Filed 8–6–26; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106038; File No. SR–FICC–2026–009]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding Regulatory Information Requests and Indemnification of Reported Data

August 4, 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 27, 2026, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. FICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of modifications to FICC's Government Securities Division Rulebook (''Rules'') to require that Netting Members (1) provide, when requested, data or other information in connection with FICC's obligations, as a self-regulatory organization or in its capacity as a regulated entity, to cooperate and share such information with other regulatory and self-regulatory organizations for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

regulatory purposes; and (2) indemnify FICC for any losses, liabilities, expenses and legal actions arising from incomplete or inaccurate information that is delivered in connection with such requests.[5]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FICC is proposing changes to Rule 29, which addresses the circumstances in which FICC may release certain data and other information relating to the transactions of its Netting Members, defined in the Rule as ''Clearing Data''.[6] Specifically, the proposed changes would state that FICC may request, and Netting Members would be required to provide, data and other information, which may include but is not limited to Clearing Data, in connection with FICC's obligations, as a self-regulatory organization or in its capacity as a regulated entity, to cooperate and share such information with other regulatory and self-regulatory organizations for regulatory purposes.

The proposed changes would also require that Netting Members indemnify FICC for any losses, liabilities, expenses, and legal actions arising from incomplete or inaccurate data that is delivered in response to such requests and relied on by FICC to comply with these regulatory reporting obligations.

Overview of Rule 29 and Release of Clearing Data

Rule 29 describes the circumstances in which FICC may release Clearing Data relating to transactions of a particular Member and the permitted recipients of such Clearing Data. Absent valid legal process, the permitted recipients of Clearing Data include (i) the Member to which such data relates, (ii) that Member's Cross-Margining Affiliate[7] or Sponsoring Member,[8] (iii) the Commission, (iv) the Federal Reserve Bank of New York (''FRBNY'') for market surveillance purposes, or to an FCO[9] and its regulators pursuant to a Cross-Margining Arrangement.[10] Any release of Clearing Data under Rule 29 must be done either in response to a written request or pursuant to a written agreement with FICC.[11]

The limitations on FICC's release of Clearing Data under Rule 29 do not apply to data that is in a form as to prevent the disclosure of the proprietary and/or confidential data of a particular Member or groups of Members.[12] Rule 29 also makes clear that it does not prohibit or limit FICC's ability to release Clearing Data to other regulatory bodies and, further, that the Rule is not intended to, or be deemed to be in contravention, or a limitation, of FICC's obligations as a self-regulatory organization to cooperate and share data with other regulatory and self-regulatory organizations for regulatory purposes.[13]

Proposed Changes To Require Members To Provide Certain Data and Information

As a regulated entity and self-regulatory organization, FICC may be required to respond to requests, including from its regulatory supervisors, to provide data or other information related to its clearing business. Such requests may include Clearing Data or other information about FICC's Members and the activity they submit to FICC.

For example, FICC was recently informed that it is required to report certain data in connection with the U.S. Department of the Treasury's Treasury International Capital (''TIC'') System. The TIC System collects various data regarding, for example, transactions and holdings of foreign residents of U.S. Treasury debt securities. Under this regulatory requirement, FICC will submit to the FRBNY on a monthly basis information on transactions in U.S. Treasury Securities to which at least one counterparty is a non-U.S. entity. This information will be reported on a Report of U.S Dollar Claims of Financial Institutions on Foreign Residents (''TIC BC'') and Report of U.S Dollar Liabilities of Financial Institutions to Foreign Residents (''TIC BL–1'') report forms (collectively, the ''TIC B Reports''). These reports will include Clearing Data of Netting Members and Indirect Participants. In order for FICC to submit the TIC B Reports accurately and completely to the FRBNY, FICC will request additional information from its Members. Such information would include, for example, the branch licensing information of Bank Netting Members to ensure FICC is correctly reporting the jurisdiction of the counterparties to the transactions that are required in the TIC B Reports.

As noted above, Rule 29 addresses FICC's obligations, as a self-regulatory organization, to cooperate and share data with other regulatory and self-regulatory organizations for regulatory purposes. FICC is proposing to amend Rule 29 to further provide that such obligations may also relate to FICC's capacity as a regulated entity (unrelated to its status as a self-regulatory organization) and may include sharing other information, in addition to data.

The proposed changes would also state that, in connection with such regulatory obligations, FICC may request, and Netting Members shall provide, additional data or other information, which may include but is not limited to Clearing Data, with respect to the Netting Member and, when applicable, the Indirect Participants of the Netting Member. While FICC generally does not need to request additional information from its Members to comply with regulatory reporting obligations, as noted above relating to the TIC B Reports, certain information from its Members could be necessary for FICC to ensure it is completely and accurately meeting those obligations. FICC does not anticipate, based on existing regulatory reporting obligations, including the TIC–B Reports, that Members would be required to provide information that is not readily available and easily delivered.

These proposed changes would improve the disclosures in Rule 29 regarding the release of data and other information related to its Members and Indirect Participants to regulatory organizations for regulatory purposes. The proposed changes to require Netting

[5] Terms not defined herein are defined in the Rules, *available at www.dtcc.com/legal/rules-and-procedures.*

[6] ''Clearing Data'' is defined in Rule 29 as ''transaction data which is received by the Corporation in the clearance and/or settlement processes of the Corporation, or such data, reports or summaries thereof, which may be produced as a result of processing such transaction data.'' *Supra* note 5.

[7] *See* Rule 43, regarding cross-margining arrangements, and the definition of Cross-Margining Affiliate in Rule 1, *supra* note 5.

[8] *See* Rule 3A, regarding Sponsoring Members and Sponsored Members, and see also the definition of Sponsored Member in Rule 1, *supra* note 5.

[9] *See* Rule 43, regarding cross-margining arrangements, and the definition of FCO in Rule 1, *supra* note 5.

[10] *See* Rule 29(a), *supra* note 5.

[11] *See* Rule 29(c), *supra* note 5.

[12] *See* Rule 29(b), *supra* note 5.

[13] *See* Rule 29(b) and (e), *supra* note 5.

Members to provide additional information to FICC when requested would support FICC's ability to meet its regulatory reporting obligations.

Proposed Changes To Require Indemnification With Respect to Data Reporting

FICC is also proposing to amend the Rules to require that Netting Members indemnify FICC with respect to data or other information Netting Members provide to FICC in connection with a request that is related to FICC's regulatory obligations. The proposed indemnification is identical to the indemnification Members provide to FICC in connection with their obligation to have a current Legal Entity Identifier [14] on file with FICC at all times (including with respect to their Indirect Participants, when applicable).[15]

The proposed change would provide that Netting Members indemnify FICC and its employees, officers, directors, shareholders, agents, and Members (to be collectively defined as the ''Data Reporting Indemnified Parties''), for any and all losses, liabilities, expenses and legal actions suffered or incurred by the Data Reporting Indemnified Parties arising from any incomplete or inaccurate data or other information provided to FICC in connection with FICC's regulatory reporting obligations. The proposed changes would define ''Legal Action'', for purposes of this indemnification, to mean and include any claim, counterclaim, demand, action, suit, countersuit, arbitration, inquiry, proceeding or investigation before any federal, state or foreign court or other tribunal, or any investigative or regulatory agency or self-regulatory organization.

The proposed change would protect FICC from losses, liabilities, expenses, and legal actions that it may incur if it relied on information provided by a Member to comply with its regulatory reporting obligations and that information was incomplete or incorrect. The proposed change would also provide Netting Members with an incentive to maintain controls around the completeness and accuracy of data and other information that it reports to FICC in connection with these requests.

2. Statutory Basis

FICC believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, FICC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act [16] and Rule 17ad–22(e)(23)(ii), promulgated under the Act,[17] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[18] The Rules currently provide that FICC may release Clearing Data, and other data and information, to other regulatory organizations. The proposed changes would improve these disclosures in the Rules by clarifying the information that may be released by FICC for regulatory purposes could be related to FICC's capacity as a regulated entity (other than its status as a self-regulatory organization) and that FICC may release other information, in addition to data. When participants better understand their rights and obligations regarding the Rules, such participants are more likely to act in accordance with the Rules, which FICC believes would promote the prompt and accurate clearance and settlement of securities transactions consistent with Section 17A(b)(3)(F) of the Act.[19]

The proposed changes would require Members to provide information, when requested, to support FICC's ability to comply with its regulatory reporting requirements. These proposed changes support FICC's ability to comply with its regulatory obligations and, therefore, to continue to perform its obligations as a registered clearing agency, which include ensuring the prompt and accurate clearance and settlement of securities transactions. In this way, the proposed changes are consistent with Section 17A(b)(3)(F) of the Act.[20]

The proposed changes to require that Members indemnify FICC with respect to the data and other information they provide to FICC would limit the potential losses, liabilities, expenses, and exposures to legal actions that FICC could otherwise incur. By limiting FICC's exposures to these costs, the proposed change assures the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.[21]

Rule 17ad–22(e)(23)(ii) under the Act requires, in part, that FICC establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency.[22] As stated above, the proposed changes would provide Members with information regarding (1) FICC's rights to share data and other information with regulatory organizations for regulatory purposes, (2) Members' requirement to provide FICC with data and other information, when requested, in connection with its regulatory reporting obligations, and (3) Members' indemnification of FICC for losses, liabilities, expenses and legal actions that may arise in connection with any incomplete or inaccurate data that is provided to FICC in response to such requests. The proposed changes would provide Members with information that would enable them to identify and evaluate the risks related to FICC's ability to share information in compliance with its regulatory obligations, and the costs that Members may incur in connection with providing information to FICC, including in connection with the indemnification of FICC. As such, FICC believes that the proposed changes are consistent with Rule 17ad–22(e)(23)(ii) under the Act.[23]

(B) Clearing Agency's Statement on Burden on Competition

FICC does not believe the proposed rule changes would have any impact on competition. The proposed changes would apply equally to all Members, as the information that FICC may be required to share with other regulatory organizations could relate to any Netting Member or Indirect Participant. The proposed changes are designed to improve Netting Members' understanding of the implications of FICC's regulatory reporting requirements and, through the

[14] A Legal Entity Identifier is defined in the Rules as ''a 20-character reference code to uniquely identify legally distinct entities that engage in financial transactions based on the ISO 17442 standard developed by the International Organization for Standardization that satisfies the standards implemented by the Global Legal Entity Identifier Foundation.'' Rule 1, *supra* note 5.

[15] *See* Rule 2B, section 2 (with respect to Netting Members' ongoing membership obligations); Rule 3A, section 2(d) (with respect to the Sponsored Members of Sponsoring Members); Rule 3B, section 5(c) (with respect to CCIT Members' ongoing membership requirements); and Rule 8, section 3(d) (with respect to the Executing Firm Customers of Agent Clearing Members), *supra* note 5.

[16] 15 U.S.C. 78q–1(b)(3)(F).

[17] 17 CFR 240.17ad–22(e)(23)(ii).

[18] 15 U.S.C. 78q–1(b)(3)(F).

[19] *Id.*

[20] *Id.*

[21] *Id.*

[22] 17 CFR 240.17ad–22(e)(23)(ii).

[23] *Id.*

indemnification requirement, encourage Netting Members to adopt, or enhance existing, controls that would ensure information provided to FICC is complete and accurate. As such, FICC does not believe such proposed changes would have any effect on participants' respective competitive positions.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FICC has not received or solicited any written comments relating to this proposal. If any additional written comments are received, they will be publicly filed as Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, *available at www.sec.gov/regulatory-actions/how-to-submit-comments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the SEC's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

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 Act[24] and Rule 19b–4(f)(6) thereunder.[25]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–FICC–2026–009 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to file number SR–FICC–2026–009. 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 FICC and on DTCC's website (*https://dtcc.com/legal/sec-rule-filings.aspx*). 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–FICC–2026–009 and should be submitted on or before August 28, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–16099 Filed 8–6–26; 8:45 am]

BILLING CODE 8011–01–P

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 17 CFR 240.19b–4(f)(6).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106037; File No. SR–CMESC–2026–005]

Self-Regulatory Organizations; CME Securities Clearing Inc.; Notice of Filing of Proposed Rule Change To Adopt CMESC Margin Policy

August 4, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 22, 2026, CME Securities Clearing Inc. (''CMESC'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been substantially prepared by CMESC. CMESC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. CMESC's Statement of the Terms and Substance of the Proposed Rule Change

The proposed rule change of CME Securities Clearing Inc. (''CMESC'') is annexed hereto as Exhibit 5 and consists of the CMESC Margin Policy (''Margin Policy'' or ''Policy''), which documents the design and core components of CMESC's proprietary margin methodology, *i.e.,* the SPAN 2 framework, for purposes of administration and implementation of CMESC's margin model. As described in more detail below, the Margin Policy consists of six parts—the purpose and statement of the Policy, the applicability of the Policy, governance of the Policy, the role of the CMESC margin working group and the SPAN 2 framework and margin add-ons. The proposed revisions to the CMESC Rules are annexed hereto as Exhibit 5.

II. CMESC's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, CMESC 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. CMESC has prepared summaries, set forth in Sections A, B,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

and C below, of the most significant aspects of such statements.

A. CMESC's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

1. Purpose

Background

On December 1, 2025, the Securities and Exchange Commission (''Commission'' or ''SEC'') issued an order (''Order'') approving CMESC's Form CA–1 (''Application'') for registration as a clearing agency to provide central counterparty services for transactions involving U.S. Treasury securities, finding the Application satisfies the requirements of the Act and rules and regulations thereunder.[4] Specifically, the Commission determined that ''CMESC's rules are consistent with the requirements for the prompt and accurate clearance and settlement of securities and the safeguarding of funds and securities as set forth in Section 17A(b)(3)(F) of the Exchange Act.'' [5] The Commission's determination was based, among others, on its review of CMESC's margin model, *i.e.,* the SPAN 2 framework.[6] CMESC previously included in submissions related to its Application a technical document describing the SPAN 2 framework, including detailed explanations for modeling choices and the mathematical implementation of the model. To facilitate administration and implementation of the SPAN 2 framework, CMESC is filing this proposed rule change to establish the Policy.

The Policy does not modify any aspect of the SPAN 2 framework that the Commission reviewed and approved in connection with the Application. Rather, the Policy, as proposed, serves to administer and implement the SPAN 2 framework in support of compliance with the Commission rules, in particular, the covered clearing agency standards,[7] by documenting the core aspects of the SPAN 2 framework consistent with the specifications outlined in the technical document provided in connection with the Application and by describing the purpose and statement of the Policy, applicability of the Policy, governance of the Policy, and role of the CMESC Margin Working Group, and CMESC's ability to call for additional margin.

Description of the Proposed Rule Change

The Policy is organized in six parts: (1) Purpose and Statement of Policy; (2) Applicability; (3) Governance of the Policy; (4) Role of the CMESC Margin Working Group; (5) CMESC SPAN 2 Framework; and (6) Margin Add-Ons, each as described in more details below.

1. Purpose and Statement of Policy

The Purpose and Statement of Policy section sets forth the purpose of the Policy. It starts with a description of CMESC as a SEC-registered covered clearing agency maintaining a risk management program designed to comply with SEC rules, including Rules 17ad–22(b)(2) and (e)(6)(i), (iii) and (v) and then states the purpose of the Policy is to document CMESC's margin practices as related to the administration of its proprietary risk-based margin model, the SPAN 2 framework, which is designed to ensure margin coverage of at least 99% of anticipated daily price changes over the margin period of risk (''MPOR'') on an *ex post* basis for each cleared portfolio. The Purpose and Statement of Policy section further states that CMESC considers an array of both qualitative and quantitative inputs, including historical data, in setting and adjusting the SPAN 2 framework's parameter calibration. The SPAN 2 framework is designed to capture the risk profile of U.S. Treasury securities, including to reflect price movements, trading practices, and patterns specific to these securities.

2. Applicability

The Applicability section states that the Policy applies to all employees, internal consultants, and temporary personnel resources of CMESC.

3. Governance of the Policy

The Governance of the Policy section establishes the governance arrangements for the Policy, including a provision that CMESC's Risk Management team [8] maintains the Policy. Changes to the Policy will follow different governance arrangements as described below, depending on whether the changes are substantive, non-substantive or administrative in nature. The CMESC Model Risk Committee (''SCMRC'') (*i.e.,* staff-level internal governance committee) reviews and approves the Policy, as well as any substantive changes, on at least an annual basis. The Policy is then presented to CMESC's Risk Management Committee (''CSRMC'') for review and approval. If the CSRMC determines that any changes have a significant impact on CMESC's risk profile, the CSRMC will recommend such changes to the Board for approval. Non-substantive changes to the Policy can be reviewed and approved by the Head of the Corporation,[9] CMESC Head of Risk, the Chief Compliance Officer of CMESC, or an employee at the level of ''Managing Director'' or above. Administrative changes to the Policy can be reviewed and approved by an employee at the level of ''Executive Director'' or above. The SCMRC will be notified of the revised version of the Policy containing approved non-substantive or administrative changes; revisions and approvals are recorded in the Policy's revision history.

4. Role of the CMESC Margin Working Group

The Role of the CMESC Margin Working Group section sets forth the role of the CMESC Working Group (''Working Group'')—a staff-level working group—consistent with the RMF, in administering the SPAN 2 framework, including monitoring margin levels. The Working Group is one of the primary means for CMESC to identify whether parameter or methodology changes or any other non-routine changes to the SPAN 2 framework are warranted, including changes based on changing market conditions. The Working Group members review the performance of margin levels and review the parameters of the SPAN 2 framework, as necessary. The senior members of the Working Group review and approve certain

[4] Release No. 34–104281 (Dec. 1, 2025), 90 FR 55926 (Dec. 4, 2025), *available at https://www.federalregister.gov/documents/2025/12/04/2025-21908/cme-securities-clearing-inc-order-granting-an-application-for-registration-as-a-clearing-agency.*

[5] *Id.* at 55937.

[6] *Id.* at 55938.

[7] Rule 17ad–22(e), 17 CFR 240.17ad–22(e).

[8] Risk Management team'' collectively refers to the staff- and management-level employees of the ''Risk Management'' function within CMESC, that has various responsibilities related to credit, market, and liquidity risk management, risk methodologies, risk research and development, pricing and valuations, and default management, as described in the CMESC Risk Management Framework (''RMF''). The RMF was submitted to the Commission as part of the Application. Commission determined that ''the CMESC Application establishes a comprehensive risk management framework consistent with Commission rules.'' 90 FR at 55937. The Commission's determination was based, among others, on its review of CMESC's RMF, which provides a comprehensive risk management. framework for CMESC to identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency, consistent with Rule 17ad–22(e)(3). *See* 17 CFR 240.17ad–22(e)(3).

[9] Capitalized terms used herein and not defined have the meanings assigned to such terms in the Rules of CME Securities Clearing Inc. (''Rules''), as applicable, *available at https://www.cmegroup.com/rulebook/CMESC/CMESC%20Rulebook.pdf.*

proposed changes relating to administering the SPAN 2 framework and set the timeline for their implementation. In consultation with CMESC's Policy and Compliance team,[10] the Working Group advises when such changes must be communicated to the SCMRC. In turn, the SCMRC recommends whether such changes must be escalated further within CMESC's governance arrangements. Typically, any changes to the SPAN 2 framework's methodology or parameters are communicated through public advisory notices.

4.1. New Product Group Margins

The New Product Group Margins subsection establishes the protocol for the Working Group to determine the appropriate parameter setting within the SPAN 2 framework for all new product groups, consistent with Policy practices. The parameter setting process will incorporate, if available, relevant data for the underlying product group being launched. For example, if the product group being launched has the same underlying instrument as an existing product group cleared by CMESC, the Working Group generally uses the existing data to fit the new product group into the SPAN 2 framework, assuming sufficient history is available to do so. Where the Working Group lacks sufficient data to calibrate parameters for a new product group, it identifies appropriate proxy data to determine outright margin levels, among other applicable parameters; a senior member of the Working Group may approve the selected proxy and its data set prior to its incorporation into the margin setting process.

5. CMESC SPAN 2 Framework

The CMESC SPAN 2 Framework section describes the core components of CMESC's proprietary risk-based margin model, including its market risk component and liquidity and concentration risk component. The section also describes the design of the margin methodology aiming to achieve a minimum portfolio coverage level of 99% on an *ex post* basis, using parameters based on relevant historical data spanning a prudent historical lookback period and at the same time permitting CMESC's use of additional hypothetical scenarios, consistent with the Purpose and Statement of Policy section. This section further documents that the MPOR is at least two business days. The MPOR used by CMESC is driven by the liquidity characteristics and market structure of products supported, in this instance, U.S. Treasury securities.

Each of the market risk component and liquidity and concentration risk component of the SPAN 2 framework is described in further detail below.

5.1. Market Risk Component

The Market Risk Component subsection describes the market risk component of the SPAN 2 framework that is designed to capture the potential losses a portfolio could incur as a result of daily price movements due to risk factors identified by CMESC (*e.g.,* interest rate and repo rate risks). Three components of the market risk component are described in this subsection, each of which are further described in other subsections of the Policy: filtered historical value-at-risk (''FHVaR''), stress value-at-risk (''SVaR''), and valuation uncertainty margin (''VUM''). Both the FHVaR and SVaR use a percentile to identify the tail of the distribution, or confidence level.

The Market Risk Component subsection further explains that risk factors are financial variables that help explain and measure the risk of a portfolio and are the building blocks for historical simulation of the distribution of the underlying risk (*e.g.,* FHVaR). The Policy further documents that a set of risk factors is identified to capture interest rate risk and repo rate risk exposure within the market risk component.

The interest rate risk factor covers the risk that U.S. Treasury securities change in value over the MPOR due to interest rate moves. Interest rate risk is captured by shocking the zero-rates or the spread between two curves at predetermined offset points. The repo rate risk covers (i) the risk of net interest payments owed over the MPOR and (ii) the risk of changes in the market repo rate over the MPOR and the impacts this would have on the cost of hedging transactions, where CMESC would have to pay the difference of repo interest on hedging transactions when closing out a portfolio.

The Market Risk Component subsection further describes the methodology for computing risk factor returns for historical simulation models, such as the FHVaR methodology described below, and considerations for achieving an appropriate mixture of return properties, such that the return calculation works sensibly across different rate environments, noting that certain risk factors may use different return types.

The Market Risk Component subsection contains three sub-sections that describe each of the FHVaR, SVaR and VUM methodologies in more detail.

5.1.1 FHVaR Methodology

The FHVaR Methodology subsection describes the market risk component's FHVaR as a historical simulation model based on historical interest rate moves and repo rate moves within the market risk component. Rather than using historical market returns to estimate risk, FHVaR adjusts historical returns to reflect current market conditions by normalizing historical returns and scaling these returns considering current market conditions. Historical returns are scaled using an exponentially weighted moving average (''EWMA'') methodology to account for the current environment. The parameterization of the EWMA methodology is designed to ensure that margin calculations will not overreact to the current volatility or market conditions (whether positive or negative) and will foster overall stability in margin calculations. The FHVaR methodology captures historical return data from a rolling lookback period of at least 5 years, which CMESC may supplement with additional historical periods if needed.

The FHVaR Methodology subsection further describes two sub-components of the FHVaR component:

- The FHVaR–I sub-component uses current short-term volatility estimates (from the EWMA methodology) to scale historical returns, which is designed to ensure that margin requirements react appropriately to the most recent market changes.
- The FHVaR–II sub-component uses a target forecast volatility floor to scale the historical returns, which is designed to prevent margin requirements from falling to low levels during relatively calm periods, thus providing a margin buffer in the event of sudden spikes of volatility.

Collectively, the FHVaR sub-components are designed to yield margin requirements that are anti-procyclical, resulting in the necessary margin coverage while maintaining appropriately stable margin requirements. In particular, the target forecast volatility floor within the FHVaR–II sub-component acts as an anti-procyclicality (''APC'') measure, as described above.

[10] ''Compliance & Policy team'' collectively refers to the staff- and management-level employees of the ''Policy & Compliance'' function within CMESC, that is tasked with the responsibility and authority to implement and administer policies and procedures that are designed to ensure that CMESC satisfies its obligations set forth in the Section 17A of the Exchange Act and all other laws and rules applicable to the operation of CMESC's clearance and settlement functions, such as the SEC rules for covered clearing agencies, as described in the RMF.

5.1.2 SVaR Component

The SVaR Component subsection describes the SVaR methodology, the second main component of the market risk component within the SPAN 2 framework. As stated above, the SPAN 2 framework's market risk component is primarily based on the FHVaR and SVaR methodologies to capture the market risk of a portfolio. While FHVaR uses adjusted historical returns to reflect current market conditions, the SVaR component includes historical scenarios that are composed of actual historical events within or outside the FHVaR component's lookback period. The SVaR is designed to act as an additional APC measure, as described below.

Specifically, the SVaR component includes historical scenarios from an unscaled VaR from a rolling lookback period that are not subject to filtering. Specifically, historical returns from a rolling lookback period of at least 5 years and additional stress periods from history that extend beyond the rolling lookback period are used in the SVaR component. Hypothetical scenarios that may not have occurred in history and that are determined by the Working Group as appropriate are also included in the SVaR component.

The SVaR Component subsection further explains how additional historical stress periods are selected (*i.e.,* beyond the rolling lookback period). Under the SVaR Component subsection, the selection of stress periods is based on the following:

- Significant Portfolio Loss: Stress periods exhibiting significant portfolio losses for a varied set of portfolio types of U.S. Treasury securities (including repos with U.S. Treasury securities). The overlapping scenarios corresponding to these losses are selected from shifted-log return and absolute return types of historical moves for risk factors for these portfolios.
- Risk Factor Extreme Moves: Stress periods exhibiting extreme returns for a predefined set of risk factors impacting U.S. Treasury securities and their combinations. The risk factor set includes, but is not limited to, U.S. Treasury curve outright, calendar spreads, butterflies, and repo rate.

The final set of additional stress scenario periods included in the SVaR Component are generated using a combination of the above two selections.

The Policy provides that the SVaR component is designed to act as an additional APC measure by including stress scenarios, regardless of current volatility level, that persists in the margin requirement even during a period of low volatility.

5.1.3 Valuation Uncertainty Margin

The Valuation Uncertainty Margin subsection describes the market risk component's VUM, which dynamically accounts for the profit and loss of the pricing discrepancy between the curve-based U.S. Treasury prices and actual U.S. Treasury prices. The VUM is especially relevant for U.S. Treasury securities, where the underlying bond is priced under the curve.

The calculation of the VUM involves aggregation of portfolio Greeks (*i.e.,* the positions are aggregated and grouped into buckets) and applying shocks derived from historical pricing differences to the aggregated buckets.

5.2. Liquidity & Concentration Risk Component

The Liquidity & Concentration Risk Component subsection describes the liquidity and concentration risk component of the SPAN 2 framework that is designed to account for the additional risks that may arise in closing out a concentrated portfolio of a Defaulting Member or Defaulting User. Specifically, the liquidity and concentration risk component captures the additional costs that may be incurred from closing out a portfolio, including additional costs to close-out a larger portfolio, and to estimate the liquidation risk for concentrated portfolios in the form of tail market risk. The liquidity and concentration risk component accounts for risks separately for each tenor bucket of U.S. Treasury securities and is parameterized leveraging market-based information, such as information from market surveys. Thresholds within the liquidity and concentration risk component are set based on a percentage of average daily volume of U.S. Treasury securities by maturity bucket to determine if additional margin beyond what is required from the market risk component is required to address the potential increased close-out costs.

6. Margin Add-Ons

The Margin Add-Ons section establishes that CMESC, in its sole discretion, may require additional margin from participants, pursuant to the Rules.[11]

(b) Statutory Basis

For the reasons set forth below, CMESC believes the proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934 (''Act''),[12] Rule 17ad–22(b)(2), Rule 17ad–22(e)(4), Rule 17ad–22(e)(6),[13] and Rule 17ad–22(e)(1).[14]

Consistency With Section 17A(b)(3)(F) of the Act

CMESC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act. Section 17A(b)(3)(F) requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest.[15] The Policy codifies CMESC's SPAN 2 framework by documenting the core components of the margin model. As stated above, the Commission reviewed and determined CMESC's SPAN 2 framework as being consistent with Section 17A(b)(3)(F) of the Act. The Policy provides a clear, transparent, and enforceable mechanism for CMESC to administer and implement its margin methodology to cover its exposures, which is essential for the prompt and accurate clearance and settlement of securities and the safeguarding of funds. As such, CMESC believes that the Policy facilitates the prompt and accurate clearance and settlement of securities transactions, which, in turn, promotes the protection of investors and the public interest consistent with Section 17A(b)(3)(F).[16]

Consistency With Rules 17ad–22(b)(2), (e)(4) and (e)(6)

For the same reason, CMESC believes that the proposed rule change is consistent with Rules 17ad–22(b)(2), (e)(4) and (e)(6) under the Act.[17] Rule 17ad–22(b)(2) requires a clearing agency to use margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set margin requirements. Similarly, Rule 17ad–22(e)(4) and (e)(6) generally require a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to cover its credit exposures to each participant fully with a high degree of confidence by maintaining sufficient financial resources and by establishing a risk-

[11] *See* Rule 509(b).

[12] 15 U.S.C. 78q–1(b)(3)(F).

[13] 17 CFR 240.17ad–22(b)(2), (e)(4), (e)(6).

[14] 17 CFR 240.17ad–22(e)(1).

[15] 15 U.S.C. 78q–1(b)(3)(F).

[16] *Id.*

[17] 17 CFR 240.17ad–22(b)(2), (e)(4) and (e)(6).

based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.

The purpose of the Policy is to administer and implement CMESC's SPAN 2 framework for the purpose of determining how much margin will be required for each Participant of CMESC to cover CMESC's credit exposure to such Participant with a high degree of confidence. Specifically, the SPAN 2 framework is designed to cover the potential portfolio losses a Participant Default could incur as a result of price movements over the MPOR with a coverage level of at least 99%. As stated above, the Policy does not change any aspect of the SPAN 2 framework that the Commission reviewed and determined as being ''consistent with Commission rules that help ensure CMESC will collect sufficient margin to cover its exposures. . . and will be able to manage a default and allocate losses appropriately, if or when needed.'' [18] Therefore, CMESC believes that the Policy is consistent with Rules 17ad–22(b)(2), (e)(4) and (e)(6).

Consistency With Rule 17ad–22(e)(1)

Finally, CMESC believes that the proposed rule change is also consistent with Rule 17ad–22(e)(1) under the Act.[19] Rule 17ad–22(e)(1) requires that a covered clearing agency's policies and procedures be reasonably designed to provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions. The Policy documents the core components of CMESC's margin model and provides governance arrangements, including the role of the Working Group, that are essential to the administration and implementation of the margin model and serves to further document CMESC's margin practices in conjunction with the RMF. As such, the Policy enhances transparency and accountability of CMESC's margin practices, which, in turn, will support the legal certainty and enforceability of the Rules regarding margin requirements.

B. CMESC's Statement on Burden on Competition

CMESC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to serve as a policy document to administer and implement CMESC's proprietary risk-based margin model and to document the core components of the margin model without changing any aspect of the SPAN 2 framework that was previously determined by the Commission to be consistent with SEC rules. The proposed rule change does not change any existing, or create additional, rights and obligations of CMESC's Participants that are not already provided in the Rules. As such, CMESC does not believe the proposed rule change would have any impact on burden on competition that does not already exist under the existing Rules or other risk management policies and technical documentation and if it were determined that the proposed rule change impacts burden on competition, such impact would be distributed equally among all CMESC's Participants and would be necessary or appropriate in furtherance of the purposes of the Act.

C. CMESC's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CMESC currently does not have any Members or Users and has not received nor solicited any written comments from others related to this proposal. CMESC has not received any unsolicited written comments from any interested parties. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at *https://www.sec.gov/regulatory-actions/how-to-submit-comments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777. CMESC reserves the right to not respond to any comments 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) of the Act [20] and Rule 19b-4(f)(6) [21] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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-regulations/self-regulatory-organization-rulemaking*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CMESC–2026–005 on the subject line.

Paper Comments

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE, Washington, DC 20549.

All submissions should refer to file number SR–CMESC–2026–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking*). Copies of the filing also will be available for inspection and copying at the principal office of CMESC and on CMESC's website (*https://www.cmegroup.com/market-regulation/rule-filings.html*). Do not include personal identifiable

[18] 90 FR at 55937.

[19] 17 CFR 240.17ad–22(e)(1).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6).

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–CMESC–2026–005 and should be submitted on or before August 28, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–16098 Filed 8–6–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0184]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Form S–6, for Registration Under the Securities Act of 1933 of Unit Investment Trusts Registered on Form N–8B–2

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (SEC or ''Commission'') is submitting to the Office of Management and Budget (OMB) this request for extension of the proposed collection of information.

Form S–6 [1] is a form used for registration under the Securities Act of 1933 (''Securities Act'') [2] of securities of any unit investment trust (''UIT'') registered under the Investment Company Act of 1940 (''Investment Company Act'') [3] on Form N–8B–2.[4] Section 5 of the Securities Act requires the filing of a registration statement prior to the offer of securities to the public and that the statement be effective before any securities are sold.[5] Section 5(b) of the Securities Act requires that investors be provided with a prospectus containing the information required in a registration statement prior to the sale or at the time of confirmation or delivery of the securities.

Section 10(a)(3) of the Securities Act provides that when a prospectus is used more than nine months after the effective date of the registration statement, the information therein shall be as of a date not more than sixteen months prior to such use.[6] As a result, most UITs update their registration statements under the Securities Act on an annual basis in order that their sponsors may continue to maintain a secondary market in the units. UITs that are registered under the Investment Company Act on Form N–8B–2 file post-effective amendments to their registration statements on Form S–6 in order to update their prospectuses.[7] Compliance with Form S–6 is mandatory. Responses to the collection of information will not be kept confidential.

We estimate that approximately 1,014 filings on Form S–6.[8] Based on conversations with fund representatives and the Commission's experience with the filing and amending of Form S–6 and with disclosure documents generally, we estimate that the reporting burden of compliance with Form S–6 is approximately 75 hours per filing. This time is spent, for example, preparing and reviewing the registration statements. Accordingly, we calculate the total estimated annual internal burden of responding to Form S–6 to be approximately 76,050 hours. We estimate that the total cost burden of preparing and filing registration statements on Form S–6 is $55,072,368.

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=202605-3235-017* or email comment to *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* within 30 days of the day after publication of this notice, by September 8, 2026.

Dated: August 4, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–16088 Filed 8–6–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106036; File No. SR–NYSEAMER–2026–71]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the NYSE American Options Fee Schedule To Amend the Manual Billable Rebate Program and Add a Credit Under the Firm Monthly Fee Cap

August 4, 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 31, 2026, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE American Options Fee Schedule (''Fee Schedule'') to amend the Manual Billable Rebate Program that is part of the Floor Broker Fixed Cost Prepayment Incentive Program (the ''FB Prepay Program'') and to add a credit under the Firm Monthly Fee Cap. The Exchange proposes implementing the fee changes effective August 3, 2026. The proposed rule change is available on the Exchange's website at *www.nyse.com* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of,

[22] 17 CFR 200.30–3(a)(12).

[1] 17 CFR 239.16.

[2] 15 U.S.C. 77a *et seq.*

[3] 15 U.S.C. 80a–1 *et seq.*

[4] 17 CFR 274.12. Form N–8B–2 is the form used by UITs other than separate accounts that are currently issuing securities, including UITs that are issuers of periodic payment plan certificates and UITs of which a management investment company is the sponsor or depositor to register under the Investment Company Act pursuant to Section 8 thereof.

[5] 15 U.S.C. 77e.

[6] 15 U.S.C. 77j(a)(3).

[7] Rule 35d–1 under the Investment Company Act requires registered investment companies whose names suggest a focus in a particular type of investment (among other areas) to adopt a policy to invest at least 80 percent of the value of their assets in those investments. UITs that are updating their registration statements on Form S–6 would be required to address these disclosure requirements. *Investment Company Names,* Investment Company Act Release No. 35000, (September 20, 2023).

[8] Based on the number of Form S–6 filings made from 2023 to 2025.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 modify the Fee Schedule to amend the Manual Billable Rebate Program.[4] Specifically, the Exchange proposes a non-substantive name change of the program to ''Manual Billable Program'' and eliminate certain additional rebates available thereunder and replace them with a bonus. In addition, the Exchange proposes to add a Floor Broker credit under the Firm Monthly Fee Cap. The Exchange proposes implementing the fee changes effective August 3, 2026.[5]

Manual Billable Program [6]

The Manual Billable Program, to which the Exchange proposes to change the name from the ''Manual Billable Rebate Program,'' is available to participants as part of the FB Prepay Program, which is an incentive program that allows Floor Brokers that prepay certain of their annual Eligible Fixed Costs to be eligible for the Manual Billable Program.[7] Floor Brokers that participate in the FB Prepay Program are eligible for rebates through the Manual Billable Program payable monthly on transactions for which at least one side is subject to manual transaction fees on a monthly basis.

Under the Manual Billable Program, participants qualify for rebates by achieving certain billable manual volume. The calculation of volume on which rebates earned through the Manual Billable Program would be paid is based on transactions including at least one side for which manual transaction fees are applicable and unless otherwise indicated excludes QCCs. Under the Manual Billable Program, Participating Floor Brokers are entitled to additional rebates, including rebates of: (i) $0.01 per manual billable side; and (ii) $0.01 per two billable side QCC contract, payable back to the first billable side if they exceed, by 2 million combined manual billable and QCC billable contracts, the execution of more than 5 million combined billable and QCC billable contracts by at least 100%.[8]

The Exchange proposes to eliminate these two additional rebates and replace them with a bonus. Specifically, participants in the FB Prepay Program that execute a combined manual billable and QCC billable contracts exceeding 5 million by at least 100% are eligible for a bonus of ($0.01) per two billable side QCC contract, payable back to the first billable side for participants.[9] In addition, participants eligible for this bonus will be eligible for a credit under the Firm Monthly Fee Cap of Section I.I (detailed below).

Floor Broker Credit

The Firm Monthly Fee Cap aggregates the fees associated with Firm Manual transactions (including QCC transactions) and caps them at $250,000 per month per Firm. Once a Firm has reached the Firm Monthly Fee Cap, an incremental service fee of $0.02 per contract for Firm Manual transactions applies, including for the execution of a QCC order. Any fee or volume associated with a Strategy Execution described in Section I.J., (*e.g.,* reversal and conversion, box spread, short stock interest spread, merger spread and jelly roll) is not counted toward the $250,000 cap. Royalty Fees are charged at the rates described in Section I. K., and do not count toward the $250,000 fee cap.[10]

The Exchange now proposes to include a credit for Floor Brokers who have reached the Firm Monthly Fee Cap and are eligible for the bonus under the Manual Billable Program (detailed above).[11] Eligible Floor Brokers will earn a credit on volume associated with Strategy Executions at the rate equal to the total rate achieved in the Manual Billable Program less $0.01 per billable side.[12] The proposed change is intended to incentivize Floor Brokers to continue to direct their strategic executions to the Exchange, thereby increasing liquidity to the benefit of all market participants, by providing a credit for the execution of volume associated with Strategy Executions.

The Exchange believes that the proposed credit is reasonably designed to incent Floor Brokers to increase activity associated with Strategy Executions on the Exchange. Any increase in trading volume would create more trading opportunities for all market participants and would in turn attract additional order flow to the Exchange, further contributing to a deeper, more liquid market to the benefit of all market participants.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act.[14] In particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Rule Change is Reasonable

The Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [15]

There are currently 18 registered options exchanges competing for order flow. Based on publicly available information and, excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[16]

[4] *See* Fee Schedule Section III.E.I.

[5] The Exchange originally filed to amend the Fee Schedule on June 1, 2026 (SR–NYSEAMER–2026–48). SR–NYSEAMER–2026–48 was withdrawn on July 7, 2026 and replaced by SR–NYSEAMER–2026–61. SR–NYSEAMER–2026–61 was withdrawn on July 20, 2026, and replaced SR–NYSEAMER–2026–67. SR–NYSEAMER–2026–67 was withdrawn on August 3, 2026 and replaced by this filing.

[6] Currently referred to on the Fee Schedule as the ''Manual Billable Rebate Program.'' *See* Fee Schedule Section III.E.1. The Exchange proposes a non-substantive change renaming the program ''Manual Billable Program'' and use it throughout the Fee Schedule (*see also* proposed Fee Schedule Sections I.F, footnote, and III.E.1).

[7] *See* Fee Schedule, Section III.E.1.

[8] *Id.*

[9] *See* Proposed Fee Schedule, Section III.E.1.

[10] *See* Fee Schedule, Section I.I.

[11] *See* proposed Fee Schedule, Section III.E.1.

[12] *See* proposed Fee Schedule, Section I.I.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4) & (5).

[15] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

[16] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available at: *https://www.theocc.com/Market-Data/Market-Data-*

Continued

Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in April 2026, the Exchange had 11.20% market share of executed volume of multiply-listed equity and ETF options order flow. In such a low concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. In response to this competitive marketplace, the Exchange proposes to continue its Manual Billable Program with tailored modifications and to adopt a Floor Broker credit as part of the Firm Monthly Fee Cap because it would incentivize Floor Brokers to direct additional Strategy Executions Manual orders to the Exchange, thereby creating more trading opportunities on the Trading Floor for all market participants. Greater liquidity benefits all market participants on the Exchange and increased order flow would increase opportunities for execution of other trading interest.

The Proposed Rule Change Is an Equitable Allocation of Credits and Fees

The Exchange believes that the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities. In addition, the Exchange believes that the proposed rule change does not unfairly discriminate between customers, issuers, brokers or dealers because the program will continue to encourage Floor Brokers to participate in the FB Prepay Program and to provide liquidity on the Exchange. Thus, the modifications will promote trading opportunities and competition on the Floor to the benefit of all market participants.

In addition, the proposal is designed to incent participation on the Trading Floor in an effort to make the Exchange a primary execution venue and to attract more manual transactions to the Exchange. To the extent that the proposed change attracts more Floor Broker orders to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

The Exchange also believes the proposed rule change is an equitable allocation of its fees and credits because the proposed bonus and credit are based on the amount and type of business transacted on the Exchange and Floor Brokers can try to earn the proposed bonus and credit, or not. The Exchange also believes that the proposed change is an equitable allocation of credits and fees because it is intended to support Floor Brokers' role in facilitating the execution of Manual orders, which function benefits all market participants on the Trading Floor.

Moreover, the proposal is designed to incent participation on the Trading Floor to make the Exchange a primary execution venue and to attract more transactions to the Exchange. To the extent that the proposed change attracts more Floor Broker orders to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, accordingly, attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

Finally, the modifications continue the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers. The proposed changes take into account that the Exchange operates in a highly competitive market and that it must, therefore, continually adjust its fees and rebates to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposed rule change reflects this competitive environment.

The Proposed Rule Change Is Not Unfairly Discriminatory

The Exchange also believes that the proposed bonus and credit are not unfairly discriminatory, as they would apply equally to all Floor Brokers participating in the Manual Billable Program, which benefits all market participants. The Exchange further believes that the proposed bonus available to Floor Brokers is not unfairly discriminatory to other market participants because it is intended to encourage the role performed by Floor Brokers in facilitating the execution of orders via open outcry, a function which the Exchange wishes to support for the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition. The proposed modification to the Manual Billable Program and Floor Broker credit are designed to continue to attract order flow to the Exchange by offering Floor Brokers an incentive to continue to direct their order flow to the Exchange, thereby increasing liquidity to the benefit of all market participants.

In addition, the proposed Floor Broker credit and modifications to the Manual Billable Program would apply equally to all similarly situated market participants. To the extent that the Floor Broker credit imposes an additional competitive burden on non-Floor Brokers, the Exchange believes that any such burden is outweighed by the fact that Floor Brokers serve an important function in facilitating the execution of orders and price discovery for all market participants.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the other 17 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply listed equity and ETF options trades. Therefore, currently no exchange possesses significant pricing power in the execution of multiply listed equity and ETF options order flow. More specifically, in April 2026, the Exchange had 11.20% market share of executed volume of multiply listed equity and ETF options order flow.

The proposed Floor Broker bonus and credit are designed to continue to incentivize Floor Brokers to provide liquidity and to attract order flow to the Exchange associated with strategy

Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.

executions on the Exchange. To the extent that the proposed change attracts more Floor Broker orders to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

In addition, to the extent the proposed credit incents Floor Brokers to continue facilitating transactions on the Exchange, all market participants should benefit from increased liquidity, and increased order flow on the Exchange, which would continue to make the Exchange a more competitive venue for order execution, thus supporting market quality for all market participants.

Similarly, the Exchange believes that modification to the Manual Billable Program would not affect intermarket competition. As noted above, the Exchange operates in a highly competitive market in which the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposed change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [17] of the Act and subparagraph (f)(2) of Rule 19b–4 [18] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [19] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEAMER–2026–71 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEAMER–2026–71. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEAMER–2026–71 and should be submitted on or before August 28, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–16101 Filed 8–6–26; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(2).

[19] 15 U.S.C. 78s(b)(2)(B).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106035; File No. SR–NYSEAMER–2026–68]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the NYSE American Options Fee Schedule To Remove MSCI Related Index Options From Certain Tier Discounts and Incentive Programs and Add a Break-Up Credit for Certain Executions in the Customer Best Execution ("CUBE") Auction

August 4, 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 28, 2026, NYSE American LLC ("NYSE American" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE American Options Fee Schedule ("Fee Schedule") to remove MSCI related Index Options from certain tier discounts and incentive programs and adding an MSCI specific break-up credit for executions in the Customer Best Execution ("CUBE") Auction to address a billing system limitation in their removal. The Exchange proposes to implement the fee changes effective July 28, 2026.[4] The proposed rule change is available on the Exchange's website at *www.nyse.com* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] In addition, the Exchange proposes non-substantive changes to: (i) delete the Market Maker Sliding Scale chart for the first half of 2026, which will no longer be effective, as of July 1, 2026; and (ii) adding a "." at the end of the third full sentence of Footnote 2 of the Complex CUBE Auction chart of Fee Schedule Section I.G. ("CUBE Auction Fees & Credits").

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 modify the Fee Schedule to remove MSCI related Index Options from certain tier discounts and incentive programs and adding an MSCI specific break-up credit for executions in the CUBE Auction to address a billing system limitation in their removal.

The Exchange proposes to implement the fee changes effective July 28, 2026.[5]

Currently, the Exchange lists a number of index options for which an MSCI index is the underlying security (*i.e.,* MSCI EAFE Index (MXEA), MSCI Emerging Markets Index (MXEF), MSCI World Index (MXWLD), MSCI ACWI Index (MXACW) and MSCI USA Index (MXUSA)) (collectively the ''MSCI Index Options'').

NYSE American Options Market Makers are eligible for reduced per contract rates for Electronic options transactions based on the Market Maker's electronic average daily volume as a percentage of the TCADV.[6] The Exchange has initiated a plan to remove MSCI products from the multiply-listed American tier treatment to ultimately create MSCI-specific tiers consistent with Index product-specific tier structures employed at other exchanges, such as CBOE's fee structure regarding Indexes (SPX, VIX, etc.).[7]

As an initial step, the Exchange proposes to exclude MSCI Index Options from following fees, credits, rebates and incentive programs:

- A reduction from $0.12 to $0.10 of the per contract surcharge applied to any Electronic Non-Customer Complex Order that executes against a Customer Complex Order for ATP Holders that achieve at least 0.20% of TCADV of Electronic Non-Customer Complex Orders in a month; [8]
- a Non-Penny Rate of $0.80 per contract for Electronic transactions in the Professional range (as defined in Section I.H.) for ATP Holders that achieve Tier 3 or higher in the American Customer Engagement Program (outlined in Section I.E.); [9]
- Per contract credits under the American Customer Engagement (''ACE'') Program; [10]
- Credits payable to the Initiating Participant for each contract in a Contra Order paired with a CUBE Order that does not trade with the CUBE Order because it is replaced in the auction, the ACE Initiating Participant Rebate and the ATP Holder Professional Volume Incentive Initiating Participant Rebate related to the Single-Leg CUBE Auction, Complex CUBE Auction, and the AON Single Leg/AON Complex CUBE Auction; [11]
- Professional Volume Incentive in which ATP Holders that achieve Electronic volume in the Professional range are eligible to receive discounted rates on their total monthly Professional Volume and credits on their monthly Customer Electronic volume; [12] and
- Credit via the ACE Program for initiating orders via the Broadcast Over Liquidity Deliver (''BOLD'') Mechanism.[13]

In addition, the Exchange proposes to introduce a $0.60 break up credit across all CUBE Auctions to address a billing system limitation that prevents the MSCI Index Options from being excluded from the existing break-up credit tier treatment.[14] The proposed credit ($0.60) is in line with break up credits for existing multi-list Non-Penny equity options, which ranges from $0.50 to $0.75.[15]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[17] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [18]

There are currently 18 registered options exchanges competing for order flow. Based on publicly available information and, excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[19] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in May 2026, the Exchange had 10.37% market share of executed volume of multiply-listed equity and ETF options order flow. In such a low

[5] The Exchange originally filed to amend the Fee Schedule on July 1, 2026 (SR–NYSEAMER–2026–58). SR–NYSEAMER–2026–58 was withdrawn on July 14, 2026, and replaced by SR–NYSEAMER–2026–64, which was withdrawn on July 15, 2026 and replaced by SR–NYSEAMER–2026–65. SR–NYSEAMER–2026–65 was withdrawn on July 28, 2026 and replaced by this filing.

[6] *See* Fee Schedule, Section I. Options Transaction Fees and Credits, A. Rates for Options transactions (Note 2) and C. NYSE American Options Market Maker Sliding Scale- Electronic.

[7] *See* CBOE Fee Schedule at *Cboe_FeeSchedule.pdf.*

[8] *See* Fee Schedule proposed, Section I. Options Transaction Fees and Credits, A. Rates for Options transactions, Note 5.

[9] *See* Fee Schedule proposed Section I. Options Transaction Fees and Credits, A. Rates for Options transactions, Note 8.

[10] *See* Fee Schedule proposed Section I. Options Transaction Fees and Credits, E. American Customer Engagement (''ACE'') Program.

[11] *See* Fee Schedule proposed Section I. Options Transaction Fees and Credits, G. CUBE Auction Fees and Credits, Single-Leg CUBE Auction, Complex CUBE Auction AON Single-Leg or AON Complex CUBE Auction, tables Notes 1 through 3.

[12] *See* Fee Schedule proposed Section I. Options Transaction Fees and Credits, H. Professional Volume Incentive.

[13] *See* Fee Schedule proposed Section I. Options Transaction Fees and Credits, M. BOLD Mechanism Fees & Credits.

[14] *See* Fee Schedule proposed Section I. Options Transactions Fees and Credits, G. CUBE Auction Fees & Credits.

[15] *See* Fee Schedule (i) page 16, Single-Leg CUBE Auction ''Initiating Participant Credit—Non-Penny credit $0.60 per contract credit with $0.70 tier; (ii) page 18–19 Professional Volume Incentive Initiating Participant Rebate—All Users Comple CUBE breakup non-penny tiers of $0.50–&0.75; and (iii) page 19, Initiating Participant Non-Penny credit of $0.70 for AON Single-Leg or AON Complex CUBE Auction.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4) and (5).

[18] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

[19] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available at: *https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow.

The Exchange believes that the removal of MSCI Index Options from certain credit tiers and incentive programs is reasonable, equitable, and not unfairly discriminatory. Their removal provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between OTP Holders and OTP Firms. Moreover, the removal is the first stage of a longer term plan to create MSCI tiers so as to be consistent with the index tiers of other options exchanges.

In addition, the proposed break up credit is likewise reasonable, equitable, and not unfairly discriminatory in that, as noted above, it is consistent with break up credits for existing multi-list Non-Penny equity options, which range from $0.50 to $0.75.[20]

Finally, the removal of MSCI Index Options from certain tiers and the breakup credit will apply equally to all affected market participants. As for MSCI Index Options, trading in them is voluntary, and all similarly situated market participants would be subject to the same fee structure, on an equal and non-discriminatory basis, as proposed.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition. The Exchange believes that the proposed removal of MSCI Index Options from certain credit tiers and the breakup credit would not affect intramarket competition because, as noted above, it would impact all market participants equally and, therefore, would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange believes that the removal of the MSCI Index Options from certain tier credits and incentive programs would not affect intermarket competition. As noted above, the Exchange operates in a highly competitive market in which the Exchange must continually adjust its fees and rebates to retain competitive with other exchanges and to attract order flow to the Exchange. Moreover, the removal is the first stage of a longer term plan to create MSCI tiers so as to be consistent with the index tiers of other options exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[21] of the Act and subparagraph (f)(2) of Rule 19b–4[22] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[23] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEAMER–2026–68 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEAMER–2026–68. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEAMER–2026–68 and should be submitted on or before August 28, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–16100 Filed 8–6–26; 8:45 am]

BILLING CODE 8011–01–P

[20] *See* Fee Schedule *supra,* Note 14.

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(2).

[23] 15 U.S.C. 78s(b)(2)(B).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0236]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension: Form N–54C

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''SEC'' or ''Commission'') is soliciting comments on the proposed collection of information.

Certain investment companies can elect to be regulated as business development companies, as defined in section 2(a)(48) of the Investment Company Act of 1940 (''Investment Company Act''), under sections 55 through 65 of the Investment Company Act. Under section 54(a) of the Investment Company Act,[1] any company defined in section 2(a)(48)(A) and (B) of the Investment Company Act may, if it meets certain enumerated eligibility requirements, elect to be subject to the provisions of Sections 55

[1] 15 U.S.C. 80a–53(a).

through 65 of the Investment Company Act by filing with the Commission a notification of election. Under section 54(c) of the Investment Company Act,[2] any business development company may voluntarily withdraw its election under section 54(a) of the Investment Company Act by filing a notice of withdrawal of election with the Commission. The Commission has adopted Form N–54C as the form for the notification of withdrawal of election to be subject to Sections 55 through 65 of the Investment Company Act. The purpose of Form N–54C is to notify the Commission that the business development company withdraws its election to be subject to Sections 55 through 65 of the Investment Company Act.

The Commission estimates that on average approximately eight business development companies file notifications on Form N–54C each year. Each of those business development companies need only make a single filing of Form N–54C. The Commission further estimates that this information collection imposes a burden of one internal hour, resulting in a total annual internal burden of eight hours. The form involves legal judgments and therefore, the Commission estimates that the internal annual time burden will be based on legal time. Based on the estimated wage rate of $774 per hour, the total estimated internal time costs to business development companies of the hour burden for complying with Form N–54C would be approximately $6,192.[3] Further, based on an estimated external cost burden of $232 per filing, the total estimated annual external cost burden to comply with Form N–54C would be $1,856.[4]

The collection of information under Form N–54C is mandatory. The information provided by the form is not kept confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Written comments are invited on: (a) whether this proposed collection of information is necessary for the proper performance of the functions of the SEC, including whether the information will have practical utility; (b) the accuracy of the SEC's estimate of the burden imposed by the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated, electronic collection techniques or other forms of information technology.

Please direct your written comments on this 60-Day Collection Notice to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg via email to *PaperworkReductionAct@sec.gov* by October 6, 2026.

Dated: August 5, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–16148 Filed 8–6–26; 8:45 am]

BILLING CODE 8011–01–P

[2] 15 U.S.C. 80a–53(c).

[3] To calculate the occupational hourly rates, the Commission uses occupational mean hourly wage data from the Occupational Employment and Wage Statistics (OEWS) program of the Bureau of Labor Statistics (BLS) for ''Securities, Commodity Contracts, and Other Financial Investments and Related Activities'' (NAICS 523)]. *See Occupational Employment and Wage Statistics,* U.S. BUREAU OF LABOR STATISTICS, *https://www.bls.gov/oes/; see also Standard Occupational Classification,* U.S. BUREAU OF LABOR STATISTICS, *https://www.bls.gov/soc/* (describing occupational classification system used by BLS); EXEC. OFF. OF THE PRESIDENT, OFF. OF MGMT. & BUDGET, NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (2022), *available at https://www.census.gov/naics/reference_files_tools/2022_NAICS_Manual.pdf* (describing the industry classification system used by BLS and other agencies). The mean hourly wage for each occupation is adjusted for changes in the seasonally adjusted employment cost index for private wages and salaries between the data reference period and when the data are released by BLS. *See Employment Cost Index,* U.S. BUREAU OF LABOR STATISTICS, *https://www.bls.gov/eci/.* The adjusted mean hourly wage is then multiplied by a factor that accounts for nonwage costs borne by employers, such as bonuses, benefits, and overhead. This factor is calculated as an average over the 10 most recently available years of data of the ratio of the Bureau of Economic Analysis's annual gross output data for NAICS 523 to total annual wages across all occupations for NAICS 523 in the OEWS data. *See Gross Output by Industry,* U.S. BUREAU OF ECONOMIC ANALYSIS, *https://www.bea.gov/data/industries/gross-output-by-industry; Occupational Employment and Wage Statistics,* U.S. BUREAU OF LABOR STATISTICS, *https://www.bls.gov/oes/.* The final product is the occupational hourly rate. *See generally* UPDATED METHODOLOGY FOR CALCULATING OCCUPATIONAL HOURLY RATES (Dec. 19, 2025), *available at https://www.sec.gov/files/method-occupational-hourly-rates.pdf.* This estimate is based on the three-year average number of filings submitted to the Commission on Form N–54–C from 2023 through 2025 [(6 filings (2023) + 7 filings (2024) + 12 filings (2025) = 25 filings/3 = 8 filings, as rounded]. 8 filings × $774 per filing = $6,192.

[4] This estimate is based on .3 hours of legal time at $774 per hour = $232, as rounded. $232 × 8 filings = $1,856, total annual external burden. *See supra* footnote 3 (discussing wage rates).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0636]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 0–2 Under the Investment Company Act of 1940, General Requirements of Papers and Applications

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''SEC'' or ''Commission'') is submitting to the Office of Management and Budget (OMB) this request for extension of the proposed collection of information.

Several sections of the Investment Company Act of 1940 (''Act'' or ''Investment Company Act'')[1] give the Securities and Exchange Commission (''Commission'') the authority to issue orders granting exemptions from the Act's provisions. The section that grants broadest authority is section 6(c), which provides the Commission with authority to conditionally or unconditionally exempt persons, securities or transactions from any provision of the Investment Company Act, or the rules or regulations thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.[2] Congress enacted section 6(c) to give the Commission the flexibility to address unforeseen or changed circumstances in the investment company industry. Rule 0–2 under the Investment Company Act,[3] entitled ''General Requirements of Papers and Applications,'' prescribes general instructions for filing an application seeking exemptive relief with the Commission.

Rule 0–2(c)(1) requires that every application for an order for which a form is not specifically prescribed and which is executed by a corporation, partnership or other company and filed with the Commission contain a statement of the applicable provisions of the articles of incorporation, bylaws or similar documents, relating to the right of the person signing and filing such

[1] 15 U.S.C. 80a–1 *et seq.*

[2] 15 U.S.C. 80a–6(c).

[3] 17 CFR 270.0–2.

application to take such action on behalf of the applicant, and a statement that all such requirements have been complied with and that the person signing and filing the application is fully authorized to do so. If such authorization is dependent on resolutions of stockholders, directors, or other bodies, such resolutions must be attached as an exhibit to or quoted in the application. Any amendment to the application must contain a similar statement as to the applicability of the original statement of authorization. When any application or amendment is signed by an agent or attorney, rule 0–2(c)(1) requires that the power of attorney evidencing his authority to sign shall state the basis for the agent's authority and shall be filed with the Commission. Every application subject to rule 0–2 must be verified by the person executing the application by executing an instrument in substantially the form specified in the rule. Each application subject to rule 0–2 must state the reasons why the applicant is deemed to be entitled to the action requested, the name and address of each applicant, and the name and address of any person to whom any questions regarding the application should be directed. Electronic filing of all applications for orders under the Investment Company Act is mandatory. Each application subject to rule 0–2 is a one-time request and the rule itself does not impose any ongoing obligations or burdens on the part of an applicant. Compliance with rule 0–2 is required to obtain or retain benefits.

We estimate that approximately 139 registrants use rule 0–2 to make exemptive applications.[4] Based on conversations with fund representatives and the Commission's experience with the use of rule 0–2, we estimate that the reporting burden of compliance with rule 0–2 is approximately 20 hours per respondent. This time is spent, for example, preparing the application to submit to the Commission. Accordingly, we calculate the total estimated annual internal burden of complying with rule 0–2 to be approximately 2,780 hours. We estimate the annual external costs to be $10,341,600. These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

[4] This estimate is based on the annual average of the number of total exemptive applications for the three year period ended December 2025 (1,251 applications/3 = 417), of which approximately ⅔ are amendments (417 × (⅔) = 139 new exemptive applications).

This collection of information is necessary to obtain a benefit and will not be kept confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr*=202605–3235–019 or email comment to *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* within 30 days of the day after publication of this notice, by September 8, 2026.

Dated: August 4, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–16087 Filed 8–6–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106033; File No. SR–MRX–2026–32]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 3, Section 1 and Options 3C, Section 4(d)

August 4, 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 27, 2026, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (i) amend Options 3, Section 1 to make clear that certain eligible equity and index options are eligible for trading during extended trading hours pursuant to Options 3C, and (ii) amend Options 3C, Section 4(d) to specify that orders will not be routable during the Early ETH Session (as defined below).

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/mrx/rulefilings,* and at the principal office of the Exchange.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 Commission recently approved the Exchange's proposed rule change to adopt Extended Trading Hours [3] for certain multi-listed equity options and certain index options.[4] Pursuant to that proposal, the Exchange adopted Options 3C, Section 4(d), which provides that orders are not routable during ETH. As such, all orders during ETH would be required to be entered as Do-No-Route (''DNR'') orders and may be repriced pursuant to Options 3, Section 5(d).[5] The Exchange now proposes to replace the references to ''ETH'' with ''the Early ETH Session'' in Options 3C, Section 4(d) to reflect that orders will not be routable during the Early ETH Session.

[3] ''Extended Trading Hours'' or ''ETH'' means the trading hours outside of regular trading hours (''Regular Trading Hours'' or ''RTH'') of 9:30 a.m. ET to 4:00 p.m. ET (or 4:15 p.m. ET for certain products pursuant to Options 3, Section 1) and covers: (1) the early extended trading hours session (''Early ETH Session''), which is conducted from 7:30 a.m. Eastern Time (''ET'') to 9:25 a.m. ET; and (2) the extended close (''Extended Close''), where trading will continue until 4:15 p.m. ET. *See* Options 3C, Sections 1(b), 2(a), and 2(b).

[4] *See* Securities Exchange Act Release No. 105785 (June 26, 2026), 91 FR 40061 (July 1, 2026) (SR–MRX–2026–11).

[5] Options 3, Section 5(d) provides that an order would not be executed at a price that trades through another market or displayed at a price that would lock or cross another market and that an order that is designated by a Member as non-routable would be re-priced in order to comply with applicable trade-through and locked and crossed markets restrictions. If, at the time of entry, an order that the entering party has elected not to make eligible for routing would cause a locked or crossed market violation or would cause a trade-through violation, it would be re-priced to the current national best offer (for bids) or the current national best bid (for offers) as non-displayed, and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.

As such, all orders during the Early ETH Session will be required to be entered as Do-Not-Route (''DNR'') orders and may be repriced pursuant to Options 3, Section 5(d). As adopted, the definition of ETH encompasses both the Early ETH Session and the Extended Close. With the changes proposed herein, the Exchange will allow orders to be routable during the Extended Close to align with how the Exchange currently allows orders in certain designated ETF options to trade and be routable on the Exchange until 4:15 p.m.

The Exchange also proposes a clarifying change in new paragraph (f) of Options 3, Section 1 (Hours of Business) to make clear that certain equity and index options may be designated as eligible for trading during Extended Trading Hours, pursuant to Options 3C.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Specifically, the Exchange believes the proposed rule change promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market because it clarifies the scope of when orders will not be routable during ETH. As adopted, Options 3C, Section 4(d) requires that all orders during ETH be entered as DNR orders. Because the definition of ETH encompasses both the Early ETH Session and the Extended Close, the current rule text does not reflect the Exchange's intent to permit routing during the Extended Close. By narrowing the scope to the Early ETH Session only, the Exchange is aligning the treatment of orders during the Extended Close with how the Exchange currently permits orders in certain designated ETF options to trade and be routed until 4:15 p.m. ET. Permitting routing during the Extended Close promotes consistency and avoids subjecting market participants to disparate routing treatment during the same time period between 4:00–4:15 p.m. ET.

The Exchange further believes that the proposed clarifying changes to add new paragraph (f) to Options 3, Section 1 to make clear that certain equity and index options may be designated as eligible for trading during Extended Trading Hours removes impediments to a free and open market, and, in general, protects investors and the public interest by promoting transparency and clarity in the Exchange's rulebook. Specifically, the proposed changes ensure that the Exchange's rules provide market participants with a clear, consolidated framework of the Exchange's trading hours.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes will apply in the same manner for all eligible options listed for trading during ETH, and all eligible options listed for trading during ETH will be open for trading for all market participants at the same time. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes merely relate to clarifying the scope of order routability during ETH and adding a cross reference to ETH trading in the Exchange's trading hours rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–MRX–2026–32 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–MRX–2026–32. 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–MRX–2026–32 and should be submitted on or before August 28, 2026.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–16096 Filed 8–6–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0434]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 15g–2

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''SEC'' or ''Commission'') is submitting to the Office of Management and Budget (''OMB'') this request for extension of the proposed collection of information provided for in Rule 15g–2 (17 CFR 240.15g–2) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act'').

In adopting Rule 15g–2, the Commission sought to combat the unscrupulous, high-pressure sales tactics of certain broker-dealers by imposing objective and readily reviewable requirements on the process by which customers are induced to purchase low-priced stocks: [1]

- Rule 15g–2(a) prohibits a broker-dealer from effecting a transaction in a penny stock for, or with, the account of a customer unless, prior to effecting the first such transaction, the broker-dealer: (1) provides to the customer a disclosure document containing, among other things, the information set forth in Schedule 15G under the Exchange Act (''penny stock disclosure document''); and (2) receives a signed and dated acknowledgement of receipt of that document by the customer. The penny stock disclosure document gives several important warnings to investors concerning the penny stock market, and cautions investors against making a hurried investment decision;
- Rule 15g–2(b) prohibits a broker-dealer from effecting a transaction in any penny stock for, or with, the account of a customer less than two business days after the broker-dealer sends the customer the penny stock disclosure document;
- Rule 15g–2(c) requires broker-dealers to maintain a copy of a customer's written acknowledgement for at least three years following the date on which the risk disclosure document was provided to the customer, the first two years in an accessible place; and
- Rule 15g–2(d) requires a broker-dealer, upon request of a customer, to furnish the customer with a copy of certain information set forth on the Commission's website.

The Commission estimates that approximately 162 broker-dealers are engaged in penny stock transactions and that each of these firms processes an average of three new customers for penny stocks per week (52 weeks per year × 3 transactions per week = 156 transactions per year). The Commission further estimates that half (or 81) of the broker-dealers send the penny stock disclosure documents by mail, and the other half send them through electronic means such as email. Because the Commission estimates that the copying and mailing of the penny stock disclosure document takes approximately two minutes, there is an aggregate annual burden of approximately 421.2 hours (2 minutes per response × 1 hour per 60 minutes × 156 responses per respondent × 81 respondents) for this third-party disclosure burden. Additionally, because the Commission estimates that sending the penny stock disclosure document electronically takes approximately one minute, there is an aggregate annual burden of approximately 210.6 hours (1 minutes per response × 1 hour per 60 minutes × 156 responses per respondent × 81 respondents) for this third-party disclosure burden.

Broker-dealers also incur a recordkeeping burden of approximately two minutes per response when processing penny stock disclosure documents as required pursuant to Rule 15g–2(c). As such, respondents incur an aggregate annual recordkeeping burden of approximately 842.4 hours (2 minutes per response × 1 hour per 60 minutes × 156 responses per respondent × 162 respondents) for this recordkeeping burden.

In addition, approximately 25% of the 156 customers who receive a penny stock disclosure document from their broker-dealer each year also request that their broker-dealer provides them with the additional information under Rule 15g–2(d), for a total of 39 customers per year (156 respondents per year × 0.25). Because the Commission estimates that the copying and mailing of the disclosure document containing the additional information takes approximately two minutes, there is an aggregate annual burden of approximately 210.6 hours (2 minutes per customer × 1 hour per 60 minutes × 39 customers per respondent × 162 respondents) for this third-party disclosure burden.

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=202605-3235-025* or email comment to *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* within 30 days of the day after publication of this notice, by September 8, 2026.

Dated: August 4, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–16086 Filed 8–6–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106034; File No. SR–NASDAQ–2026–062]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Equity 7, Section 122 To Remove Daily List and Fundamental Data From the Nasdaq Rulebook and Clarify How Certain Information Will Be Distributed

August 4, 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 29, 2026, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify how the exchange makes certain

[10] 17 CFR 200.30–3(a)(12).

[1] *See* Exchange Act Release No. 51983 (Jul. 7, 2005), 70 FR 40613 (Jul. 13, 2005).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

corporate actions information publicly available, as further described below, and to remove fees from the Nasdaq rulebook by deleting Equity 7, Section 122(e).

The Exchange will announce via Exchange Notice the implementation date of the proposed rule change no later than 90 days after the operative date of this rule filing.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings,* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to modify how the Exchange makes certain corporate actions information publicly available and to remove the fees associated with Nasdaq's Daily List in Equity 7, Section 122(e).

Pursuant to its role as a listing venue, Nasdaq receives certain information about listed companies,[3] which is compiled into the Daily List and Fundamental Data report. This information may include corporate action items such as stock splits, new listings, spin-offs, suspensions and delistings, name or trading symbol changes, and information about mergers and acquisitions, as well as certain information related to dividends, among other data, which is compiled into the Daily List and Fundamental Data[4] report. Certain information in the Daily List and Fundamental Data report is under the sole control of the Exchange in its role as a listing venue, such as financial status and X- date. The Exchange is now proposing to make such information that is under the control of the Exchange in its role as a listing venue available for free for any use on NasdaqTrader.com or successor website at least fifteen minutes prior to the time such information is included in the Daily List and Fundamental Data Report. In addition, the Exchange receives information that is under the control of issuers prior to the time that other market participants receive it. Nasdaq will wait a minimum of fifteen minutes between the issuance of information publicly by an issuer via press release and the time that Nasdaq includes such information for dissemination in its Daily List and Fundamental Data reports.

As a result of this proposal, Nasdaq will not have unique access to any information, including information generated by or provided to the Exchange in its role as a listing venue and any new information the Exchange may receive in the future in its role as a listing venue, and therefore Nasdaq will not have any competitive advantage relative to any market participant with respect to the gathering and dissemination of such information.

The Daily List is a compendium of corporate actions information—including new listings, delistings, trading symbol changes, name changes, dividends, and other information—for the Nasdaq Stock Market.[5] It is comprised of the following sets of information:

Nasdaq Equity Data: Provides notification of corporate actions information such as new listings, delistings, corporate name changes, trading symbol changes, market tier changes, and Financial Status Indicator (''FSI'') changes that occur on the Nasdaq Global Select Market, Nasdaq Global Market and Nasdaq Capital Market.

Dividends: Provides notification of cash dividends, stock dividends, and stock splits impacting Nasdaq-listed securities.

Next Day Ex-Date: Summarizes the securities with dividend adjustments to be applied to the previous closing price on the next business day.

The Daily List also includes a symbol directory and a list of dual-listed securities for reference.

Full historical information is available starting on May 24, 1999. Daily List files for the current business month are available for download via a secured file transfer protocol (''FTP'') interface, and from a secured website. The Daily List is updated every 15 minutes between 7:00 a.m. and 10:00 p.m. on trading days, and a consolidated report of all intraday updates is disseminated at the end of the day; as such, Daily List information is neither provided on a real-time basis nor is it time sensitive.

Nasdaq Fundamental Data provides security master and market summary statistics on a T+1 basis for Nasdaq-listed securities. The Fundamental Data report contains start of trading day information on Nasdaq equities, including trading summary data such as high and low price, total shares outstanding (''TSO''), Nasdaq Official Closing Price (''NOCP''), and public float. This information is publicly available on a delayed basis on *NasdaqTrader.com.*

Fundamental Data is supplemental information distributed with the Daily List as part of a package under a single price. The Fundamental Data report cannot be purchased separately from the Daily List but is downloadable as a separate file via the same secured website or secured FTP server as the Daily List. The fee for receipt of the Daily List and Fundamental Data report is currently $3,500 per month,[6] which fee will be removed from the Nasdaq rulebook based on the changes proposed herein.

Proposed Changes

Nasdaq proposes to make the following information publicly available on a no-charge basis on NasdaqTrader.com or successor website, at least fifteen minutes before it is made available through the Daily List. Nasdaq receives this information in its role as listing venue or it is generated by Nasdaq as a listing venue, and it will be made freely available to the public. The publication of the following information at least fifteen minutes before it is

[3] The information is typically provided to the Exchange via Nasdaq's Listing Center or via direct correspondence and includes a draft of the press release that the issuer makes available to all market participants. Nasdaq treats the information as confidential until the issuer makes it public. *See* Nasdaq Listing Center Terms of Service, Section 7, available at *https://listingcenter.nasdaq.com/assets/NASDAQ_Listing_Center_User_Agreement.pdf?vs=0.9243248468732708.*

[4] Fundamental Data provides security master and market summary statistics on a T+1 basis for Nasdaq securities.

[5] *See* Nasdaq, *Daily List,* available at *http://www.nasdaqtrader.com/Trader.aspx?id=DailyListPD; see also* Securities Exchange Act Release No. 68636 (January 11, 2013), 78 FR 3940 (January 17, 2013) (SR–Nasdaq–2013–009) (establishing fees for the Daily List and Fundamental Data products); Securities Exchange Act Release No. 34–79701 (December 29, 2016), 82 FR 1381 (January 5, 2017) (SR–Nasdaq–2016–175); Securities Exchange Act Release No. 34–100416 (June 25, 2024), 89 FR 54545 (July 1, 2024) (SR–Nasdaq–2024–027) (establishing the current monthly fee for the Daily List and Fundamental Data).

[6] Equity 7, Section 122(e).

included in the Daily List will enable any market participant to assemble the same set of corporate actions information, drawing from NasdaqTrader.com and other public information issuers release:

(i) *Downgrade Reason,* which is the reason an issuer is changing market categories, which can be either because of a company request or due to a failure to qualify, which standards are set by the Exchange;

(ii) *Financial Status,* which is the financial status of an issuer, such as when an issuer has failed to submit its regulatory filings on a timely basis, has failed to meet Nasdaq's continuing listing standards, and/or has filed for bankruptcy (Nasdaq's continuing listing standards are set by the Exchange);

(iii) *Issue Events,* which include security additions, anticipated security additions, issue suspensions, issue deletions, market class changes, and financial status changes, all of which the Exchange has the ability to either set the standards for or other control over due to its status as an SRO;

(iv) *Market Category,* which includes the market category and newspaper category [7] of a Nasdaq issuer, the category assigned to an issuer by Nasdaq based on Nasdaq's listing requirements, and the market category of a security listed on the Exchange;

(v) *Old Financial Status*, which is similar to Financial Status, and reflects the current financial status of a Nasdaq-listed issuer and also denotes if a Nasdaq issuer is delinquent in its regulatory filings, below Nasdaq continuing listing requirements, and/or bankrupt;

(vi) *When Distributed,* which indicates if a security is in the 'When Issued' state and if the security is in the 'When Distributed' state, both of which can be influenced by the actions of the Exchange in its role as an SRO; and

(vii) *X-Date,* which is the X-date of a dividend, or the date that the issue will be quoted without the value of the dividend and is set by the Exchange, usually on a T–1 basis, based on notification by an issuer of an upcoming dividend.

Financial Status, Market Category and X-Date are already publicly provided in the Nasdaq Trader public FTP.[8]

Following the operative date of this Proposal, Nasdaq will publish the remaining items, Downgrade Reason, Issue Events, Old Financial Status, and When Distributed (together with Financial Status, Market Category, and X-Date, ''FTP Information''), in the same place, the public FTP on *NasdaqTrader.com,* free of charge, and available for any purpose (including redistribution) at least fifteen minutes before publication on the Daily List. This proposed new file containing FTP Information will be made available on the Exchange's public website for free to any party, for any purpose (including redistribution) at least fifteen minutes before it is disseminated via the Daily List.

Furthermore, with respect to other information included in the Daily List that is not generated by Nasdaq but that Nasdaq receives early in its role as a listing venue and is made publicly available from other sources, such as issuer press releases and the Commission website, and not under the control of the Exchange—such as dividend announcements, stock splits, name changes, symbol changes, and mergers—Nasdaq will implement a time delay of fifteen minutes between when such information is made publicly available by the issuer's publication of a press release and Nasdaq's publication of such information on the Daily List product. This time delay provides competing vendors with plenty of time to acquire the information, including potentially from Nasdaq's free FTP described above, to develop and distribute comparable products within a similar timeframe to Nasdaq's publication. Vendors are already aware of the sources of corporate actions information, such as the Commission's website, issuer websites, and issuer press releases, so news of corporate actions should not only not be a surprise, but vendors should already have mechanisms set up to gather data from these sources upon release.[9] In Nasdaq's experience, fifteen minutes is more than sufficient time for modern technology to gather data, compile it, and disseminate it to purchasers, such that Nasdaq will not have any inherent advantage compared to competing vendors in the corporate actions product space.[10]

With the publication of all the information contained in the Daily List and Fundamental Data report either through the FTP Information or issuer press release, in either case at least fifteen minutes prior to dissemination via the Daily List, Nasdaq proposes to remove the Daily List and Fundamental Data fee from its rulebook.[11] This is consistent with, although not identical to, the practice of the New York Stock Exchange, which both makes certain corporate actions information received in its role as a listing venue available free of charge,[12] and sources the information from there for their separate corporate actions product, which it sells separately as a vendor of information.[13] The Daily List and Fundamental Data report fees of $3,500 per month will be removed from the Nasdaq rulebook.

This proposal will not change the corporate actions information available in the market, as the Daily List and Fundamental Data report will continue to contain the same information, and all of the information provided in it will be publicly available at least fifteen minutes prior to publication of the Daily List through a combination of the free public FTP and from issuer-provided sources.

Nasdaq receives certain of the information compiled into the Daily List and Fundamental Data report directly from issuers in advance of that information becoming public. However, Nasdaq contractually cannot make any of that information public prior to the issuer first doing so. By implementing a minimum fifteen-minute delay from the time issuers make this information public until Nasdaq disseminates it via the Daily List, Nasdaq believes competitors will have an ample buffer of time in which to collect the same information that the Exchange received and compile it into their own product (potentially even before Nasdaq's fifteen-minute-delayed dissemination of the Daily List), thus ensuring that Nasdaq does not have any time advantage in the dissemination of the Daily List.

Nasdaq believes that this fifteen-minute delay is sufficient time for other vendors to compile and distribute a competing corporate actions product. As discussed above, the information subject to the fifteen-minute delay—such as dividend announcements, stock splits, name changes, and mergers—originates from issuers and is available from

[7] The newspaper category of a security refers to the classification or abbreviation used for print newspapers, and usually just refers to the Nasdaq market on which the security is listed.

[8] *See NasdaqTrader.com, Symbol Lookup,* available at *https://www.nasdaqtrader.com/trader.aspx?id=symbollookup* (Public FTP downloadable file) and *NasdaqTrader.com, Nasdaq Ex-Date,* available at *https://www.nasdaqtrader.com/Trader.aspx?id=nasdaq-ex-date.*

[9] In fact, Nasdaq itself gathers and reviews information from these public sources to verify it for Daily List publication.

[10] *See infra* n.14 and accompanying text.

[11] Equity 7, Section 122(e).

[12] Securities Exchange Act Release No. 101516 (November 5, 2024), 89 FR 89061 (November 12, 2024) (SR–NYSE–2024–68). *See also* NYSE, Ex-Date Dividends, available at *https://www.nyse.com/trade/ex-date-dividends,* and NYSE, Corporate Actions, available at *https://www.nyse.com/trade/corporate-actions.*

[13] *See* NYSE, Corporate Actions, available at *https://www.nyse.com/market-data/corporate-actions.*

sources outside Nasdaq's control, including issuer press releases and information available on the Commission's website.[14] While Nasdaq does not have insight into how competing data vendors gather information, we assume that they maintain automated monitoring systems that track these same public sources as a core part of their existing business operations, which, in Nasdaq's experience, can scrape and compile the information at the press of a button, and certainly faster than fifteen minutes. The corporate actions data contained in the Daily List consists of discrete, structured data fields—specific dates, symbols, numerical values, and defined event types—that can be identified, parsed, and compiled by automated systems in a matter of seconds once publicly released by an issuer, and compiled into a product similarly quickly. Fifteen minutes therefore provides more than sufficient time for any vendor employing current data aggregation technology to acquire and process the relevant information and to assemble a competing product.

Critically, the information that is uniquely within Nasdaq's control as a listing venue—the FTP Information described above—will be published simultaneously to all market participants on NasdaqTrader.com, free of charge and available for any use, including redistribution, prior to the dissemination of the Daily List. The fifteen-minute delay applies both to the FTP Information and to information that competitors can—and do—independently monitor from public sources—Nasdaq will not include either in the Daily List until such information has been publicly available for a minimum of fifteen minutes.[15] Taken together, the release of FTP Information and publicly available information from issuer press releases and the fifteen-minute delay that applies to both, ensure that Nasdaq does not possess a time advantage in the compilation and distribution of corporate actions data.

The Exchange will announce via Exchange Notice the implementation date of the proposed rule change no later than 90 days after the operative date of this rule filing.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Section 6(b)(5) of the Act,[17] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Daily List and Fundamental Data report information provided by the Exchange on its public website is disseminated by Nasdaq in its capacity as a provider of financial data for the benefit of investors and market participants, not in its capacity as an exchange. With this proposal, Nasdaq market data systems would not have unique access to any information, including information provided to the Exchange in its role as a listing venue and any new information the Exchange may receive in the future in its role as a listing venue, and therefore Nasdaq would not have any competitive advantage relative to any market participant with respect to the gathering and dissemination of such information. Furthermore, as Nasdaq will implement a minimum fifteen minute delay between the time an issuer makes public information that Nasdaq confidentially received in its role as a listing venue or the publication of the FTP Information and the time that Nasdaq disseminates such information on the Daily List, Nasdaq will also not be time-advantaged in the compilation and dissemination of the Daily List compared to any other vendor's competing corporate actions product.

The information described above will be made publicly available on the Exchange's website, at the public FTP on NasdaqTrader.com, for free to any party, for any purpose (including redistribution) at least fifteen minutes prior to its publication on the Daily List. Consequently, the publication of FTP Information, together with the information published by listed companies that is generally available in the public domain, including on the Commission's website and other sources, and the fifteen minute delay prior to dissemination by Nasdaq, would enable any market participant to contemporaneously assemble its own set of market data products containing the same information as the Daily List and Fundamental Data product and distribute to purchasers on the same time frame as Nasdaq. Nasdaq's Daily List product will not contain any information that is not publicly available to any other market participant.

This is consistent with the practice of the New York Stock Exchange, which both makes certain corporate actions information available free of charge,[18] and also sells additional corporate actions information separately as a vendor of information.[19]

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.[20]

The Exchange believes the proposal will benefit investors and the marketplace because information the Exchange has received in its role as a listing venue that Nasdaq provides to its subscribers, would be disseminated via publicly available files, and all information included in the Daily List would be delayed a minimum of fifteen minutes from the time of publication by issuers or publication of FTP Information by Nasdaq to dissemination by Nasdaq. The Daily List will not include any information that is not available publicly. Because the information would be made publicly available on its website at least fifteen minutes before the same information is disseminated via the Daily List and Fundamental Data report, and Nasdaq will delay dissemination of other information on the Daily List until it had been in the public sphere for fifteen minutes, the Exchange would have no material advantage in the gathering and processing of the information relative to any other market participant that chooses to gather and process the same information.[21]

Inter-Market Competition

Nothing in this Proposal burdens inter-market competition (the competition among self-regulatory organizations). Rather, this Proposal is consistent with the practice of the New York Stock Exchange, which both makes certain corporate actions information available free of charge prior to dissemination by its corporate actions product,[22] and also sells corporate actions information separately as a vendor of information.[23]

[14] In fact, these same publicly available sources will likely include the FTP Information that Nasdaq will separately make available.

[15] Nasdaq currently performs, and will continue to perform, reviews to ensure that information disseminated on the Daily List and Fundamental Data product have already been released publicly.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *See supra* n.12.

[19] *See supra* n.13.

[20] 15 U.S.C. 78f(b)(8).

[21] *See supra* n.3. Nasdaq treats all information it receives in its role as a listing exchange as confidential until the issuer makes it public.

[22] *See supra* n.12.

[23] *See supra* n.13.

Intra-Market Competition

Nothing in the Proposal burdens intra-market competition (*i.e.,* the competition among consumers of exchange data) because corporate actions information will be available to any market participant, including both members and non-members, on a non-discriminatory basis. In addition, Nasdaq will not have any time advantage in the dissemination of the corporate actions information because it will delay dissemination of the Daily List for fifteen minutes after any information an issuer releases becomes public and after publication of the FTP Information by Nasdaq, to allow competitors time to compile their own product.

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [24] and subparagraph (f)(6) of Rule 19b–4 thereunder.[25]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [26] of the Act to determine whether the proposed rule change should be approved or disapproved.

[24] 15 U.S.C. 78s(b)(3)(A)(iii).

[25] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[26] 15 U.S.C. 78s(b)(2)(B).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NASDAQ–2026–062 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–2026–062. 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–2026–062 and should be submitted on or before August 28, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–16097 Filed 8–6–26; 8:45 am]

BILLING CODE 8011–01–P

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0178]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 31a–1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (SEC or ''Commission'') is submitting to the Office of Management and Budget (OMB) this request for extension of the proposed collection of information described below.

Rule 31a–1 (17 CFR 270.31a–1) under the Investment Company Act of 1940 (15 U.S.C. 80a) requires registered investment companies, business development companies (BDCs), and certain of their majority-owned subsidiaries to maintain and keep current the accounts, books, auditors' certificates, and other documents that underlie and support the financial statements these entities are required to file with the Commission under section 30 of the Act. The Commission regularly conducts inspections and examinations of funds and other regulated entities to foster compliance with the securities laws, to detect violations of the law, and to keep the Commission informed of developments in the regulated community. Without the information contained in the records required by rule 31a–1, the Commission could not readily determine whether funds are in compliance with the Act's provisions. The rule's requirement to maintain such records avoids the need for potentially more burdensome requirements such as mandatory filings of similar information with the Commission.

The collection of information is found at 17 CFR 270.31a–1. Compliance with the recordkeeping requirements of rule 31a–1 is mandatory for registered investment companies, BDCs, and certain majority-owned subsidiaries, as required by section 31(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–30(a)).

The books and records required to be maintained by rule 31a–1 constitute a major focus of the Commission's inspection and examination programs. The Commission uses these records during inspections and examinations to foster compliance with the securities laws, to detect violations of the law, and to keep the Commission informed of developments in the regulated community.

The Commission staff estimates that there are approximately 14,301 total entities (14,125 series of investment companies and 176 BDCs) required to comply with rule 31a–1. Each entity spends approximately 1,750 hours per year complying with the rule, for a total estimated annual burden of 25,026,750

hours. However, the Commission estimates that at least 90% of this burden would be incurred in any case as a normal business practice, resulting in an estimated actual annual burden of 2,502,675 hours attributable to the rule. The estimated annual cost per entity is $613,200, broken down as follows: 175 hours by office clerks at $144 per hour ($25,200); 1,312.5 hours by fund accountants and auditors at $348 per hour ($456,750); 87.5 hours by lawyers at $744 per hour ($65,100); and 175 hours by management analysts at $378 per hour ($66,150). The total estimated annual cost to the industry attributable to the rule is approximately $877 million. There is no external cost burden beyond the internal labor costs described above.

This is a recordkeeping requirement and no reporting or filing with the Commission is required; therefore, confidentiality is not applicable. The records required by rule 31a–1 are required to be preserved pursuant to rule 31a–2 under the Investment Company Act (17 CFR 270.31a–2), which specifies the retention periods for various categories of records.

A copy of the collection of information and related instructions may be obtained at no charge at the Securities and Exchange Commission's website at *www.sec.gov* or at *reginfo.gov.* Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents. Comments should be directed to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, or by sending an email to *OIRA_submission@omb.eop.gov.* Comments must be submitted within 30 days of this notice.

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=202605-3235-022* or email comment to *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* within 30 days of the day after publication of this notice, by September 8, 2026.

Dated: August 4, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–16085 Filed 8–6–26; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21749 and #21750; MISSOURI Disaster Number MO–20031]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Missouri

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of the Presidential declaration of a major disaster for Public Assistance Only for the state of Missouri (FEMA–4929–DR), dated August 3, 2026.

Incident: Severe Storms, Straight-line Winds, Tornadoes, and Flooding.

DATES: Issued on August 3, 2026.

Incident Period: June 4, 2026 through June 18, 2026.

Physical Loan Application Deadline Date: October 3, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: May 3, 2027.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Sharon Henderson, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the President's major disaster declaration on August 3, 2026, Private Non-Profit organizations providing essential services of a governmental nature may file disaster loan applications online using the MySBA Loan Portal *https://lending.sba.gov* or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Adair, Andrew, Callaway, Camden, Cape Girardeau, Dade, Daviess, Gasconade, Gentry, Grundy, Harrison, Hickory, Holt, Jasper, Knox, Lewis, Linn, Macon, Marion, Mercer, Miller, Moniteau, Morgan, Newton, Nodaway, Osage, Polk, Putnam, Scott, Shelby, Sullivan, Vernon, Webster, Worth.

The Interest Rates are:

	Percent
For Physical Damage:	
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
For Economic Injury:	
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 21749B and for economic injury is 217500.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026–16145 Filed 8–6–26; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21753 and #21754; Mississippi Disaster Number MS–20022]

Presidential Declaration of a Major Disaster for the State of Mississippi

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–4930–DR), dated August 3, 2026.

Incident: Tropical Storm Arthur.

DATES: Issued on August 3, 2026.

Incident Period: June 18, 2026 through June 20, 2026.

Physical Loan Application Deadline Date: October 3, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: May 3, 2027.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Sharon Henderson, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the President's major disaster declaration on August 3, 2026, applications for disaster loans may be submitted online using the MySBA Loan Portal *https://lending.sba.gov* or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955. If you are deaf, hard of hearing or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Hancock, Harrison, Pearl River, Stone.

Contiguous Counties and Parishes (Economic Injury Loans Only):

Mississippi: Forrest, George, Jackson, Lamar, Marion, Perry.

Louisiana: St. Bernard, St. Tammany, Washington.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	5.750
Homeowners without Credit Available Elsewhere	2.875
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
For Economic Injury:	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 21753B and for economic injury is 217540.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026–16140 Filed 8–6–26; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21662 and #21663; Louisiana Disaster Number LA–20018]

Presidential Declaration Amendment of a Major Disaster for the State of Louisiana

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–4927–DR), dated June 30, 2026. Incident: Tropical Storm Arthur.

DATES: Issued on August 3, 2026.

Incident Period: June 17, 2026 through June 24, 2026.

Physical Loan Application Deadline Date: August 31, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: March 30, 2027.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Sharon Henderson, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Louisiana, dated June 30, 2026, is hereby amended to update the incident period for this disaster as beginning June 17, 2026 and continuing through June 24, 2026.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority:13 CFR 123.(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026–16135 Filed 8–6–26; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21747 and #21748; NORTHERN MARIANA ISLANDS Disaster Number MP–20003]

Presidential Declaration of a Major Disaster for Public Assistance Only for the Commonwealth of the Northern Mariana Islands

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of the Northern Mariana Islands (FEMA–4931–DR), dated August 3, 2026. Incident: Super Typhoon Bavi.

DATES: Issued on August 3, 2026.

Incident Period: July 4, 2026 through July 12, 2026.

Physical Loan Application Deadline Date: October 3, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: May 3, 2027.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Jennifer Talarico, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the President's major disaster declaration on August 3, 2026, Private Non-Profit organizations providing essential services of a governmental nature may file disaster loan applications online using the MySBA Loan Portal *https://lending.sba.gov* or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary Area: Rota.

The Interest Rates are:

	Percent
For Physical Damage:	
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
For Economic Injury:	
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 217478 and for economic injury is 217480.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority:13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026–16149 Filed 8–6–26; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21751 and #21752; West Virginia Disaster Number WV–20027]

Presidential Declaration of a Major Disaster for the State of West Virginia

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of the Presidential declaration of a major disaster for the State of WEST VIRGINIA (FEMA–493–DR), dated August 3, 2026. Incident: Severe Storms, Straight-line Winds, Tornadoes, Flooding, Landslides, and Mudslides.

DATES: Issued on August 3, 2026.

Incident Period: July 21, 2026 through July 22, 2026.

Physical Loan Application Deadline Date: October 3, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: May 3, 2027.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Jennifer Talarico, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the President's major disaster declaration on August 3, 2026, applications for disaster loans may be submitted online using the MySBA Loan Portal *https://lending.sba.gov* or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955. If you are deaf, hard of hearing or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Lewis, Upshur.

Contiguous Counties (Economic Inquuiry Loans Only): West Virginia: Barbour, Braxton, Doddridge, Gilmer, Harrison, Randolph, Webster.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	5.750
Homeowners without Credit Available Elsewhere	2.875
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
For Economic Injury:	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 21751B and for economic injury is 217520.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026–16151 Filed 8–6–26; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21743 and #21744; Northern Mariana Islands Disaster Number MP–20002]

Presidential Declaration of a Major Disaster for the Commonwealth of the Northern Mariana Islands

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of the Presidential declaration of a major disaster for the Commonwealth of the Northern Mariana Islands (FEMA–4931–DR), dated August 3, 2026. Incident: Super Typhoon Bavi.

DATES: Issued on August 3, 2026.

Incident Period: July 4, 2026 through July 12, 2026.

Physical Loan Application Deadline Date: October 3, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: May 3, 2027.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Jennifer Talarico, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the President's major disaster declaration on August 3, 2026, applications for disaster loans may be submitted online using the MySBA Loan Portal *https://lending.sba.gov* or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955. If you are deaf, hard of hearing or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary Area (Physical Damage and Economic Injury Loans): Rota.

Contiguous Areas (Economic Injury Loans Only): Northern Islands, Saipan, Tinian.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	5.750
Homeowners without Credit Available Elsewhere	2.875
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
For Economic Injury:	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 217438 and for economic injury is 217440.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026–16147 Filed 8–6–26; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21741 and #21742; Louisiana Disaster Number LA–20021]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Louisiana

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of the Presidential declaration of a major disaster for Public Assistance Only for the state of Louisiana (FEMA–4927–DR), dated June 30, 2026.

Incident: Tropical Storm Arthur.

DATES: Issued on August 3, 2026.

Incident Period: June 17, 2026 through June 24, 2026.

Physical Loan Application Deadline Date: August 31, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: March 30, 2027.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Sharon Henderson, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the President's major disaster declaration on June 30, 2026, Private Non-Profit organizations providing essential services of a governmental nature may file disaster loan applications online using the MySBA Loan Portal *https://lending.sba.gov* or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary Parishes: Avoyelles, Pointe Coupee, St. Charles, St. Landry, Winn.

The Interest Rates are:

	Percent
For Physical Damage:	
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
For Economic Injury:	
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 21741B and for economic injury is 217420.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026–16139 Filed 8–6–26; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21745 and #21746; Nebraska Disaster Number NE–20027]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Nebraska

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of the Presidential declaration of a major disaster for Public Assistance Only for the state of Nebraska (FEMA–4928–DR), dated August 3, 2026. Incident: Severe Storms, Straight-line Winds, Tornadoes, and Flooding.

DATES: Issued on August 3, 2026.

Incident Period: May 15, 2026 through May 18, 2026.

Physical Loan Application Deadline Date: October 3, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: May 3, 2027.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Sharon Henderson, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the President's major disaster declaration on August 3, 2026, Private Non-Profit organizations providing essential services of a governmental nature may file disaster loan applications online using the MySBA Loan Portal *https://lending.sba.gov* or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Buffalo, Fillmore, Gage, Howard, Jefferson, Nemaha, Thayer, Thurston.

The Interest Rates are:

	Percent
For Physical Damage:	
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
For Economic Injury:	
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 21745B and for economic injury is 217460.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority:13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026–16142 Filed 8–6–26; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21755 and #21756; Mississippi Disaster Number MS–20024]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Mississippi

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of the Presidential declaration of a major disaster for Public Assistance Only for the state of MISSISSIPPI (FEMA–4930–DR), dated August 3, 2026.

Incident: Tropical Storm Arthur.

DATES: Issued on August 3, 2026.

Incident Period: June 18, 2026 through June 20, 2026.

Physical Loan Application Deadline Date: October 3, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: May 3, 2027.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Sharon Henderson, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the President's major disaster declaration on August 3, 2026, Private Non-Profit organizations providing essential services of a governmental nature may file disaster loan applications online using the MySBA Loan Portal *https://lending.sba.gov* or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Covington, George, Greene, Hancock, Harrison, Pearl River, Stone, Wayne.

The Interest Rates are:

	Percent
For Physical Damage:	
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
For Economic Injury:	
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 21755B and for economic injury is 217560.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority:13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026–16141 Filed 8–6–26; 8:45 am]

BILLING CODE 8026–09–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2026–0232]

Privacy Act of 1974; Matching Program

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a new matching program with the Office of Personnel Management (OPM). Under this matching program, OPM will provide SSA with civil service benefit and payment data. This disclosure will provide SSA with information necessary to verify an individual's self-certification of eligibility for the Extra Help with Medicare Prescription Drug Plan Costs program (Extra Help). It will also enable SSA to identify individuals who may qualify for Extra Help as part of the agency's Medicare outreach efforts.

DATES: The deadline to submit comments on the proposed matching program is September 8, 2026.

The matching program will be applicable on September 16, 2026, or once a minimum of 30 days after publication of this notice has elapsed, whichever is later. The matching program will be in effect for a period of 18 months.

ADDRESSES: You may submit comments by any one of three methods—internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2026–0232 so that we may associate your comments with the correct notice.

CAUTION: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend that you submit your comments via the internet. Please visit the Federal eRulemaking portal at *https://www.regulations.gov.* Use the *Search* function to find docket number SSA–2026–0232 and then submit your comments. The system will issue you a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each submission manually. It may take up to a week for your comments to be viewable.

2. *Fax:* Fax comments to (833) 410–1631.

3. *Mail:* Matthew Ramsey, Head of Privacy and Disclosure Policy, Law and Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, or emailing *Matthew.Ramsey@ssa.gov.* Comments are also available for public viewing on the Federal eRulemaking portal at *https://www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Interested parties may submit general questions about the matching program to Andrea Huseth, Division Director, Privacy and Disclosure Policy, Law and Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, at telephone: (410) 965–6868, or send an email to *Andrea.Huseth@ssa.gov.*

SUPPLEMENTARY INFORMATION: This matching notice covers the re-establishment of a matching program that is set to expire between SSA and OPM, which supports SSA's efficient administration of the low-income subsidy assistance in the Medicare Part D prescription drug benefit program.

Matthew Ramsey,

Head of Privacy and Disclosure Policy, Law and Policy.

Participating Agencies

SSA and OPM.

Authority for Conducting the Matching Program

The legal authority for the matching agreement between SSA and OPM that this matching notice covers is section 1631(f) of the Social Security Act (Act) (42 U.S.C. 1383(f)). Supplemental Security Income recipients are automatically deemed eligible for Medicare Prescription Drug Plan under section 1860D–14(a)(3)(B)(v)(I) of the Act (42 U.S.C. 1395w-114(a)(3)(B)(v)(I)). The legal authorities for SSA to conduct the computer matching are sections 1144(a)(1) and (b)(1) and 1860D–14(a)(3) of the Act (42 U.S.C. 1320b–14(a)(1) and (b)(1) and 1395w–114(a)(3)).

Purpose(s)

The matching agreement sets forth the terms and conditions under which OPM will provide SSA with civil service benefit and payment data. This disclosure will provide SSA with information necessary to verify an individual's self-certification of eligibility for Extra Help. It will also

enable SSA to identify individuals who may qualify for Extra Help as part of the agency's Medicare outreach efforts.

Categories of Individuals

The individuals whose information is involved in the matching program are civil service annuitants, individuals who self-certify their eligibility for the Extra Help program, and individuals who may qualify for Extra Help.

Categories of Records

OPM's data file will consist of approximately 125,000 records of updated payment information for new civil service annuitants and annuitants whose civil service annuity has changed. SSA's comparison file consists of approximately 111 million records from the Medicare Database file.

OPM will provide SSA with civil service benefit and payment data for individuals who apply for the Extra Help program. The file includes:

a. Annuitant Name and Date of Birth,

b. Annuitant Social Security number,

c. Annuitant Civil Service Claim Number, and

d. Amount of current gross civil service benefits.

Systems of Records

OPM will provide SSA with electronic files containing civil service benefit and payment data from its system of records (SOR) titled OPM/Central—1, Civil Service Retirement and Insurance Records, published at 73 FR 15013 (March 20, 2008) and 87 FR 5874 (February 2, 2022). SSA will match OPM data with the SSA SOR 60–0321, Medicare Database File, last fully published at 71 FR 42159 (July 25, 2006), and amended at 72 FR 69723 (December 10, 2007), 83 FR 54969 (November 1, 2018), and 90 FR 53413 (November 25, 2025).

[FR Doc. 2026–16137 Filed 8–6–26; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 13095]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''From the Louvre: Masterpieces of Islamic Art'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''From the Louvre: Masterpieces of Islamic Art'' at the Arthur M. Sackler Gallery, National Museum of Asian Art, Smithsonian Institution, Washington, District of Columbia, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Sherry C. Keneson-Hall,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2026–16180 Filed 8–6–26; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 13083]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Paris Couture'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''Paris Couture'' at the Minneapolis Institute of Art, Minneapolis, Minnesota; the Saint Louis Art Museum, St. Louis, Missouri; and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Sherry C. Keneson-Hall,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2026–16179 Filed 8–6–26; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

Release of Waybill Data

The Surface Transportation Board has received a request from Merced County, California, (WB26–32–08/03/26) for permission to use select data from the Board's 2015–2024 inclusive, masked Carload Waybill Samples for railroad shipments originating, terminating or passing through the State of California. A copy of this request may be obtained from the Board's website under docket no. WB26–32.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Any inquiries on this request should be directed to *waybill@stb.gov*.

Regena Smith-Bernard,

Clearance Clerk.

[FR Doc. 2026–16109 Filed 8–6–26; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36947]

Town of Gloster, Miss.—Acquisition Exemption—Line of Gloster Southern Railroad Company, LLC

The Town of Gloster, Miss. (the Town), a noncarrier municipal corporation, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Gloster Southern Railroad Company, LLC (GLSR), approximately 32.7 miles of rail line between milepost 0.0 at Slaughter, La., and milepost 32.7 at Gloster, Miss. (the Line).

According to the verified notice, the Town is finalizing terms of an agreement to purchase the Line from GLSR with a view to restoring service on it. Common carrier service has been suspended on the Line since 2010.[1] According to the verified notice, the Line will need extensive rehabilitation to return to a condition to once again support railroad traffic. The Town states that it plans to restore rail service in order to establish a transportation link for the region's forest products industry, and specifically to meet the logistical needs of a sawmill that began operating in 2024.[2] According to the Town, restoration of the Line will be supported by a $52 million grant awarded through the Federal Railroad Administration's Consolidated Rail Infrastructure and Safety Improvements program.

The Town certifies that its projected annual revenues as a result of this transaction are not expected to exceed $5 million and will not exceed the thresholds of a Class I or Class II rail carrier. The Town also certifies that the agreement governing the transaction does not contain an interchange commitment.

The transaction may be consummated on or after August 21, 2026, the effective date of the exemption. If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than August 14, 2026 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36947, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Gloster's representative, Stephen J. Foland, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

According to the Town, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: August 4, 2026.

By the Board, Scott M. Zimmerman, Acting Chief Counsel, Office of Chief Counsel.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2026–16128 Filed 8–6–26; 8:45 am]

BILLING CODE 4915–01–P

[1] *See Gloster S. R.R.—Discontinuance of Service Exemption—in Amite & Wilkinson Cntys., Miss., & E. Feliciana Par., La.,* AB 1051X (STB served Dec. 14, 2009).

[2] According to the verified notice, after receiving authorization to discontinue service, GLSR conveyed, or attempted to convey, by quitclaim deed interests in discrete segments of the Line's right-of-way.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Request To Release Property at the Smyrna Airport, Smyrna, TN (MQY)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration is requesting public comment on a request by the Smyrna/Rutherford County Airport Authority (S/RCAA) on behalf of the Smyrna Airport, to release 14.67 acres of property and a 1956 hangar at the Smyrna Airport from federal obligations.

DATES: Comments must be received on or before September 8, 2026.

ADDRESSES: Comments on this notice may be emailed to the FAA at the following email address: FAA/Memphis Airports District Office, Attn: Jamal R. Stovall, Lead Community Planner, *Jamal.Stovall@faa.gov.*

In addition, one copy of any comments submitted to the FAA must bemailed or delivered to Mr. Evan Lester, Executive Director, Smyrna/Rutherford County Airport Authority at the following address: 278 Doug Warpoole Rd., Smyrna, TN 37167.

FOR FURTHER INFORMATION CONTACT: Jamal R. Stovall, Lead Community Planner, Federal Aviation Administration, Memphis Airports District Office, 2600 Thousand Oaks Boulevard, Suite 2250, Memphis, TN 38118–2482, *Jamal.Stovall@faa.gov.* The application may be reviewed in person at this same location, by appointment.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to release property for disposal at the Smyrna Airport (MQY), 278 Doug Warpoole Rd., Smyrna, TN 37167, under the provisions of 49 U.S.C. 47107(h)(2). The FAA determined that the request to release property at the Smyrna Airport (MQY) submitted by the Sponsor meets the procedural requirements of the Federal Aviation Administration and the release of this property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this notice.

The request consists of the following:

The S/RCAA has requested the release and disposal (sale) of approximately 14.67 acres of MQY property and a 1956 hangar to the State of Tennessee. The 14.67 acres and 1956 hangar being requested for release and disposal (sale), was transferred to the Metropolitan Nashville Airport Authority (MNAA) under the authority of Federal Property and Administrative Services Act of 1949 and the Surplus Property Act of 1944. The airport was subsequently transferred to the S/RCAA by MNAA through a Quitclaim deed dated May 15, 1991. The purpose of the requested release and disposal to the State of Tennessee is to enable the relocation of the 118th Wing of the Tennessee Air National Guard (TANG) from the Nashville International Airport (BNA) to MQY This action is taken under the provisions of 49 U.S.C. 47107(h)(2).

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Smyrna Airport.

Issued in Memphis, Tennessee on August 4, 2026.

Rans Black,

Acting Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 2026–16107 Filed 8–6–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2026–3941]

Agency Information Collection Activities: Requests for Comments; Renewed Clearance Correction 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. A previous notice was published indicating that this was an existing collection. However, this is a new request.

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: New.

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 14, 2026.

James T. Hildebrand,

Division Manager.

[FR Doc. 2026–16106 Filed 8–6–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2026–1420]

Agency Information Collection Activities; Notice and Request for Comment; Best Practices for Integrating Crash and Injury Surveillance Data Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a request for approval of a new information collection.

SUMMARY: NHTSA invites public comments about our intention to request approval from the Office of Management and Budget (OMB) for a new information collection. Before a Federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including new collections, extensions, and reinstatements of previously approved collections. This document describes a proposed collection of information that would allow NHTSA to obtain structured information on States' and territories' practices related to linking or integrating motor vehicle crash data with injury surveillance and medical data (*e.g.,* emergency medical services (EMS), emergency department, hospital inpatient discharge, trauma registry, and vital statistics). The collection includes virtual stakeholder meetings, an online survey, and follow-up in-depth interviews with a subset of States to document current practices, challenges, and best practices in crash and injury surveillance data linkage and integration.

DATES: Comments must be submitted on or before October 6, 2026.

ADDRESSES: You may submit comments identified by the Docket No. NHTSA–2026–1420 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 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 to the street address listed above. Follow the online instructions for accessing the dockets via the internet.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Beau Burdett, National Center for Statistics and Analysis (NSA–221), (202) 236–1959, National Highway Traffic Safety Administration, West Building Suite W43–480, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) how to enhance the quality, utility, and clarity of the information to be collected; and (d) how 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, *e.g.* permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB.

Title: Best Practices for Integrating Crash and Injury Surveillance Data Systems.

OMB Control Number: New.

Form Number(s): NHTSA Form 2261, NHTSA Form 2262.

Type of Request: New information collection.

Type of Review Requested: Regular.

Requested Expiration Date of Approval: Three years from date of approval.

Summary of the Collection of Information: NHTSA is authorized by 23 U.S.C. 403 to collect and analyze data on motor vehicle traffic crashes and related injuries to support the identification of safety issues and the development, implementation, and evaluation of effective motor vehicle and highway safety countermeasures.

For decades, NHTSA has supported efforts to improve the quality, completeness, and integration of traffic records, including linking police-reported crash data with injury surveillance and clinical data (*e.g.,* EMS, trauma registries, emergency departments, hospital discharge, vital records). Programs such as the Crash Outcome Data Evaluation System (CODES) and, more recently, the introduction of the Universally Unique Identifier (UUID) in the Model Minimum Uniform Crash Criteria (MMUCC) have encouraged States to integrate crash and injury surveillance data to better understand crash outcomes, especially serious injuries.

NHTSA seeks to conduct a one-time information collection to obtain structured, comparable information on States' and territories' current practices related to crash and injury surveillance data linkage and integration.

The collection has three components:

1. Virtual stakeholder meetings: NHTSA, through a contractor, will facilitate virtual stakeholder meetings. NHTSA will request that State Highway Safety Offices provide information from the meeting participants acting in their official capacity, *i.e.,* names and work email addresses, so that NHTSA can send virtual meeting invitations to the identified participants. These meetings will gather qualitative information about States' current efforts, successes, and challenges in linking crash and injury surveillance data and will help identify relevant stakeholders for the subsequent survey and interviews.

2. Online survey of State stakeholders: Following the virtual stakeholder meetings, the contractor will distribute individualized links to an online survey to crash and injury surveillance data systems stakeholders from the States and territories. The survey will collect information on:

- Availability and types of injury surveillance datasets;
- Use and formats of crash and injury surveillance data;
- Staffing, skills, and training related to data analysis and data linkage/integration;
- Current crash–injury data linkage/integration activities (including data sources, methods, tools, frequency, and use of UUID or other unique identifiers);
- Data governance, data sharing, and data quality control practices; and
- Use of linked/integrated data to support traffic safety decision-making.

The survey employs primarily checkbox, matrix, and multiple-choice questions and includes only two open-ended questions to limit burden. The survey will not collect personally identifiable information (PII) about individual respondents.

3. Follow-up in-depth interviews: Based on the information gathered from the stakeholder meetings and the survey, NHTSA will select up to nine States for follow-up structured virtual interviews to obtain more detailed qualitative information on their data linkage and integration processes, use of UUID, challenges, and best practices.

The information collection is intended to provide NHTSA with a clearer picture of the ''state of the practice'' across States and territories regarding crash and injury surveillance data linkage and integration, including both CODES-like programs and other data linkage efforts. The results will inform NHTSA's technical assistance, program planning, and development of best practice guidance to support States in initiating, sustaining, or enhancing their data linkage and integration activities.

Description of the Need for the Information and Proposed Use of the Information: Linked crash and injury surveillance data are critical for understanding crash outcomes (particularly serious injuries), evaluating countermeasures, and guiding investment decisions in traffic safety. While NHTSA has long supported data integration through programs such as CODES and MMUCC, the agency currently lacks comprehensive, up-to-date information on how States and territories are linking or integrating crash and injury surveillance data, what methods and tools are being used, how UUID and other unique identifiers are being implemented, and what challenges and successes States are experiencing.

This information collection will provide:

- A descriptive, national-level picture of state practices in crash–injury data linkage and integration;
- Insight into barriers (*e.g.,* legal, technical, resource-related) and opportunities for improving linkage and data quality;
- Documentation of emerging technologies and methods, including use of the UUID introduced in the National Emergency Medical Services Information System (NEMSIS) and MMUCC; and
- Examples of effective practices, governance structures, and data use that can inform NHTSA's technical assistance and guidance to States.

NHTSA will use the findings to:

- Identify needs for targeted technical assistance, training, or guidance to States;
- Inform the development or refinement of best practices and tools to support crash–injury data linkage and integration; and
- Support broader Federal and state efforts to improve the use of linked data for problem identification, resource allocation, program evaluation, and performance management in traffic safety.

NHTSA does not intend to use the information collected to produce statistical estimates that are generalizable to a broader population in the sense of a probability-based survey. Instead, the collection is a one-time, descriptive assessment of identified state-level stakeholders and their practices.

Affected Public: State and territorial crash and injury surveillance data systems stakeholders who manage, link, integrate, or use these data as part of their professional responsibilities. This includes staff from State Highway Safety Offices, Departments of Transportation, Departments of Public Safety or Police, Departments of Motor Vehicles, Departments of Health, hospital associations, trauma systems, and related organizations.

Estimated Number of Respondents: NHTSA estimates a total of 129 respondents participating in all three project components, broken down as follows:

- Virtual stakeholder meetings: 10 virtual meetings with an average of 20 participants per meeting, for an estimated total of 200 respondents (participants are counted once, although some may also complete the survey or interviews).
- Online survey: Approximately 100 respondents, including participants from the meetings and additional relevant stakeholders identified by NHTSA Regions and State partners.
- Follow-up in-depth interviews: Up to nine States, with an average of four stakeholders per State, for an estimated total of 36 interview respondents.

Because some individuals will participate in more than one activity (*e.g.,* a stakeholder may attend a virtual meeting, complete the survey, and participate in a follow-up interview), the total number of unique individuals will be somewhat less than the sum of activity-specific counts.

Frequency: This is a one-time collection of information.

Estimated Total Annual Burden Hours: 378 hours.

This information collection includes three components: virtual stakeholder meetings, an online survey, and follow-up interviews.

Virtual Stakeholder Meetings

- Number of virtual stakeholder meetings: 10.
- Estimated participants per meeting: 20.
- Duration per meeting: 1.5 hours.
- Total burden hours: 300 hours (10 meetings × 20 participants/meeting × 1.5 hours).

Online survey

- Based on the number and type of questions, skip logic, and instrument review, NHTSA estimates that it will take an average of 25 minutes (0.42 hours) for each respondent to complete the survey.
- Estimated number of survey respondents: 100.
- Burden per response: 0.42 hours.
- Total burden hours: 42 hours (100 respondents × 0.42 hours = 42 hours).

Follow-Up in-Depth Interviews

- NHTSA estimates that each follow-up interview will last approximately 60 minutes and that an average of four stakeholders will participate per State.
- Number of States: up to nine.
- Participants per State: four.
- Duration per interview session: one hour.
- Total burden hours: 36 hours (9 States × 4 participants × 1 hour = 36 hours).

Estimates from the Bureau of Labor Statistics (BLS) were used to estimate the labor costs for each component [1]. The BLS estimates that wages represent an average 61.5 percent of total compensation for State and local government workers. To determine the fully loaded hourly labor cost, which encompasses both base wages and fringe benefits, the National Highway Traffic Safety Administration divides the BLS estimated average hourly wage rate by 0.615. Based on an estimated average hourly wage of $40.00, dividing this rate by 0.615 results in a total estimated fully loaded hourly labor cost of approximately $65.04 per hour.

Using this hourly labor cost, the estimated labor cost for each component is:

1. Virtual meetings: $19,512.00 (300 burden hours × $65.04 hourly labor cost).

2. Online survey: $2,731.68 (42 burden hours × $65.04 hourly labor cost).

3. Follow-up in-depth interviews: $2,341.44 (36 burden hours × $65.04 hourly labor cost).

The total labor cost is approximately $24,585.12. Table 1 provides a summary of the estimated burden hours and labor costs associated with those respondents.

TABLE 1—BURDEN ESTIMATES

Activity	Annual respondents	Number of responses per respondent	Annual number of responses	Estimated burden per response	Total burden hours	Avg. hourly labor cost	Total labor costs
Virtual regional stakeholder meetings	20	10	200	1.5 hours	300.0	$65.04	$19,512.00
Online survey	100	1	100	0.42 hours (25 minutes).	42.0	65.04	2,731.68
Follow-up in-depth virtual interviews (up to 9 States).	9	4	36	1 hour	36.0	65.04	2,341.44
Total	129		336		378.0		24,585.12

Because this is a one-time collection, these burden and cost estimates represent the total (and thus annual) burden associated with this effort.

Estimated Total Annual Burden Cost: This collection is not expected to result in any additional costs to respondents beyond the opportunity cost of their time, which is captured in the burden hour estimates above. Respondents are professionals who already possess the information needed to participate, and the collection does not require the purchase of any equipment or services, the development of new data systems, or the retention or submission of records beyond what agencies already maintain for their own purposes.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Rajesh Subramanian,

Acting Associate Administrator, The National Center for Statistics and Analysis.

[FR Doc. 2026–16116 Filed 8–6–26; 8:45 am]

BILLING CODE 4910–59–P

[1] Employer Costs for Employee Compensation-June 2025,*https://www.bls.gov/news.release/pdf/ecec.pdf.* Accessed 2/17/2026.

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing updates to

the identifying information of one or more persons currently included in OFAC's Specially Designated Nationals and Blocked Persons List (SDN List). OFAC is also publishing the names of one entity whose property and interests in property have been unblocked and two aircraft who have been removed from the SDN List.

DATES: See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Licensing, 202–622–2480; Assistant Director for Sanctions Compliance, 202–622–2490 or *https://ofac.treasury.gov/contact-ofac.*

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: *https://ofac.treasury.gov.*

Notice of OFAC Actions

A. On August 5, 2026, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following entity are unblocked and they have been removed from the SDN List. OFAC is also the aircraft listed below from the SDN List.

Entity

1. FLY BAGHDAD AIRLINES COMPANY (a.k.a. FLY BAGHDAD (Arabic: فلاي بغداد); a.k.a. IRAQ EXPRESS), Hurriya Square, Building 66, Street 25, Sector 925, Babil Neighborhood, Baghdad, Iraq; Jamia Street, Jadriya, Baghdad, Iraq; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 2014; Organization Type: Passenger air transport [SDGT] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE).

Aircraft

1. YI-BAF; Aircraft Manufacture Date 24 May 2002; Aircraft Model B 737; Aircraft Operator Fly Baghdad; Aircraft Manufacturer's Serial Number (MSN) 32412; Aircraft Tail Number YI-BAF; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 (aircraft) [SDGT] (Linked To: FLY BAGHDAD AIRLINES COMPANY).

2. YI-BAN; Aircraft Manufacture Date 08 Jan 2008; Aircraft Model B 737; Aircraft Operator Fly Baghdad; Aircraft Manufacturer's Serial Number (MSN) 35064; Aircraft Tail Number YI-BAN; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 (aircraft) [SDGT] (Linked To: FLY BAGHDAD AIRLINES COMPANY).

B. On August 5, 2026, OFAC updated the SDN List entry for the following person, whose property and interests in property subject to U.S. jurisdiction continue to be blocked under the relevant sanctions authorities listed below.

1. AL–SHABBANI, Basheer Abdulkadhim Alwan (a.k.a. AL–SHABANI, Bashir Abd al Kazim Alwan; a.k.a. ALSHABBANI, Basheer; a.k.a. SHABBAN, Basheer), Baghdad, Iraq; DOB 01 May 1986; nationality Iraq; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport A14930891 (Iraq) expires 27 Jan 2027; alt. Passport A9836915 (Iraq) expires 19 Aug 2024; National ID No. AA2889593 (Iraq) expires 21 Oct 2026 (individual) [SDGT] (Linked To: FLY BAGHDAD AIRLINES COMPANY).—TO—AL–SHABBANI, Basheer Abdulkadhim Alwan (a.k.a. AL–SHABANI, Bashir Abd al Kazim Alwan; a.k.a. ALSHABBANI, Basheer; a.k.a. SHABBAN, Basheer), Baghdad, Iraq; DOB 01 May 1986; nationality Iraq; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport A14930891 (Iraq) expires 27 Jan 2027; alt. Passport A9836915 (Iraq) expires 19 Aug 2024; National ID No. AA2889593 (Iraq) expires 21 Oct 2026 (individual) [SDGT] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE).

(Authority: E.O. 13224.)

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2026–16153 Filed 8–6–26; 8:45 am]

BILLING CODE 4810–AL–P

FEDERAL REGISTER

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Part II

Department of Justice

Antitrust Division

United States et al. v. Cal-Maine Foods, Inc. et al.; Proposed Final Judgment and Competitive Impact Statement; Notice

DEPARTMENT OF JUSTICE

Antitrust Division

United States et al. v. Cal-Maine Foods, Inc. et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the Northern District of Iowa in *United States of America et al* v. *Cal-Maine Foods, Inc. et al,* Civil Action No. 5:26–cv–04060. On June 29, 2026, the United States, along with the States of Arizona, California, Colorado, Connecticut, Florida, Hawaii, Iowa, Maryland, Minnesota, New York, North Carolina, Ohio, Pennsylvania, Texas, Utah, Vermont, and Wisconsin, filed a Complaint alleging that Defendants Cal-Maine Foods, Inc. (''Cal-Maine''), Hickman's Egg Ranch, Inc. (''Hickman's), and Versova Management Cooperative, Versova Holdings, LLC, and Centrum Valley Holdings, LLC (collectively, ''Versova'') violated Section 1 of the Sherman Act, 15 U.S.C. 1, by, among other things, coordinating to submit bids that were designed to artificially inflate the daily price quotations of Urner Barry Publications, Inc. (''Urner Barry''), a market reporting firm. The proposed Final Judgments for each Defendant, filed at the same time as the Complaint, seek to end this anticompetitive conduct and prevent its recurrence by: imposing restrictions on competitor communications regarding bidding strategies, bids, and the information reported to any benchmark publication; restricting Defendants from entering into any agreements with competitors regarding the price, number, or other terms of bids and transactions; prohibiting Defendants from communicating with competitors regarding bids that are intended to affect a benchmark or that are not based on legitimate needs; and requiring Defendants to adopt and comply with a series of compliance measures for a term of five years.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's website at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the Northern District of Iowa. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's website, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be submitted in English and directed to Zachary Trotter, Chief, Chicago Office, Antitrust Division, Department of Justice, 209 South La Salle St, Suite 600, Chicago IL 60604 (email address: *ATR.Public-Comments-Tunney-Act-MB@usdoj.gov*).

Suzanne Morris,

Deputy Director Civil Enforcement Operations, Antitrust Division.

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF IOWA WESTERN DIVISION

United States of America, State of Arizona, State of California, State of Colorado, State of Connecticut, State of Florida, State of Hawaii, State of Iowa, State of Maryland, State of Minnesota, State of New York, State of North Carolina, State of Ohio, Commonwealth of Pennsylvania, State of Texas, State of Utah, State of Vermont, and State of Wisconsin, Plaintiffs, v. *Cal-Maine Foods, Inc., Centrum Valley Holdings, LLC, Versova Holdings, LLC, Versova Management Cooperative,* and *Hickman's Egg Ranch, Inc.,* Defendants.

Civil Action No. 5:26–cv–04060–LTS–MAR

Complaint

Plaintiffs United States of America and the States of Arizona, California, Colorado, Connecticut, Florida, Hawaii, Iowa, Maryland, Minnesota, New York, North Carolina, Ohio, Pennsylvania, Texas, Utah, Vermont, and Wisconsin bring this civil antitrust action against Defendants Cal-Maine Foods, Inc.; Centrum Valley Holdings, LLC, Versova Holdings, LLC, and Versova Management Cooperative; and Hickman's Egg Ranch, Inc. to obtain equitable relief to prevent and enjoin their violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

I. Nature of the Action

1. Between June 2022 and March 2025, Defendants agreed to submit bids designed to artificially inflate the daily price quotations for eggs published by Urner Barry Publications, Inc., a firm that reports market pricing information for eggs. Since many of Defendants' contracts with retailers incorporate prices based on Urner Barry's price quotations, an increase in Urner Barry's price quotations leads to higher prices for eggs sold to retailers (and thus higher prices for eggs sold to consumers).

2. Defendants' agreement to manipulate the Urner Barry price quotations violates Section 1 of the Sherman Act and should be enjoined. Accordingly, Plaintiffs seek a decree requiring Defendants to cease these activities and adopt related compliance requirements.

II. Defendants and Co-Conspirators

3. Defendant Cal-Maine Foods, Inc., is a publicly held Delaware corporation with its principal place of business in Ridgeland, Mississippi.

4. Defendant Centrum Valley Holdings, LLC is a Delaware company with its principal place of business in Sioux Center, Iowa. Centrum wholly or partially owns several farms whose day-to-day operations are managed by Defendant Versova Management Cooperative, including Centrum Valley Farms, Oakdell Farms, and Willamette Egg Farms.

5. Defendant Versova Holdings, LLC is a Delaware company with its principal place of business in Sioux Center, Iowa. Versova Holdings wholly or partially owns Trillium Farms, whose day-to-day operations are managed by Defendant Versova Management Cooperative.

6. Defendant Versova Management Cooperative is a cooperative association with its principal place of business in Sioux Center, Iowa.

7. This complaint refers to Centrum, Versova Holdings, and Versova Management Cooperative collectively as ''Versova.''

8. Defendant Hickman's Egg Ranch, Inc. is an Arizona corporation with its principal place of business in Buckeye, Arizona.

9. Co-Conspirator Cooperative A is a Delaware corporation with its principal place of business in Aurora, Colorado. For most of the relevant time period, Defendants, or farms that they managed, were members of Cooperative A.

III. Egg Industry and Background

10. Eggs are produced by egg producers and sold to buyers including grocery stores, retailers, restaurants, and food-service distributors.[1] Several of the largest egg companies, including at least two Defendants, operated their egg business with a ''net short'' business model during the relevant period, meaning that they did not produce sufficient eggs to satisfy their existing customer demand. To meet the shortfall in their egg production, Defendants procured eggs from egg producers (or

[1] The egg industry often uses the phrase ''shell eggs'' to refer to whole eggs sold unbroken in their shells. Unless otherwise stated, the term ''eggs'' in this Complaint refers to ''shell eggs.''

egg brokers) on electronic exchanges, such as the exchange operated by Egg Clearinghouse, Inc., or through direct purchases from other egg producers (or egg brokers). On ECI, egg companies can submit either ''bids'' to purchase eggs or ''offers'' to sell eggs. Executed transactions are often referred to as ''trades.''

11. Urner Barry is a price reporting agency that analyzes, aggregates, and anonymizes market information to publish daily price quotations that are widely used in the egg industry. Urner Barry publishes daily price quotations across regions (Midwest, Northeast, Southeast, Northwest, California, South Central) and egg sizes (*e.g.,* extra-large, large, medium), although its price quotations are highly correlated across regions, meaning that a change that affects one region often affects other regions. Urner Barry's price quotations are based on, among other things, trades, bids, and offers on ECI in addition to self-reported trades not on ECI. In determining its price quotations, Urner Barry considers whether trades, bids, and offers are at prices that are ''premium'' (prices that suggest Urner Barry's price quotations are too low), ''discount'' (prices that suggest that Urner Barry's current price quotations are too high), or ''supportive'' (prices that suggest that Urner Barry's current price quotations are approximately correct). Accordingly, egg companies' bids, offers, and trades for eggs on ECI affect Urner Barry's price quotations.

12. Egg producers, including Defendants, often sell eggs to retailers including grocery stores and restaurants under contracts for which the price of eggs is based on the daily price quotations published by Urner Barry. Thus, Urner Barry's daily price quotations are an inseparable part of the price that many retailers, including grocery stores and restaurants, pay for eggs.

IV. Defendants' Unlawful Activities

13. Beginning in June 2022 and continuing through March 2025, Defendants conspired to artificially inflate Urner Barry's price quotations to increase the price of eggs sold nationwide. Defendants effectuated their conspiracy by, among other things: (i) agreeing to submit a large number of bids in order to influence Urner Barry's price quotations; (ii) agreeing that multiple Defendants would submit bids so that a diverse set of market participants were bidding; (iii) agreeing to submit a large number of bids in the hours leading up to the publication of Urner Barry's price quotations; (iv) agreeing to submit bids that were unlikely to lead to executed trades in order to increase Urner Barry's price quotations; and (v) agreeing to execute trades off of ECI (but still reported to Urner Barry) at premium prices in order to artificially inflate Urner Barry's price quotations. Defendants also lobbied Urner Barry to increase its price quotations, including by citing their bids and trades at premium prices as justifications for Urner Barry to increase its price quotations. Representative examples of Defendants' conduct to manipulate Urner Barry's price quotations are discussed below.

A. Defendants Conspired to Artificially Inflate the Urner Barry Price Quotations

(a) Hickman's and Cal-Maine Coordinate To ''Hold'' Market Prices

14. In October 2022, Hickman's and Cal-Maine coordinated to ''hold'' prices—meaning that they worked together to stop prices from declining. On the morning of October 14, a Cal-Maine executive texted Hickman's CEO stating, ''[w]e are bidding up. Let's hold it today.'' Later that day, Hickman's CEO called a now-former Cal-Maine executive over the phone. By the end of the day, Hickman's and Cal-Maine's bids on ECI accounted for over half of the bids submitted that day.

15. Urner Barry kept its price quotations for white, large, shell eggs unchanged across all regions. One of the Cal-Maine executives then texted Hickman's CEO, ''[n]o change,'' acknowledging that, as they had intended, Urner Barry kept its price quotations the same.

(b) Defendants Coordinate To Bid ''Early and Often''

16. On December 19, 2022, Cal-Maine, Versova, and Hickman's held a regularly scheduled weekly call in which they discussed Urner Barry's price quotations. That same day, Hickman's CEO emailed Defendants, ''[n]eed to push the spread into the northwest. . . .'' A senior Versova executive replied a few hours later, stating, ''[o]ur team will be bidding for additional loads again tomorrow.'' Hickman's CEO then responded, ''[i]f we all bid in our respective areas for the 3–5 loads minimum we are short . . . the market reporters will have to address.'' Throughout the day, Hickman's CEO spoke on the phone with that Versova executive, as well as a now-former executive from Cal-Maine.

17. On December 19, Urner Barry increased its price quotations for white, large, shell eggs across all regions.

18. Hickman's CEO repeated his request early the following morning, on December 20, emailing senior executives from Cal-Maine, Versova, and others, stating, ''[p]lease consider posting strong bids, early and often. The market reporters don't get in for another hour, so it will be good for them to see diverse bidding upon logging on.'' (Urner Barry is more likely to increase its price quotations if it observes higher bids from a variety of market participants.) Hickman's CEO later emailed again, stating, ''[h]urry[.] There are only 16 bids on ECI right now and 15 of them are ours [Hickman's bids].'' Shortly after that email, all three Defendants collectively submitted dozens of bids on ECI, most of which were at premium prices. By contrast, all other market participants combined submitted fewer than six bids that morning. Following these emails, Hickman's CEO had several phone calls with an executive from Versova and a now-former executive from Cal-Maine.

19. On December 20, Urner Barry again increased its price quotations for white, large, shell eggs across all regions.

(c) ''We Need To Bid Like They Vote in Chicago, Early and Often''

20. On December 21, Hickman's CEO again emailed his co-conspirators—including senior executives from Cal-Maine and Versova and the CEO of Cooperative A—noting that Urner Barry's market reporter was ''trying to set the stage for [market prices] to retrace,'' meaning that, according to Hickman's CEO, Urner Barry was planning to lower its egg price quotations. Hickman's CEO reiterated that Defendants should ''bid openly for eggs, especially mediums and eggs into the northwest.''

21. That morning, consistent with Hickman's CEO's request, Cal-Maine, Versova, and Hickman's proceeded to collectively submit dozens of bids. By contrast, all other market participants combined submitted a small number of bids. On December 21, 2022, Urner Barry increased its price quotations for white, large, shell eggs across all regions.

22. On December 21, Urner Barry's report noted that the volume of bidding had declined from the previous day. This prompted the CEO of Cooperative A to repeat Hickman's earlier concern that Urner Barry might push for price declines, writing that Urner Barry was ''prepared to pull the market down.'' He then joined Hickman's CEO in asking Defendants to submit bids designed to influence Urner Barry, writing, ''[a]s a group we need to bid like they vote in Chicago, early and often.'' Hickman's CEO called a now-former Cal-Maine

executive three times throughout the day. Hickman's CEO repeated the CEO of Cooperative A's instruction the next morning, emailing senior executives from Cal-Maine and Versova, the CEO of Cooperative A, and others, with the subject ''bids,'' stating: ''[t]here is only a 2 cent premium for NW [Northwest] large over SC [South Central] large'' eggs. Hickman's CEO continued, ''[b]id early and often today.''

23. After receiving Hickman's CEO's directive to ''[b]id early and often,'' on December 22, a senior Versova executive told another Versova executive to ''light up the northwest bids please. .02 over.'' That executive agreed and then placed bids at a price that was two cents greater than Urner Barry's price quotation for the Northwest. Prospective sellers were required to call prior to accepting these bids. Then, when one of the Versova executives noted that the ''NW bids are getting hit''—meaning that a seller was offering to sell the eggs to Versova to meet Versova's bid—the other Versova executive stated that he should delete the bids, suggesting that Versova did not need the eggs.

24. Consistent with Hickman's CEO's request that Defendants bid ''[e]arly and often,'' Cal-Maine, Versova, and Hickman's collectively submitted dozens of bids on ECI on December 22. By contrast, all other market participants combined submitted five bids on ECI.

25. On December 22, Urner Barry increased its price quotations for white, large, shell eggs across all regions, including the Northwest region.

26. Defendants recognized that their efforts were successful. For example, after coordinating to place bids designed to affect Urner Barry's price quotations for the Northwest region, Hickman's CEO sent Defendants' executives an Urner Barry report stating that ''[e]gg prices [were] hitting records,'' and added, ''great job in the northwest today!''

(d) Defendants Execute Premium Trades So the Market Reporter Has Trades To ''Hang Her Hat On''

27. On August 7, 2023, a Cal-Maine executive sent a text message to a Versova executive, asking, ''[a]ny more eggs?'' and noting that Urner Barry's market reporter ''needs premium trades to hang her hat on.'' The Cal-Maine executive then proposed to buy eggs at premium prices, and the two proceeded to negotiate over the delivery date of the trade. Cal-Maine and Versova executed three private trades (*i.e.,* trades not executed on ECI or a similar platform) at premium prices, and Cal-Maine shared the purchase orders with Urner Barry.

28. After Urner Barry had kept its price quotations for white, large, shell eggs unchanged across all regions except California since May 26, it increased these quotations across all regions except California each day between August 9 and August 11. On August 9, the CEO of Cooperative A forwarded Urner Barry reports to Cal-Maine and wrote, ''[f]inally!!!!,'' referring to Urner Barry's increases in its price quotations.

(e) Defendants' Continued Coordination

29. In the afternoon on December 3, 2024, Hickman's CEO spoke to executives from Cal-Maine and Versova over the phone. Early the next morning, on December 4, Cal-Maine's former CEO sent Hickman's CEO a text message stating, ''[l]et it rip.'' After that, Defendants significantly changed their bidding behavior. Specifically, after December 4, Defendants submitted more bids per day, and a greater percentage of their bids were at premium prices and unfilled.

30. Defendants continued to lobby Urner Barry through the 2024 holiday season, asking for ever-higher price quotations and requesting that Urner Barry place less emphasis on transactions by non-Defendants that could have led to lower price quotations.

31. Price quotations dropped significantly from their February 2025 peak after Defendants learned of the Department of Justice investigation and were instructed to preserve documents on March 5, 2025.

(f) Examples not Exhaustive

32. These examples are not exhaustive; Defendants discussed Urner Barry and ECI bidding in a variety of other emails, texts, chats, and phone calls during the relevant period.

V. Violation of Section 1 of the Sherman Act, 15 U.S.C. 1

33. Plaintiffs repeat and reallege paragraphs 1 through 32 of this Complaint as if fully set forth herein.

34. As described above, from June 2022 through March 2025, Defendants and their co-conspirators entered into and engaged in an agreement and conspiracy that had the direct, substantial, and foreseeable effect of artificially inflating Urner Barry's egg price quotations. This unreasonably and unlawfully restrained trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

35. Plaintiffs are entitled to injunctive relief against Defendants to prevent and restrain these violations of Section 1 of the Sherman Act, 15 U.S.C. 1.

VI. Jurisdiction and Venue

36. Plaintiff United States of America brings this action under Section 4 of the Sherman Act, 15 U.S.C. 4, to obtain equitable relief and other relief to prevent and restrain Defendants' violations of Section 1 of the Sherman Act, 15 U.S.C § 1. The States of Arizona, California, Colorado, Connecticut, Florida, Hawaii, Iowa, Maryland, Minnesota, New York, North Carolina, Ohio, Pennsylvania, Texas, Utah, Vermont, and Wisconsin by and through their respective Attorneys General, bring this action pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26, to enjoin Defendants from violating Section 1 of the Sherman Act, 15 U.S.C. 1.

37. This Court has subject-matter jurisdiction under Section 4 of the Sherman Act, 15 U.S.C. 4, and under 28 U.S.C. 1331, 1337(a), and 1345.

38. This District is a proper venue under Section 5 of the Sherman Act, 15 U.S.C. 5; Section 12 of the Clayton Act, 15 U.S.C. 22; and 28 U.S.C. 1391, because one or more Defendants transacts business or is found within this District, a substantial portion of the conduct giving rise to this claim occurred in this District, and a substantial portion of the affected interstate commerce was transacted in this District.

VII. Request for Relief

39. To remedy these illegal acts, Plaintiffs respectfully request that the Court:

a. Adjudge and decree that Defendants entered into and engaged in a contract, combination, or conspiracy in restraint of trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. 1;

b. Permanently enjoin Defendants from directly or indirectly communicating or discussing certain information relating to bidding, including competitors' bidding strategies and the prices, timing, and number of bids that competitors could or should submit;

c. Permanently enjoin Defendants from directly or indirectly agreeing with each other or any competitor regarding the prices, timing, and number of bids;

d. Permanently enjoin Defendants from communicating with competitors regarding the submission of bids or execution of transactions that are intended to affect any benchmark publication or are not based on legitimate business needs;

e. Require Defendants to take such internal measures as are necessary to

ensure compliance with any injunction; and

f. Award to Plaintiffs their costs of this action and order all relief that is just and proper.

Dated June 29, 2026.

Respectfully submitted,

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United States District Court for the Northern District of Iowa Western Division

United States of America, State of Arizona, State of California, State of Colorado, State of Connecticut, State of Florida, State of Hawaii, State of Iowa, State of Maryland, State of Minnesota, State of New York, State of North Carolina, State of Ohio, Commonwealth of Pennsylvania, State of Texas, State of Utah, State of Vermont, and State of Wisconsin, Plaintiffs, v. *Cal-Maine Foods, Inc., Centrum Valley Holdings, LLC, Versova Holdings, LLC, Versova Management Cooperative, and Hickman's Egg Ranch, INC.,* Defendants.

Civil Action No. 5:26–cv–04060–LTS–MAR

Proposed Final Judgment

Whereas, Plaintiffs, the United States of America and the States of Arizona, California, Colorado, Connecticut, Florida, Hawaii, Iowa, Maryland, Minnesota, New York, North Carolina, Ohio, Pennsylvania, Texas, Utah, Vermont, and Wisconsin, filed their Complaint on June 29, 2026;

And whereas, Plaintiffs and Defendant, Cal-Maine Foods, Inc. (''Cal-Maine'') have consented to entry of this Final Judgment without the taking of testimony, without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party relating to any issue of fact or law;

And whereas, Cal-Maine agrees to be bound by certain obligations and to undertake certain actions to remedy the loss of competition alleged in the Complaint;

And whereas, Cal-Maine represents that the relief required by this Final Judgment can and will be made and that Cal-Maine will not later raise a claim of hardship or difficulty as grounds for asking the court to modify any provision of this Final Judgment;

Now, therefore, it is ordered, adjudged, and decreed:

I. Jurisdiction and Venue

The Court has jurisdiction over the subject matter of this action and over the parties to it. Venue for this action is proper in the United States District Court for the Northern District of Iowa. The Complaint states a claim upon which relief may be granted against Cal-Maine under Section 1 of the Sherman Act (15 U.S.C. 1).

II. Definitions

As used in this Final Judgment:

A. ''Cal-Maine'' means Cal-Maine Foods, Inc., a Delaware corporation with headquarters in Ridgeland, Mississippi, its successors and assigns, and its subsidiaries, divisions, groups, and affiliates, and their directors, officers, managers, agents, and employees. ''Cal-Maine'' does not include Persons who are affiliated with Cal-Maine only because they are also members or owners of a Cal-Maine Commercial Association. For purposes of this definition, ''groups'' refers to internal business units of Cal-Maine Foods, Inc., and its successors and subsidiaries, regardless of how those business units are formally organized.

B. ''Benchmark Publication'' means any and all publications containing any price quotations, benchmarks, indices, or market updates for Eggs, including the daily quotations and undertone reports (*e.g.,* the ''mid-morning tone'' and ''egg situation'' publications) published by Urner Barry (and also including the ''COMTELL'' market intelligence platform published by Urner Barry), the USDA Agricultural Marketing Service Egg Market News Reports, and any successor publications.

C. ''Bid,'' ''Bids,'' or ''Bidding'' mean any offer to purchase Eggs, including any offer to purchase (1) Eggs on trading platforms or exchanges (including the exchange operated by ECI), or (2) through any other means of acquiring Eggs (including acquiring Eggs from brokers or through direct negotiations with producers of Eggs). ''Bid,'' ''Bids,'' and ''Bidding'' includes both executed and unexecuted offers as well as a single offer and multiple offers. For the avoidance of doubt, offers solely to sell

Eggs are not ''Bids,'' a ''Bid,'' or ''Bidding.''

D. ''Cal-Maine Commercial Association'' means any Commercial Association that Cal-Maine owns (in whole or in part) or is a member of.

E. ''Cal-Maine Commercial Association Meeting'' means any regularly scheduled in-person, telephonic, or video-based meetings held by a Cal-Maine Commercial Association or one of its committees or working groups, including supply and demand and marketing meetings.

F. ''Commercial Associations'' means any cooperatives, joint ventures, or other associations involved in the production, processing, preparing for market, handling, marketing, or sale of Eggs.

G. ''Competitor'' means any Person, other than Cal-Maine, who produces or processes Eggs, or markets or sells Eggs to wholesalers, grocery stores, restaurants, or food-service distributors, including any such Person other than Cal-Maine who is a member or owner of any Cal-Maine Commercial Association, and any Commercial Association that is not a Cal-Maine Commercial Association. ''Competitor'' does not include any Cal-Maine Commercial Association.

H. ''Deleted Bid'' means a Bid submitted on ECI that the bidder withdraws or deletes prior to the time it would normally expire under ECI's trading rules.

I. ''Document'' means all written, printed, or electronically stored information, and any deleted but recoverable electronic files or any electronic file fragments of any kind in the possession, custody, or control of Cal-Maine, including information stored on social media accounts like X (formerly, Twitter) or Facebook, chats, instant messages, text messages, ephemeral or non-ephemeral messaging, and other methods of group and individual communication (*e.g.,* Microsoft Teams, Slack), as well as documents contained in collaborative work environments and other document databases (*e.g.,* Microsoft SharePoint sites, eRooms, document management systems such as iManage, intranets, web content management systems such as Drupal, wikis, and blogs). ''Document'' includes metadata, formulas, and other embedded, hidden, and bibliographic or historical data describing or relating to any document.

J. ''ECI'' means Egg Clearinghouse, Inc. and the Egg spot market transaction platform that it operates.

K. ''Eggs'' means whole shell eggs which are sold unbroken in their shell.

L. ''Including'' means including, but not limited to.

M. ''Legitimate Business Needs'' means the need of a producer of Eggs or a Commercial Association to acquire Eggs to meet current or anticipated demand. A Bid or Transaction is not based on Legitimate Business Needs when, at the time of a Bid or Transaction:

1. the producer or Commercial Association does not need to acquire the Eggs to meet current or anticipated demand,

2. any employee, manager, or director of the producer or Commercial Association, or any agent acting at the direction of the producer or Commercial Association, submits Bids or executes Transactions knowing that the prices are higher than necessary to acquire Eggs,

3. any employee, manager, or director of the producer or Commercial Association, or any agent acting at the direction of the producer or Commercial Association, submits Bids, or executes Transactions, knowing that the Bids or Transactions are for a greater number of Eggs than necessary to meet current or anticipated demand, or

4. any employee, manager, or director of the producer or Commercial Association, or any agent acting at the direction of the producer or Commercial Association, submits Bids without an intent to transact on the prices and terms offered (except that a mistakenly or inadvertently submitted Bid or price does not count as a Bid submitted without an intent to transact).

Whether a Bid is based on Legitimate Business Needs is evaluated at the time the Bid is submitted, and knowledge acquired after submission of a Bid will not change whether a Bid was based on Legitimate Business Needs at the time of submission. A Transaction that is executed as a result of a Bid that is based on Legitimate Business Needs will be considered a Transaction based on a Legitimate Business Need regardless of any changes in market conditions between the time the Bid is submitted and the execution of the Transaction. As used herein, ''knowing'' or ''knowledge'' means the actual knowledge of the employee, manager, director, or agent. Knowledge acquired after a Transaction will not change whether a Transaction was based on Legitimate Business Needs at the time of the Transaction. In addition, paying or offering to pay a higher price in order to acquire Eggs on a particular delivery timeline; to acquire Eggs of a particular type, size, or quantity; or to increase the certainty of delivery will not, without more, mean that a Bid or Transaction is not based on a Legitimate Business Need.

N. ''Person'' means any natural person, corporate entity, partnership, association, joint venture, proprietorship, agency, board, authority, commission, office, trust, or other business or legal entity.

O. ''Plaintiff States'' means the States of Arizona, California, Colorado, Connecticut, Florida, Hawaii, Iowa, Maryland, Minnesota, New York, North Carolina, Ohio, Pennsylvania, Texas, Utah, Vermont, and Wisconsin.

P. ''Senior Management'' means Cal-Maine employees, agents, managers, officers, and directors, wherever located, who (1) are involved in or manage Bidding or the execution of Transactions, or (2) participate in, or supervise the individuals who participate in, Cal-Maine Commercial Associations.

Q. ''Transaction'' means any transaction to buy Eggs.

R. ''Urner Barry'' means Urner Barry Publications, Inc., a New Jersey corporation with a principal place of business in Toms River, New Jersey, Expana, and their present and former parent companies, Mintec Ltd. and AgriBriefing.

III. Applicability

This Final Judgment applies to Cal-Maine and all other Persons in active concert or participation with Cal-Maine who receive actual notice of this Final Judgment.

IV. Prohibited Competitor Communications and Agreements

A. Cal-Maine must not, directly or indirectly, communicate, discuss, or negotiate with any Competitor regarding:

1. the specific Bidding strategies of Cal-Maine or any Competitor;

2. the prices of any Bids that Cal-Maine or any Competitor has made, will make, could make, or should make;

3. the timing of any specific Bids that Cal-Maine or any Competitor has made, will make, could make, or should make;

4. the number of Bids that Cal-Maine or any Competitor has submitted, will submit, could submit, or should submit; or

5. the information about Bids or Transactions, including the information immediately above in this Paragraph IV(A)(1)–(4), and any non-public information about Egg prices or Egg supply and demand, that Cal-Maine, any Competitor, or any Cal-Maine Commercial Association plans to report or communicate, should report or communicate, could report or communicate, has reported or

communicated, or is considering reporting or communicating to any Benchmark Publication.

Nothing in this Paragraph IV.A prohibits Cal-Maine from (a) communicating with a Competitor (and, if necessary, a broker or brokers acting as an intermediary) to buy or sell Eggs, including regarding the price, number, or terms, if Cal-Maine is only discussing the price, number, or terms under which it will buy Eggs from or sell Eggs to that Competitor, solely with the Competitor with whom Cal-Maine is negotiating to buy or sell Eggs (and, if applicable, the broker or brokers), (b) communicating with a Competitor (and, if necessary, a broker or brokers acting as an intermediary) regarding the price, number, or terms of an agreement to co-pack Eggs if that co-pack agreement is solely between Cal-Maine and that Competitor (and, if applicable, the broker or brokers), (c) making general statements in an earnings call or public filing about Cal-Maine's past Bids or Bidding strategies, as long as those statements do not include current or forward-looking information about the prices, timing, or number of Bids, or Bidding strategies, or (d) communicating with any Benchmark Publications about Cal-Maine's Bids and Transactions. For the avoidance of doubt, Cal-Maine's mere receipt of a Person's communication to Cal-Maine of the information described in Paragraph IV.A, if not requested by Cal-Maine, does not constitute a violation of this Paragraph.

B. Cal-Maine must not, directly or indirectly, agree with any Competitor or Cal-Maine Commercial Association:

1. on the number, pricing, or other terms of Bids submitted by Cal-Maine or any Competitor; or

2. on the number, pricing, or other terms of Transactions executed between Cal-Maine and any third party or any Competitor and any third party.

C. Nothing in this Section IV prohibits

1. Cal-Maine from communicating, discussing, negotiating, or agreeing with a Competitor (or, if applicable, a Cal-Maine Commercial Association) to buy Eggs from or sell Eggs to that Competitor (or, if applicable, a Cal-Maine Commercial Association) if that acquisition or sale is solely between Cal-Maine and that Competitor (and past Bids, Transactions, or sales of Eggs may be referenced, communicated, or discussed in the negotiation of such an acquisition or sale, solely with the Competitor or Cal-Maine Commercial Association with whom Cal-Maine is negotiating to buy or sell Eggs);

2. Cal-Maine from agreeing with a Person that is not a Competitor or Cal-Maine Commercial Association to buy Eggs from, or sell Eggs to, a Competitor, if those acquisitions or sales are based on Legitimate Business Needs;

3. Cal-Maine from communicating, discussing, negotiating, or agreeing with any Cal-Maine Commercial Association, its members, or any Person acting on that Cal-Maine Commercial Association's behalf about the Bids of that Cal-Maine Commercial Association—or, if Cal-Maine is submitting a Bid of the Cal-Maine Commercial Association, communicating, discussing, negotiating, or agreeing with that Cal-Maine Commercial Association or its members or owners about the Bids of that Cal-Maine Commercial Association—as long as Cal-Maine does not, directly or indirectly, communicate, discuss, negotiate, or agree with any Competitors that are members or owners of that Cal-Maine Commercial Association about the current or future Bids or Transactions of Cal-Maine or any of the Competitors;

4. Cal-Maine from communicating, discussing, negotiating, or agreeing with a Person who purchases substantially more Eggs than that Person produces about Bids or Transactions by Cal-Maine to acquire Eggs for the benefit of that Person even if that Person otherwise meets the definition of ''Competitor''; or

5. conduct other than as enumerated in this Section IV.

V. Other Prohibited Conduct

A. On a bi-annual (*i.e.,* twice a year) basis beginning with Cal-Maine's second full financial quarter following entry of the Stipulation and Order and for a period of five (5) years, Cal-Maine must submit to the United States and the Plaintiff States, no later than thirty (30) days after the close of the quarter:

1. a certification made under penalty of perjury from Cal-Maine's General Counsel that upon information and belief, based on a reasonably diligent inquiry, Cal-Maine did not communicate with any Competitor or Cal-Maine Commercial Association regarding any Bids or Transactions that Cal-Maine knows are not based on Legitimate Business Needs; and

2. a written explanation made under penalty of perjury for each Deleted Bid (except for Bids deleted because Cal-Maine acquired the necessary Eggs through other Transactions). For each Cal-Maine Deleted Bid, this written explanation must include the date and time of the Bid, any unique identifier applicable to the Bid, the dollar value of the Bid, when the Bid was deleted, and an explanation of the reasons why Cal-Maine deleted the Bid.

B. Cal-Maine must not communicate with any Competitor or Cal-Maine Commercial Association regarding:

1. Bids or Transactions that Cal-Maine knows are not based on Legitimate Business Needs or

2. Bids or Transactions that Cal-Maine knows are intended to affect any Benchmark Publication.

However, the mere receipt by Cal-Maine of a Competitor or Cal-Maine Commercial Association's communication regarding Bids or Transactions that are intended to affect a Benchmark Publication or Bids or Transactions that are not based on Legitimate Business Needs, if not requested by Cal-Maine, does not constitute a violation of this Paragraph V.B.

C. Cal-Maine must not encourage, induce, influence, solicit, advise, agree with, or assist any Competitor or Cal-Maine Commercial Association to:

1. submit Bids, or execute Transactions, that are intended to affect any Benchmark Publication; or

2. submit Bids, or execute Transactions, that are not based on the Legitimate Business Needs of Cal-Maine, the Competitor, or the Cal-Maine Commercial Association.

D. For purposes of this Section V, a Bid or Transaction is ''intended to affect any Benchmark Publication'' when at least one goal or purpose, known to Cal-Maine, is to affect any Benchmark Publication. For the avoidance of doubt, mere knowledge, foreseeability, or understanding that a Bid or Transaction could, would, or might affect a Benchmark publication does not make a Bid or Transaction ''intended to affect any Benchmark Publication.''

E. Nothing in this Section V prohibits conduct other than as enumerated in this Section V.

VI. Compliance and Reporting Obligations

A. Within sixty (60) days of entry of the Stipulation and Order, Cal-Maine must submit a written antitrust compliance policy to the United States and the Plaintiff States for approval by the United States in its sole discretion that complies with the obligations set forth in this Final Judgment. Cal-Maine must annually train all Senior Management on this written policy.

B. Within sixty (60) days of entry of the Stipulation and Order, Cal-Maine must designate an antitrust compliance officer. Cal-Maine must identify to the United States and the Plaintiff States the antitrust compliance officer's name, business address, telephone number, and email address. Within sixty (60) days of a vacancy in Cal-Maine's

antitrust compliance officer position, Cal-Maine must appoint a replacement and must identify to the United States and the Plaintiff States the replacement's name, business address, telephone number, and email address. Cal-Maine's initial and replacement appointments of an antitrust compliance officer are subject to the approval of the United States in its sole discretion. Cal-Maine is responsible for all costs and expenses related to the antitrust compliance officer. The antitrust compliance officer will be responsible for:

1. auditing on a bi-annual basis (*i.e.,* twice per year) compliance with Sections IV and V;

2. attending and monitoring (including through virtual, other electronic, or telephonic means) either personally or through reports from outside antitrust counsel any Cal-Maine Commercial Association Meeting in which the supply and demand or marketing of Eggs (including Bidding) is reasonably anticipated to be discussed;

3. implementing and enforcing Cal-Maine's antitrust compliance policy and annual training required by Paragraph VI.A; and

4. reporting any communication regarding Cal-Maine Commercial Association Meetings pursuant to Paragraph VI.D.

C. On an annual basis beginning with Cal-Maine's second full financial quarter following entry of the Stipulation and Order, Cal-Maine must:

1. submit to the United States and the Plaintiff States a certification from Cal-Maine's General Counsel attesting under penalty of perjury that (i) Cal-Maine has established and maintained the antitrust compliance policy and annual training required by Paragraph VI.A; and (ii) Cal-Maine has complied with the requirements in Sections IV and V; and

2. submit to the United States and the Plaintiff States a certification from the antitrust compliance officer attesting under penalty of perjury that (i) Cal-Maine has taken reasonable steps to comply with Sections IV and V; (ii) the antitrust compliance officer has attended or monitored through reports from outside antitrust counsel all Cal-Maine Commercial Association Meetings attended by Cal-Maine in which the supply and demand or marketing of Eggs (including Bidding) is reasonably anticipated to be discussed; (iii) the antitrust compliance officer has reported all known communications pursuant to Paragraph VI.D; and (iv) the antitrust compliance officer has performed bi-annual audits to ensure compliance with Sections IV and V.

D. Upon learning that Cal-Maine has engaged in communications or other conduct during a Cal-Maine Commercial Association Meeting prohibited by Section IV or Section V, the antitrust compliance officer designated pursuant to Paragraph VI.B must provide to the United States and the Plaintiff States the following information within thirty (30) days:

1. the date, time, location, and a description of the communications or conduct, as well as the participants in the communications or conduct; and

2. all Documents relating to the communications or conduct, including any agenda and meeting minutes.

No report pursuant to this Paragraph VI.D shall be construed as a *per se* admission of wrongdoing or violation of this Final Judgment by Cal-Maine. Notwithstanding the foregoing, the reporting obligation in this Paragraph VI.D does not extend to privileged communications.

E. If Cal-Maine joins any Commercial Association between the date the Proposed Final Judgment is entered and the termination of the Final Judgment, Cal-Maine must submit to the United States and the Plaintiff States a detailed written description of the Commercial Association within thirty (30) calendar days after signing bylaws, a membership agreement, or a comparable Document, including a list of the members of that Commercial Association (as well as the name, business address, phone number, and email address for those members), the purpose and business of that Commercial Association, and copies of any governing agreements of the Commercial Association (including bylaws and membership agreements).

F. Cal-Maine must provide a written copy of this Final Judgment to any current Cal-Maine Commercial Association, with a request that the Final Judgment be sent to all members of the Cal-Maine Commercial Association, within thirty (30) days from the entry of this Final Judgment. Cal-Maine must provide a written copy of this Final Judgment to any Commercial Association that Cal-Maine joins between the date the Proposed Final Judgment is entered and the termination of the Final Judgment, with a request that the Final Judgment be sent to all members of the Cal-Maine Commercial Association, within thirty (30) days after joining any such Commercial Association.

VII. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment or related orders such as the Stipulation and Order or determining whether this Final Judgment should be modified or vacated, upon written request of an authorized representative of the Assistant Attorney General for the Antitrust Division or Plaintiff States and reasonable notice to Cal-Maine, Cal-Maine must permit, from time to time and subject to legally recognized privileges, authorized representatives, including agents retained by the United States or Plaintiff States:

1. to have access during Cal-Maine's business hours to inspect and copy, or at the option of the United States or Plaintiff States, to require Cal-Maine to provide electronic copies of all books, ledgers, accounts, records, data, and Documents wherever located, in the possession, custody, or control of Cal-Maine relating to any matters contained in this Final Judgment; and

2. to interview, either informally or on the record, Cal-Maine's officers, employees, or agents, wherever located, who may have their individual counsel present, relating to any matters contained in this Final Judgment. The interviews must be subject to the reasonable convenience of the interviewee and without restraint or interference by Cal-Maine.

B. Upon the written request of an authorized representative of the Assistant Attorney General for the Antitrust Division or Plaintiff States, Cal-Maine must submit written reports or respond to written interrogatories, under oath if requested, relating to any matters contained in this Final Judgment.

VIII. Release

Cal-Maine is hereby fully and finally discharged and released from the claims stated in the Complaint against Cal-Maine.

IX. Public Disclosure

A. No information or Documents obtained pursuant to any provision in this Final Judgment may be divulged by the United States or the Plaintiff States to any Person other than an authorized representative of the executive branch of the United States or the Plaintiff States, except in the course of legal proceedings to which the United States or a Plaintiff State is a party, including grand-jury proceedings, or as otherwise required by law.

B. In the event of a request by a third party, pursuant to the Freedom of Information Act, 5 U.S.C. 552, or similar state disclosure laws, for disclosure of information obtained pursuant to any provision of this Final Judgment, Plaintiffs will act in accordance with that statute and the Department of Justice regulations at 28 CFR part 16,

including the provision on confidential commercial information, at 28 CFR 16.7, or the state disclosure laws as applicable. Cal-Maine, when submitting information to the Antitrust Division, should designate the confidential commercial information portions of all applicable Documents and information under 28 CFR 16.7. Designations of confidentiality expire ten (10) years after submission, ''unless the submitter requests and provides justification for a longer designation period.'' *See* 28 CFR 16.7(b).

C. If at the time that Cal-Maine furnishes information or Documents to the United States or the Plaintiff States pursuant to any provision of this Final Judgment, Cal-Maine represents and identifies in writing information or Documents for which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Cal-Maine marks each pertinent page of such material ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' the United States or the Plaintiff States must give Cal-Maine ten (10) calendar days' notice before divulging the material in any legal proceeding (other than a grand jury proceeding), unless subject to a court order requiring disclosure within fewer than ten (10) calendar days, in which case the United States or the Plaintiff States will provide notice as quickly as practicable.

X. Retention of Jurisdiction

The Court retains jurisdiction to enable any party to this Final Judgment to apply to the Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XI. Enforcement of Final Judgment

A. The United States, or any Plaintiff State with respect to actions by Defendant impacting Egg sales in its State, retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. In a civil contempt action, a motion to show cause, or a similar action brought by the United States or an affected Plaintiff State relating to an alleged violation of this Final Judgment, the United States or the affected Plaintiff State may establish a violation of this Final Judgment and the appropriateness of a remedy therefor by a preponderance of the evidence, and Cal-Maine waives any argument that a different standard of proof should apply.

B. Cal-Maine may be held in contempt of, and the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In an enforcement proceeding in which the Court finds that Cal-Maine has violated this Final Judgment, the United States may apply to the Court for an extension of this Final Judgment, together with other relief that may be appropriate. In connection with a successful effort by the United States or any affected Plaintiff State to enforce this Final Judgment against Cal-Maine, whether litigated or resolved before litigation, Cal-Maine must reimburse the United States or any affected Plaintiff State for the fees and expenses of its attorneys, as well as all other costs including experts' fees, incurred in connection with that effort to enforce this Final Judgment, including in the investigation of the potential violation.

D. For a period of four (4) years following the expiration of this Final Judgment, if the United States has evidence that Cal-Maine violated this Final Judgment before it expired, the United States may file an action against Cal-Maine in this Court requesting that the Court order: (1) Cal-Maine to comply with the terms of this Final Judgment for an additional term of at least four (4) years following the filing of the enforcement action; (2) all appropriate contempt remedies; (3) additional relief needed to ensure Cal-Maine complies with the terms of this Final Judgment; and (4) fees or expenses as called for by this Section XI.

XII. Expiration of Final Judgment

Unless the Court grants an extension, this Final Judgment will expire five (5) years from the date of its entry, except that after four (4) years from the date of its entry, this Final Judgment may be terminated upon motion by the United States to the Court and notice by the United States to Plaintiff States and Cal-Maine that continuation of this Final Judgment is no longer necessary or in the public interest. All requirements, including all notice, certification, and reporting requirements, will terminate automatically upon the expiration of this Final Judgment.

XIII. Reservation of Rights

This Final Judgment terminates only the claims stated in the Complaint against Cal-Maine and does not affect any other charges or claims the United States or Plaintiff States may file.

XIV. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including by making available to the public copies of this Final Judgment and the Competitive Impact Statement, public comments thereon, and any response to comments by the United States. Based upon the record before the Court, which includes the Competitive Impact Statement and, if applicable, any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

United States District Court for the Northern District of Iowa Western Division

United States of America, State of Arizona, State of California, State of Colorado, State of Connecticut, State of Florida, State of Hawaii, State of Iowa, State of Maryland, State of Minnesota, State of New York, State of North Carolina, State of Ohio, Commonwealth of Pennsylvania, State of Texas, State of Utah, State of Vermont, and State of Wisconsin, Plaintiffs, v. *Cal-Maine Foods, Inc., Centrum Valley Holdings, LLC, Versova Holdings, LLC, Versova Management Cooperative, and Hickman's Egg Ranch, Inc.,* Defendants.

Civil Action No. 5:26–cv–04060–LTS–MAR

Proposed Final Judgment

Whereas, Plaintiffs, the United States of America and the States of Arizona, California, Colorado, Connecticut, Florida, Hawaii, Iowa, Maryland, Minnesota, New York, North Carolina, Ohio, Pennsylvania, Texas, Utah, Vermont, and Wisconsin, filed their Complaint on June 29, 2026;

And whereas, Plaintiffs and Defendants, Versova Management Cooperative, Centrum Valley Holdings, LLC, and Versova Holdings, LLC (collectively, ''Versova Defendants'') have consented to entry of this Final Judgment without the taking of testimony, without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party relating to any issue of fact or law;

And whereas, Versova Defendants agree to be bound by certain obligations and to undertake certain actions to remedy the loss of competition alleged in the Complaint;

And whereas, Versova Defendants represent that the relief required by this Final Judgment can and will be made and that Versova Defendants will not later raise a claim of hardship or difficulty as grounds for asking the court to modify any provision of this Final Judgment;

Now, therefore, it is ordered, adjudged, and decreed:

I. Jurisdiction and Venue

The Court has jurisdiction over the subject matter of this action and over the parties to it. Venue for this action is proper in the United States District Court for the Northern District of Iowa. The Complaint states a claim upon which relief may be granted against Versova Defendants under Section 1 of the Sherman Act (15 U.S.C. 1).

II. Definitions

As used in this Final Judgment:

A. ''Versova'' means Versova Management Cooperative, a Minnesota cooperative association with headquarters in Sioux Center, Iowa; Centrum Valley Holdings, LLC; Versova Holdings, LLC; each company, partnership, or other corporate entity that they currently manage, have managed in the past, or will manage in the future (collectively, the ''Managed Companies''); all of the successors and assigns, subsidiaries, divisions, groups, and affiliates of the foregoing; and the directors, officers, managers, agents, and employees of the foregoing. The Managed Companies currently include: Centrum Valley Farms, LLP, Oakdell Farms, LLC, Morning Fresh Farms, LLC, Iowa Cagefree, LLP, Trillium Farm Holdings, LLC, Center Fresh Egg Farm, LLP, Hawkeye Pride Egg Farms, LLP, and Willamette Egg Farms, LLC. For purposes of this definition, ''groups'' refers to internal business units of the Versova Management Cooperative, Centrum Valley Holdings, LLC, Versova Holdings, LLC, and the Managed Companies, regardless of how those business units are formally organized. ''Versova'' does not include Persons who are affiliated with Versova only because they are also members or owners of a Member Commercial Association. Versova also does not include any Managed Companies that are not involved in the production, processing, sale, marketing, or acquisition of Eggs.

B. ''Benchmark Publication'' means any and all publications containing any price quotations, benchmarks, indices, or market updates for Eggs, including the daily quotations and undertone reports (*e.g.,* the ''mid-morning tone'' and ''egg situation'' publications) published by Urner Barry (and also including the ''COMTELL'' market intelligence platform published by Urner Barry), the USDA Agricultural Marketing Service Egg Market News Reports, and any successor publications.

C. ''Bid,'' ''Bids,'' or ''Bidding'' mean any offer to purchase Eggs, including any offer to purchase (1) Eggs on trading platforms or exchanges (including the exchange operated by ECI), or (2) through any other means of acquiring Eggs (including acquiring Eggs from brokers or through direct negotiations with producers of Eggs). ''Bid,'' ''Bids,'' and ''Bidding'' includes both executed and unexecuted offers as well as a single offer and multiple offers. Offers solely to sell Eggs are not ''Bids,'' a ''Bid,'' or ''Bidding.''

D. ''Commercial Association'' means any cooperatives, joint ventures, or other associations involved in the production, processing, preparing for market, handling, marketing, or sale of Eggs.

E. ''Competitor'' means any Person, other than Versova, who produces or processes Eggs, or markets or sells Eggs to wholesalers, grocery stores, restaurants, or food-service distributors, including any such Person other than Versova who is a member or owner of any Member Commercial Association, and any Commercial Association that is not a Member Commercial Association. ''Competitor'' does not include any Member Commercial Association.

F. ''Deleted Bid'' means a Bid submitted on ECI that the bidder withdraws or deletes prior to the time it would normally expire under ECI's trading rules.

G. ''Document'' means all written, printed, or electronically stored information, and any deleted but recoverable electronic files or any electronic file fragments of any kind in the possession, custody, or control of Versova, including information stored on social media accounts like X (formerly, Twitter) or Facebook, chats, instant messages, text messages, ephemeral or non-ephemeral messaging, and other methods of group and individual communication (*e.g.,* Microsoft Teams, Slack), as well as documents contained in collaborative work environments and other document databases (*e.g.,* Microsoft SharePoint sites, eRooms, document management systems such as iManage, intranets, web content management systems such as Drupal, wikis, and blogs). ''Document'' includes metadata, formulas, and other embedded, hidden, and bibliographic or historical data describing or relating to any document.

H. ''ECI'' means Egg Clearinghouse, Inc. and the Egg spot market transaction platform that it operates.

I. ''Eggs'' means whole shell eggs which are sold unbroken in their shell.

J. ''Including'' means including, but not limited to.

K. ''Legitimate Business Needs'' means the need of a producer of Eggs or a Commercial Association to acquire Eggs to meet current or anticipated demand. A Bid or Transaction is not based on Legitimate Business Needs when, at the time of a Bid or Transaction:

1. the producer or Commercial Association does not need to acquire the Eggs to meet current or anticipated demand,

2. any employee, manager, or director of the producer or Commercial Association, or any agent acting at the direction of the producer or Commercial Association, submits Bids or executes Transactions knowing that the prices are higher than necessary to acquire Eggs,

3. any employee, manager, or director of the producer or Commercial Association, or any agent acting at the direction of the producer or Commercial Association, submits Bids, or executes Transactions, knowing that the Bids or Transactions are for a greater number of Eggs than necessary to meet current or anticipated demand, or

4. any employee, manager, or director of the producer or Commercial Association, or any agent acting at the direction of the producer or Commercial Association, submits Bids without an intent to transact on the prices and terms offered (except that a mistakenly or inadvertently submitted Bid or price does not count as a Bid submitted without an intent to transact).

Whether a Bid is based on Legitimate Business Needs is evaluated at the time the Bid is submitted, and knowledge acquired after submission of a Bid will not change whether a Bid was based on Legitimate Business Needs at the time of submission. A Transaction that is executed as a result of a Bid that is based on a Legitimate Business Need will be considered a Transaction based on a Legitimate Business Need regardless of any changes in market conditions between the time the Bid is submitted and the execution of the Transaction. As used herein, ''knowing'' or ''knowledge'' means the actual knowledge of the employee, manager, director, or agent. Knowledge acquired after a Transaction will not change whether a Transaction was based on Legitimate Business Needs at the time of the Transaction. In addition, paying or offering to pay a higher price in order to acquire Eggs on a particular delivery

timeline; to acquire Eggs of a particular type, size, or quantity; or to increase the certainty of delivery will not, without more, mean that a Bid or Transaction is not based on a Legitimate Business Need.

L. ''Member Commercial Association'' means any Commercial Association that Versova owns (in whole or in part) or is a member of, except the Versova Management Cooperative.

M. ''Member Commercial Association Meeting'' means any regularly scheduled in-person, telephonic, or video-based meetings held by a Member Commercial Association or one of its committees or working groups, including supply and demand and marketing meetings.

N. ''Person'' means any natural person, corporate entity, partnership, association, joint venture, proprietorship, agency, board, authority, commission, office, trust, or other business or legal entity.

O. ''Plaintiff States'' means the States of Arizona, California, Colorado, Connecticut, Florida, Hawaii, Iowa, Maryland, Minnesota, New York, North Carolina, Ohio, Pennsylvania, Texas, Utah, Vermont, and Wisconsin.

P. ''Senior Management'' means Versova employees, agents, managers, officers, and directors, wherever located, who (1) are involved in or manage Bidding or the execution of Transactions or (2) participate in, or supervise the individuals who participate in, Member Commercial Associations.

Q. ''Transaction'' means any transaction to buy Eggs.

R. ''Urner Barry'' means Urner Barry Publications, Inc., a New Jersey corporation with a principal place of business in Toms River, New Jersey, Expana, and their present and former parent companies, Mintec Ltd. and AgriBriefing.

III. Applicability

This Final Judgment applies to Versova and all other Persons in active concert or participation with Versova who receive actual notice of this Final Judgment.

IV. Prohibited Competitor Communications and Agreements

A. Versova must not, directly or indirectly, communicate, discuss, or negotiate with any Competitor regarding:

1. the specific Bidding strategies of Versova or any Competitor;

2. the prices of any Bids that Versova or any Competitor has made, will make, could make, or should make;

3. the timing of any specific Bids that Versova or any Competitor has made, will make, could make, or should make;

4. the number of Bids that Versova or any Competitor has submitted, will submit, could submit, or should submit; or

5. the information about Bids or Transactions, including the information immediately above in this Paragraph IV(A)(1)–(4), and any non-public information about Egg prices or Egg supply and demand, that Versova, any Competitor, or any Member Commercial Association plans to report or communicate, should report or communicate, could report or communicate, has reported or communicated, or is considering reporting or communicating to any Benchmark Publication.

Nothing in this Paragraph IV.A prohibits Versova from (a) communicating with a Competitor (and, if necessary, a broker or brokers acting as an intermediary) to buy or sell Eggs, including regarding the price, number, or terms, if Versova is only discussing the price, number, or terms under which it will buy Eggs from or sell Eggs to that Competitor, solely with the Competitor with whom Versova is negotiating to buy or sell Eggs (and, if applicable, the broker or brokers), (b) communicating with a Competitor (and, if necessary, a broker or brokers acting as an intermediary) regarding the price, number, or terms of an agreement to co-pack Eggs if that co-pack agreement is solely between Versova and that Competitor (and, if applicable, the broker or brokers), (c) making general statements in an earnings call or public filing about Versova's past Bids or Bidding strategies, as long as those statements do not include current or forward-looking information about the prices, timing, or number of Bids, or Bidding strategies, or (d) communicating with any Benchmark Publications about Versova's Bids and Transactions. For the avoidance of doubt, Versova's mere receipt of a Person's communication to Versova of the information described in Paragraph IV.A, if not requested by Versova, does not constitute a violation of this Paragraph IV.A.

B. Versova must not, directly or indirectly, agree with any Competitor or Member Commercial Association:

1. on the number, pricing, or other terms of Bids submitted by Versova or any Competitor; or

2. on the number, pricing, or other terms of Transactions executed between Versova and any third party or any Competitor and any third party.

C. Nothing in this Section IV prohibits:

1. Versova from communicating, discussing, negotiating, or agreeing with a Competitor to buy Eggs from or sell Eggs to that Competitor if that acquisition or sale is solely between Versova and that Competitor (and past Bids, Transactions, or sales of Eggs may be referenced, communicated, or discussed in the negotiation of such an acquisition or sale, solely with the Competitor with whom Versova is negotiating to buy or sell Eggs);

2. Versova from agreeing with a Person that is not a Competitor or Member Commercial Association to buy Eggs from, or sell Eggs to, a Competitor, if those acquisitions or sales are based on Legitimate Business Needs;

3. Versova from communicating, discussing, negotiating, or agreeing with any Member Commercial Association, its members, or any Person acting on that Member Commercial Association's behalf about the Bids and Transactions of that Member Commercial Association—or, if Versova is submitting a Bid of that Member Commercial Association, communicating, discussing, negotiating, or agreeing with the Member Commercial Association or its members or owners about the Bids of that Member Commercial Association—as long as Versova does not, directly or indirectly, communicate, discuss, negotiate, or agree with any Competitors that are members or owners of that Member Commercial Association about the current or future Bids or Transactions of Versova or any of the Competitors;

4. Versova from communicating, discussing, negotiating, or agreeing with a Person who purchases substantially more Eggs than that Person produces about Bids or Transactions by Versova to acquire Eggs for the benefit of that Person even if that Person otherwise meets the definition of ''Competitor''; or

5. conduct other than as enumerated in this Section IV.

V. OTHER PROHIBITED CONDUCT

A. On a bi-annual (*i.e.,* twice a year) basis beginning with Versova's second full financial quarter following entry of the Stipulation and Order and for a period of five (5) years, Versova must submit to the United States and the Plaintiff States, no later than thirty (30) days after the close of the quarter:

1. a certification made under penalty of perjury from Versova's General Counsel that, upon information and belief, based on a reasonably diligent inquiry, Versova did not communicate with any Competitor or Member

Commercial Association regarding any Bids or Transactions that Versova knows are not based on Legitimate Business Needs; and

2. a written explanation made under penalty of perjury for each Versova Deleted Bid (except for Bids deleted because Versova acquired the necessary Eggs through other Transactions). This written explanation must include the date and time of the Bid, any unique identifier applicable to the Bid, the dollar value of the Bid, when the Bid was deleted, and an explanation of the reasons why Versova deleted the Bid.

B. Versova must not communicate with any Competitor or Member Commercial Association regarding any:

1. Bids or Transactions that Versova knows are not based on Legitimate Business Needs or

2. Bids or Transactions that Versova knows are intended to affect any Benchmark Publication.

However, the mere receipt by Versova of a Competitor or Member Commercial Association's communication regarding Bids or Transactions that are intended to affect a Benchmark Publication or that are not based on Legitimate Business Needs, if not requested by Versova, does not constitute a violation of this Paragraph V.B.

C. Versova must not encourage, induce, influence, solicit, advise, agree with, or assist any Competitor or Member Commercial Association to:

1. submit Bids, or execute Transactions, that are intended to affect any Benchmark Publication; or

2. submit Bids, or execute Transactions, that are not based on the Legitimate Business Needs of Versova, the Competitor, or the Member Commercial Association.

D. For purposes of this Section V, a Bid or Transaction is ''intended to affect any Benchmark Publication'' when at least one goal or purpose, known to Versova, is to affect any Benchmark Publication. For the avoidance of doubt, mere knowledge, foreseeability, or understanding that a Bid or Transaction could, would, or might affect a Benchmark publication does not make a Bid or Transaction ''intended to affect any Benchmark Publication.''

E. Nothing in this Section V prohibits conduct other than as enumerated in this Section V.

VI. Compliance and Reporting Obligations

A. Within sixty (60) days of entry of the Stipulation and Order, Versova must submit a written antitrust compliance policy to the United States and the Plaintiff States, for approval by the United States in its sole discretion that complies with the obligations set forth in this Final Judgment. Versova must annually train all Senior Management on this written policy.

B. Within sixty (60) days of entry of the Stipulation and Order, Versova must designate an antitrust compliance officer. Versova must identify to the United States and the Plaintiff States the antitrust compliance officer's name, business address, telephone number, and email address. Within sixty (60) days of a vacancy in Versova's antitrust compliance officer position, Versova must appoint a replacement and must identify to the United States and the Plaintiff States the replacement's name, business address, telephone number, and email address. Versova's initial and replacement appointments of an antitrust compliance officer are subject to the approval of the United States in its sole discretion. Versova is responsible for all costs and expenses related to the antitrust compliance officer. The antitrust compliance officer will be responsible for:

1. auditing on a bi-annual basis (*i.e.,* twice per year) compliance with Sections IV and V;

2. attending and monitoring (including through virtual, other electronic, or telephonic means) either personally or through reports from outside antitrust counsel any Member Commercial Association Meeting in which the supply and demand or marketing of Eggs (including Bidding) is reasonably anticipated to be discussed;

3. implementing and enforcing Versova's antitrust compliance policy and annual training required by Paragraph VI.A; and

4. reporting any communication regarding Member Commercial Association Meetings pursuant to Paragraph VI.D.

C. On an annual basis beginning with Versova's second full financial quarter following entry of the Stipulation and Order, no later than thirty (30) days after the close of the quarter, Versova must:

1. submit to the United States and the Plaintiff States a certification from Versova's General Counsel attesting under penalty of perjury that (i) Versova has established and maintained the antitrust compliance policy and annual training required by Paragraph VI.A; and (ii) Versova has complied with the requirements in Sections IV and V; and

2. submit to the United States and the Plaintiff States a certification from the antitrust compliance officer attesting under penalty of perjury that (i) Versova has taken reasonable steps to comply with Sections IV and V; (ii) the antitrust compliance officer has attended or monitored through reports from outside antitrust counsel all Member Commercial Association Meetings attended by Versova in which the supply and demand or marketing of Eggs (including Bidding) is reasonably anticipated to be discussed; (iii) the antitrust compliance officer has reported all known communications pursuant to Paragraph VI.D; and (iv) the antitrust compliance officer has performed bi-annual audits to ensure compliance with Sections IV and V.

D. Upon learning that Versova has engaged in communications or other conduct during a Member Commercial Association Meeting prohibited by Section IV or Section V, the antitrust compliance officer designated pursuant to Paragraph VI.B must provide to the United States and the Plaintiff States the following information within thirty (30) days:

1. the date, time, location, and a description of the communications or conduct, as well as the participants in the communications or conduct; and

2. all Documents relating to the communications or conduct, including any agenda and meeting minutes.

No report pursuant to this Paragraph VI.D shall be construed as a *per se* admission of wrongdoing or violation of this Final Judgment by Versova. Notwithstanding the foregoing, the reporting obligation in this Paragraph VI.D does not extend to privileged communications.

E. If Versova joins any Commercial Association between the date the Proposed Final Judgment is entered and the termination of the Final Judgment, Versova must submit to the United States and the Plaintiff States a detailed written description of the Commercial Association within thirty (30) calendar days after signing bylaws, a membership agreement, or a comparable Document, including a list of the members of that Commercial Association (as well as the name, business address, phone number, and email address for those members), the purpose and business of that Commercial Association, and copies of any governing agreements of the Commercial Association (including bylaws and membership agreements).

F. Versova must provide a written copy of this Final Judgment to any current Member Commercial Association, with a request that the Final Judgment be sent to all members of the Member Commercial Association, within thirty (30) days from the entry of this Final Judgment. Versova must provide a written copy of this Final Judgment to any Commercial Association that Versova joins between the date the Final Judgment is entered and the termination of the Final

Judgment, with a request that the Final Judgment be sent to all members of the Member Commercial Association, within thirty (30) days after joining any such Commercial Association.

VII. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment or related orders such as the Stipulation and Order or determining whether this Final Judgment should be modified or vacated, upon written request of an authorized representative of the Assistant Attorney General for the Antitrust Division or Plaintiff States and reasonable notice to Versova, Versova must permit, from time to time and subject to legally recognized privileges, authorized representatives, including agents retained by the United States or Plaintiff States:

1. to have access during Versova's business hours to inspect and copy, or at the option of the United States or Plaintiff States, to require Versova to provide electronic copies of all books, ledgers, accounts, records, data, and Documents wherever located, in the possession, custody, or control of Versova relating to any matters contained in this Final Judgment; and

2. to interview, either informally or on the record, Versova's officers, employees, or agents, wherever located, who may have their individual counsel present, relating to any matters contained in this Final Judgment. The interviews must be subject to the reasonable convenience of the interviewee and without restraint or interference by Versova.

B. Upon the written request of an authorized representative of the Assistant Attorney General for the Antitrust Division or Plaintiff States, Versova must submit written reports or respond to written interrogatories, under oath if requested, relating to any matters contained in this Final Judgment.

VIII. Release

Versova is hereby fully and finally discharged and released from the claims stated in the Complaint against Versova.

IX. Public Disclosure

A. No information or Documents obtained pursuant to any provision in this Final Judgment may be divulged by the United States or the Plaintiff States to any Person other than an authorized representative of the executive branch of the United States or Plaintiff States, except in the course of legal proceedings to which the United States or a Plaintiff State is a party, including grand-jury proceedings, or as otherwise required by law.

B. In the event of a request by a third party, pursuant to the Freedom of Information Act, 5 U.S.C. 552, or similar state disclosure laws, for disclosure of information obtained pursuant to any provision of this Final Judgment, Plaintiffs will act in accordance with that statute and the Department of Justice regulations at 28 CFR part 16, including the provision on confidential commercial information, at 28 CFR 16.7, or the state disclosure laws as applicable. Versova, when submitting information to the Antitrust Division, should designate the confidential commercial information portions of all applicable Documents and information under 28 CFR 16.7. Designations of confidentiality expire ten (10) years after submission, ''unless the submitter requests and provides justification for a longer designation period.'' *See* 28 CFR 16.7(b).

C. If at the time that Versova furnishes information or Documents to the United States or the Plaintiff States pursuant to any provision of this Final Judgment, Versova represents and identifies in writing information or Documents for which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Versova marks each pertinent page of such material ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' the United States or the Plaintiff States must give Versova ten (10) calendar days' notice before divulging the material in any legal proceeding (other than a grand jury proceeding), unless subject to a court order requiring disclosure within fewer than ten (10) calendar days, in which case the United States or the Plaintiff States will provide notice as quickly as practicable.

X. Retention of Jurisdiction

The Court retains jurisdiction to enable any party to this Final Judgment to apply to the Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XI. Enforcement of Final Judgment

A. The United States, or any Plaintiff State with respect to actions by Defendant impacting Egg sales in its State, retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. In a civil contempt action, a motion to show cause, or a similar action brought by the United States or an affected Plaintiff State relating to an alleged violation of this Final Judgment, the United States or the affected Plaintiff State may establish a violation of this Final Judgment and the appropriateness of a remedy therefor by a preponderance of the evidence, and Versova waives any argument that a different standard of proof should apply.

B. Versova may be held in contempt of, and the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In an enforcement proceeding in which the Court finds that Versova has violated this Final Judgment, the United States may apply to the Court for an extension of this Final Judgment, together with other relief that may be appropriate. In connection with a successful effort by the United States or any affected Plaintiff State to enforce this Final Judgment against Versova, whether litigated or resolved before litigation, Versova must reimburse the United States or any affected Plaintiff State for the fees and expenses of its attorneys, as well as all other costs including experts' fees, incurred in connection with that effort to enforce this Final Judgment, including in the investigation of the potential violation.

D. For a period of four (4) years following the expiration of this Final Judgment, if the United States has evidence that Versova violated this Final Judgment before it expired, the United States may file an action against Versova in this Court requesting that the Court order: (1) Versova to comply with the terms of this Final Judgment for an additional term of at least four (4) years following the filing of the enforcement action; (2) all appropriate contempt remedies; (3) additional relief needed to ensure Versova complies with the terms of this Final Judgment; and (4) fees or expenses as called for by this Section XI.

XII. Expiration of Final Judgment

Unless the Court grants an extension, this Final Judgment will expire five (5) years from the date of its entry, except that after four (4) years from the date of its entry, this Final Judgment may be terminated upon motion by the United States to the Court, and notice by the United States to Versova and the Plaintiff States, that continuation of this

Final Judgment is no longer necessary or in the public interest. All requirements, including all notice, certification, and reporting requirements, will terminate automatically upon the expiration of this Final Judgment.

XIII. Reservation of Rights

This Final Judgment terminates only the claims stated in the Complaint against Versova and does not affect other charges or claims the United States or the Plaintiff States may file.

XIV. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including by making available to the public copies of this Final Judgment and the Competitive Impact Statement, public comments thereon, and any response to comments by the United States. Based upon the record before the Court, which includes the Competitive Impact Statement and, if applicable, any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

United States District Court for the Northern District of Iowa Western Division

United States of America, State of Arizona, State of California, State of Colorado, State of Connecticut, State of Florida, State of Hawaii, State of Iowa, State of Maryland, State of Minnesota, State of New York, State of North Carolina, State of Ohio, Commonwealth of Pennsylvania, State of Texas, State of Utah, State of Vermont, and *State of Wisconsin,* Plaintiffs, v. *Cal-Maine Foods, Inc., Centrum Valley Holdings, LLC, Versova Holdings, LLC, Versova Management Cooperative, and Hickman's Egg Ranch, Inc.,* Defendants.

Civil Action No. 5:26–cv–04060–LTS–MAR

Proposed Final Judgment

Whereas, Plaintiffs, the United States of America, and the States of Arizona, California, Colorado, Connecticut, Florida, Hawaii, Iowa, Maryland, Minnesota, New York, North Carolina, Ohio, Pennsylvania, Texas, Utah, Vermont, and Wisconsin, filed their Complaint on June 29, 2026;

And whereas, Plaintiffs and Defendant, Hickman's Egg Ranch, Inc. (''Hickman's'') have consented to entry of this Final Judgment without the taking of testimony, without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party relating to any issue of fact or law;

And whereas, Hickman's agrees to be bound by certain obligations and to undertake certain actions to remedy the loss of competition alleged in the Complaint;

And whereas, Hickman's represents that the relief required by this Final Judgment can and will be made and that Hickman's will not later raise a claim of hardship or difficulty as grounds for asking the court to modify any provision of this Final Judgment;

Now, therefore, it is ordered, adjudged, and decreed:

I. Jurisdiction and Venue

The Court has jurisdiction over the subject matter of this action and over the parties to it. Venue for this action is proper in the United States District Court for the Northern District of Iowa. The Complaint states a claim upon which relief may be granted against Hickman's under Section 1 of the Sherman Act (15 U.S.C. 1).

II. Definitions

As used in this Final Judgment:

A. ''Hickman's'' means Hickman's Egg Ranch, Inc., an Arizona corporation with headquarters in Buckeye, Arizona, its successors and assigns, and its subsidiaries, divisions, groups, and affiliates (other than Mantiqueira USA Inc.'s shareholders, those shareholders' members and shareholders, and their respective affiliates other than Hickman's Egg Ranch, Inc.), and their directors, officers, managers, agents, and employees. ''Hickman's'' does not include Persons who are affiliated with Hickman's only because they are also members or owners of a Hickman's Commercial Association. For purposes of this definition, ''groups'' refers to internal business units of Hickman's Egg Ranch, Inc., and its successors and subsidiaries, regardless of how those business units are formally organized.

B. ''Benchmark Publication'' means any and all publications containing any price quotations, benchmarks, indices, or market updates for Eggs, including the daily quotations and undertone reports (*e.g.,* the ''mid-morning tone'' and ''egg situation'' publications) published by Urner Barry (and also including the ''COMTELL'' market intelligence platform published by Urner Barry), the USDA Agricultural Marketing Service Egg Market News Reports, and any successor publications.

C. ''Bid,'' ''Bids,'' or ''Bidding'' mean any offer to purchase Eggs, including any offer to purchase (1) Eggs on trading platforms or exchanges (including the exchange operated by ECI), or (2) through any other means of acquiring Eggs (including acquiring Eggs from brokers or through direct negotiations with producers of Eggs). ''Bid,'' ''Bids,'' and ''Bidding'' includes both executed and unexecuted offers as well as a single offer and multiple offers. For the avoidance of doubt, offers solely to sell Eggs are not ''Bids,'' a ''Bid,'' or ''Bidding.''

D. ''Commercial Association'' means any cooperatives, joint ventures, or other associations involved in the production, processing, preparing for market, handling, marketing, or sale of Eggs.

E. ''Competitor'' means any Person, other than Hickman's, who produces or processes Eggs, or markets or sells Eggs to wholesalers, grocery stores, restaurants, or food-service distributors, including any such Person other than Hickman's who is a member or owner of any Hickman's Commercial Association, and any Commercial Association that is not a Hickman's Commercial Association. ''Competitor'' does not include any Hickman's Commercial Association.

F. ''Deleted Bid'' means a Bid submitted on ECI that the bidder withdraws or deletes prior to the time it would normally expire under ECI's trading rules.

G. ''Document'' means all written, printed, or electronically stored information, and any deleted but recoverable electronic files or any electronic file fragments of any kind in the possession, custody, or control of Hickman's, including information stored on social media accounts like X (formerly, Twitter) or Facebook, chats, instant messages, text messages, ephemeral or non-ephemeral messaging, and other methods of group and individual communication (*e.g.,* Microsoft Teams, Slack), as well as documents contained in collaborative work environments and other document databases (*e.g.,* Microsoft SharePoint sites, eRooms, document management systems such as iManage, intranets, web content management systems such as Drupal, wikis, and blogs). ''Document'' includes metadata, formulas, and other embedded, hidden, and bibliographic or historical data describing or relating to any document.

H. ''ECI'' means Egg Clearinghouse, Inc. and the Egg spot market transaction platform that it operates.

I. ''Eggs'' means whole shell eggs which are sold unbroken in their shell.

J. ''Hickman's Commercial Association'' means any Commercial Association that Hickman's owns (in whole or in part) or is a member of.

K. ''Hickman's Commercial Association Meeting'' means any regularly scheduled in-person,

telephonic, or video-based meetings held by a Hickman's Commercial Association or one of its committees or working groups, including supply and demand and marketing meetings.

L. ''Including'' means including, but not limited to.

M. ''Legitimate Business Needs'' means the need of a producer of Eggs or a Commercial Association to acquire Eggs to meet current or anticipated demand. A Bid or Transaction is not based on Legitimate Business Needs when, at the time of a Bid or Transaction:

1. the producer or Commercial Association does not need to acquire the Eggs to meet current or anticipated demand,

2. any employee, manager, or director of the producer or Commercial Association, or any agent acting at the direction of the producer or Commercial Association, submits Bids or executes Transactions knowing that the prices are higher than necessary to acquire Eggs,

3. any employee, manager, or director of the producer or Commercial Association, or any agent acting at the direction of the producer or Commercial Association, submits Bids, or executes Transactions, knowing that the Bids or Transactions are for a greater number of Eggs than necessary to meet current or anticipated demand, or

4. any employee, manager, or director of the producer or Commercial Association, or any agent acting at the direction of the producer or Commercial Association, submits Bids without an intent to transact on the prices and terms offered (except that a mistakenly or inadvertently submitted Bid or price does not count as a Bid submitted without an intent to transact).

Whether a Bid is based on Legitimate Business Needs is evaluated at the time the Bid is submitted, and knowledge acquired after submission of a Bid will not change whether a Bid was based on Legitimate Business Needs at the time of submission. A Transaction that is executed as a result of a Bid that is based on a Legitimate Business Need will be considered a Transaction based on a Legitimate Business Needs regardless of any changes in market conditions between the time the Bid is submitted and the execution of the Transaction. As used herein, ''knowing'' or ''knowledge'' means the actual knowledge of the employee, manager, director, or agent. Knowledge acquired after a Transaction will not change whether a Transaction was based on Legitimate Business Needs at the time of the Transaction. In addition, paying or offering to pay a higher price in order to acquire Eggs on a particular delivery timeline; to acquire Eggs of a particular type, size, or quantity; or to increase the certainty of delivery will not, without more, mean that a Bid or Transaction is not based on a Legitimate Business Need.

N. ''Person'' means any natural person, corporate entity, partnership, association, joint venture, proprietorship, agency, board, authority, commission, office, trust, or other business or legal entity.

O. ''Plaintiff States'' means the States of Arizona, California, Colorado, Connecticut, Florida, Hawaii, Iowa, Maryland, Minnesota, New York, North Carolina, Ohio, Pennsylvania, Texas, Utah, Vermont, and Wisconsin.

P. ''Transaction'' means any transaction to buy Eggs.

Q. ''Senior Management'' means Hickman's' employees, agents, managers, officers, and directors, wherever located, who (1) are involved in or manage Bidding or the execution of Transactions, or (2) participate in, or supervise the individuals who participate in, Hickman's Commercial Associations.

R. ''Urner Barry'' means Urner Barry Publications, Inc., a New Jersey corporation with a principal place of business in Toms River, New Jersey, Expana, and their present and former parent companies, Mintec Ltd. and AgriBriefing.

III. Applicability

This Final Judgment applies to Hickman's and all other Persons in active concert or participation with Hickman's who receive actual notice of this Final Judgment.

IV. Prohibited Competitor Communications and Agreements

A. Hickman's must not, directly or indirectly, communicate, discuss, or negotiate with any Competitor regarding:

1. the specific Bidding strategies of Hickman's or any Competitor;

2. the prices of any Bids that Hickman's or any Competitor has made, will make, could make, or should make;

3. the timing of any specific Bids that Hickman's or any Competitor has made, will make, could make, or should make;

4. the number of Bids that Hickman's or any Competitor has submitted, will submit, could submit, or should submit; or

5. the information about Bids or Transactions, including the information immediately above in this Paragraph IV(A)(1)–(4), and any non-public information about Egg prices or Egg supply and demand, that Hickman's, any Competitor, or any Hickman's Commercial Association plans to report or communicate, should report or communicate, could report or communicate, has reported or communicated, or is considering reporting or communicating to any Benchmark Publication.

Nothing in this Paragraph IV.A prohibits (a) Hickman's from communicating with a Competitor (and, if necessary, a broker or brokers acting as an intermediary) to buy or sell Eggs, including regarding the price, number, or terms, if Hickman's is only discussing the price, number, or terms under which it will buy Eggs from or sell Eggs to that Competitor, solely with the Competitor with whom Hickman's is negotiating to buy or sell Eggs (and, if applicable, the broker or brokers), (b) communicating with a Competitor (and, if necessary, a broker or brokers acting as an intermediary) regarding the price, number, or terms of an agreement to co-pack Eggs if that co-pack agreement is solely between Hickman's and that Competitor (and, if applicable, the broker or brokers), (c) making general statements in an earnings call or public filing about Hickman's past Bids or Bidding strategies, as long as those statements do not include current or forward-looking information about the prices, timing, or number of Bids, or Bidding strategies, or (d) communicating with any Benchmark Publications about Hickman's Bids and Transactions. For the avoidance of doubt, Hickman's mere receipt of a Competitor's communication to Hickman's of the information described in Paragraph IV.A, if not requested by Hickman's, does not constitute a violation of this Paragraph IV.A.

B. Hickman's must not, directly or indirectly, agree with any Competitor or Hickman's Commercial Association:

1. on the number, pricing, or other terms of Bids submitted by Hickman's or any Competitor; or

2. on the number, pricing, or other terms of Transactions executed between Hickman's and any third party or any Competitor and any third party.

C. Nothing in this Section IV prohibits:

1. Hickman's from communicating, discussing, negotiating, or agreeing with a Competitor (or, if applicable, a Hickman's Commercial Association) to buy Eggs from or sell Eggs to that Competitor (or, if applicable, a Hickman's Commercial Association) if that acquisition or sale is solely between Hickman's and that Competitor (and past Bids, Transactions, or sales of Eggs may be referenced, communicated, or discussed in the negotiation of such an acquisition or sale, solely with the

Competitor or Hickman's Commercial Association with whom Hickman's is negotiating to buy or sell Eggs);

2. Hickman's from agreeing with a Person that is not a Competitor or Hickman's Commercial Association to buy Eggs from, or sell Eggs to, a Competitor, if those acquisitions or sales are based on Legitimate Business Needs;

3. Hickman's from communicating, discussing, negotiating, or agreeing with any Hickman's Commercial Association, its members, or any Person acting on that Hickman's Commercial Association's behalf about the Bids and Transactions of that Hickman's Commercial Association—or, if Hickman's is submitting a Bid of the Hickman's Commercial Association, communicating, discussing, negotiating, or agreeing with that Hickman's Commercial Association or its members or owners about the Bids of that Hickman's Commercial Association—as long as Hickman's does not, directly or indirectly, communicate, discuss, negotiate, or agree with any Competitors that are members or owners of that Hickman's Commercial Association about the current or future Bids or Transactions of Hickman's or any of the Competitors;

4. Hickman's from communicating, discussing, negotiating, or agreeing with a Person who purchases substantially more Eggs than that Person produces about Bids or Transactions by Hickman's to acquire Eggs for the benefit of that Person even if that Person otherwise meets the definition of ''Competitor''; or

5. conduct other than as enumerated in this Section IV.

V. Other Prohibited Conduct

A. On a bi-annual (*i.e.,* twice a year) basis beginning with Hickman's second full financial quarter following entry of the Stipulation and Order and for a period of five (5) years, Hickman's must submit to the United States and the Plaintiff States, no later than thirty (30) days after the close of the quarter:

1. a certification made under penalty of perjury from Hickman's Chief Financial Officer that, upon information and belief, based on a reasonably diligent inquiry, Hickman's did not communicate with any Competitor or Hickman's Commercial Association regarding any Bids or Transactions that Hickman's knows are not based on Legitimate Business Needs; and

2. a written explanation made under penalty of perjury for each Deleted Bid (except for Bids deleted because Hickman's acquired the necessary Eggs through other Transactions). This written explanation must include the date and time of the Bid, any unique identifier applicable to the Bid, the dollar value of the Bid, when the Bid was deleted, and an explanation of the reasons why Hickman's deleted the Bid.

B. Hickman's must not communicate with any Competitor or Hickman's Commercial Association regarding:

1. Bids or Transactions that Hickman's knows are not based on Legitimate Business Needs or

2. Bids or Transactions that Hickman's knows are intended to affect any Benchmark Publication.

However, the mere receipt by Hickman's of a Competitor or Hickman's Commercial Association's communication regarding Bids or Transactions that are intended to affect a Benchmark Publication or that are not based on Legitimate Business Needs, if not requested by Hickman's, does not constitute a violation of this Paragraph V.B.

C. Hickman's must not encourage, induce, influence, solicit, advise, agree with, or assist any Competitor or Hickman's Commercial Association to:

1. submit Bids, or execute Transactions, that are intended to affect any Benchmark Publication, or

2. submit Bids, or execute Transactions, that are not based on the Legitimate Business Needs of Hickman's, the Competitor, or the Hickman's Commercial Association.

D. For purposes of this Section V, a Bid or Transaction is ''intended to affect any Benchmark Publication'' when at least one goal or purpose, known to Hickman's, is to affect any Benchmark Publication. For the avoidance of doubt, mere knowledge, foreseeability, or understanding that a Bid or Transaction could, would, or might affect a Benchmark publication does not make a Bid or Transaction ''intended to affect any Benchmark Publication.''

E. Nothing in this Section V prohibits conduct other than as enumerated in this Section V.

VI. Compliance and Reporting Obligations

A. Within sixty (60) days of entry of the Stipulation and Order, Hickman's must submit a written antitrust compliance policy to the United States and the Plaintiff States for approval by the United States in its sole discretion that complies with the obligations set forth in this Final Judgment. Hickman's must annually train all Senior Management on this written policy.

B. Within sixty (60) days of entry of the Stipulation and Order, Hickman's must designate an antitrust compliance officer. Hickman's must identify to the United States and the Plaintiff States the antitrust compliance officer's name, business address, telephone number, and email address. Within sixty (60) days of a vacancy in Hickman's antitrust compliance officer position, Hickman's must appoint a replacement and must identify to the United States and the Plaintiff States the replacement's name, business address, telephone number, and email address. Hickman's initial and replacement appointments of an antitrust compliance officer are subject to the approval of the United States in its sole discretion. Hickman's is responsible for all costs and expenses related to the antitrust compliance officer. The antitrust compliance officer will be responsible for:

1. auditing on a bi-annual basis (*i.e.,* twice per year) compliance with Sections IV and V;

2. attending and monitoring (including through virtual, other electronic, or telephonic means) either personally or through reports from outside antitrust counsel any Hickman's Commercial Association Meeting in which the supply and demand or marketing of Eggs (including Bidding) is reasonably anticipated to be discussed;

3. implementing and enforcing Hickman's antitrust compliance policy and annual training required by Paragraph VI.A; and

4. reporting any communication regarding Hickman's Commercial Association Meetings pursuant to Paragraph VI.D.

C. On an annual basis beginning with Hickman's second full financial quarter following entry of the Stipulation and Order, no later than thirty (30) days after the close of the quarter, Hickman's must:

1. submit to the United States and the Plaintiff States a certification from Hickman's Chief Financial Officer attesting under penalty of perjury that (i) Hickman's has established and maintained the antitrust compliance policy and annual training required by Paragraph VI.A; and (ii) Hickman's has complied with the requirements in Sections IV and V; and

2. submit to the United States and the Plaintiff States a certification from the antitrust compliance officer attesting under penalty of perjury that (i) Hickman's has taken reasonable steps to comply with Sections IV and V; (ii) the antitrust compliance officer has attended or monitored through reports from outside antitrust counsel all Hickman's Commercial Association Meetings attended by Hickman's in which the supply and demand or marketing of Eggs (including Bidding) is reasonably anticipated to be discussed; (iii) the antitrust compliance officer has

reported all known communications pursuant to Paragraph VI.D; and (iv) the antitrust compliance officer has performed bi-annual audits to ensure compliance with Sections IV and V.

D. Upon learning that Hickman's has engaged in communications or other conduct during a Hickman's Commercial Association Meeting prohibited by Section IV or Section V, the antitrust compliance officer designated pursuant to Paragraph VI.B must provide to the United States and the Plaintiff States the following information within thirty (30) days:

1. the date, time, location, and a description of the communications or conduct, as well as the participants in the communications or conduct; and

2. all Documents relating to the communications or conduct, including any agenda and meeting minutes.

No report pursuant to this Paragraph VI.D shall be construed as a *per se* admission of wrongdoing or violation of this Final Judgment by Hickman's. Notwithstanding the foregoing, the reporting obligation in this Paragraph VI.D does not extend to privileged communications.

E. If Hickman's joins any Commercial Association between the date the Proposed Final Judgment is entered and the termination of the Final Judgment, Hickman's must submit to the United States and the Plaintiff States a detailed written description of the Commercial Association within thirty (30) calendar days after signing bylaws, a membership agreement, or a comparable Document, including a list of the members of that Commercial Association (as well as the name, business address, phone number, and email address for those members), the purpose and business of that Commercial Association, and copies of any governing agreements of the Commercial Association (including bylaws and membership agreements).

F. Hickman's must provide a written copy of this Final Judgment to any current Hickman's Commercial Association, with a request that the Final Judgment be sent to its members, within thirty (30) days from the entry of this Final Judgment. Hickman's must provide a written copy of this Final Judgment to any Commercial Association that Hickman's joins between the date the Final Judgment is entered and the termination of the Final Judgment, with a request that the Final Judgment be sent to its members, within thirty (30) days after joining any such Commercial Association.

VII. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment or related orders such as the Stipulation and Order or determining whether this Final Judgment should be modified or vacated, upon written request of an authorized representative of the Assistant Attorney General for the Antitrust Division or Plaintiff States and reasonable notice to Hickman's, Hickman's must permit, from time to time and subject to legally recognized privileges, authorized representatives, including agents retained by the United States or Plaintiff States:

1. to have access during Hickman's business hours to inspect and copy, or at the option of the United States or Plaintiff States, to require Hickman's to provide electronic copies of all books, ledgers, accounts, records, data, and Documents wherever located, in the possession, custody, or control of Hickman's relating to any matters contained in this Final Judgment; and

2. to interview, either informally or on the record, Hickman's officers, employees, or agents, wherever located, who may have their individual counsel present, relating to any matters contained in this Final Judgment. The interviews must be subject to the reasonable convenience of the interviewee and without restraint or interference by Hickman's.

B. Upon the written request of an authorized representative of the Assistant Attorney General for the Antitrust Division or Plaintiff States, Hickman's must submit written reports or respond to written interrogatories, under oath if requested, relating to any matters contained in this Final Judgment.

VIII. Release

Hickman's is hereby fully and finally discharged and released from the claims stated in the Complaint against Hickman's.

IX. Public Disclosure

A. No information or Documents obtained pursuant to any provision in this Final Judgment may be divulged by the United States or the Plaintiff States to any Person other than an authorized representative of the executive branch of the United States or the Plaintiff States, except in the course of legal proceedings to which the United States or a Plaintiff State is a party, including grand-jury proceedings, or as otherwise required by law.

B. In the event of a request by a third party, pursuant to the Freedom of Information Act, 5 U.S.C. 552, or similar state disclosure laws, for disclosure of information obtained pursuant to any provision of this Final Judgment, Plaintiffs will act in accordance with that statute and the Department of Justice regulations at 28 CFR part 16, including the provision on confidential commercial information, at 28 CFR 16.7, or the state disclosure laws as applicable. Hickman's, when submitting information to the Antitrust Division, should designate the confidential commercial information portions of all applicable Documents and information under 28 CFR 16.7. Designations of confidentiality expire ten (10) years after submission, ''unless the submitter requests and provides justification for a longer designation period.'' *See* 28 CFR 16.7(b).

C. If at the time that Hickman's furnishes information or Documents to the United States or the Plaintiff States pursuant to any provision of this Final Judgment, Hickman's represents and identifies in writing information or Documents for which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Hickman's marks each pertinent page of such material ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' the United States or the Plaintiff States must give Hickman's ten (10) calendar days' notice before divulging the material in any legal proceeding (other than a grand jury proceeding), unless subject to a court order requiring disclosure within fewer than ten (10) calendar days, in which case the United States or the Plaintiff States will provide notice as quickly as practicable.

X. Retention of Jurisdiction

The Court retains jurisdiction to enable any party to this Final Judgment to apply to the Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XI. Enforcement of Final Judgment

A. The United States, or any Plaintiff State with respect to actions by Defendant impacting Egg sales in its State, retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. In a civil contempt action, a motion to show cause, or a similar action brought by the United States or an affected Plaintiff State relating to an alleged violation of this Final Judgment, the United States or the affected Plaintiff State may establish a violation of this Final Judgment and the appropriateness of a remedy therefor by a preponderance of

the evidence, and Hickman's waives any argument that a different standard of proof should apply.

B. Hickman's may be held in contempt of, and the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In an enforcement proceeding in which the Court finds that Hickman's has violated this Final Judgment, the United States may apply to the Court for an extension of this Final Judgment, together with other relief that may be appropriate. In connection with a successful effort by the United States or any affected Plaintiff State to enforce this Final Judgment against Hickman's, whether litigated or resolved before litigation, Hickman's must reimburse the United States or any affected Plaintiff State for the fees and expenses of its attorneys, as well as all other costs including experts' fees, incurred in connection with that effort to enforce this Final Judgment, including in the investigation of the potential violation.

D. For a period of four (4) years following the expiration of this Final Judgment, if the United States has evidence that Hickman's violated this Final Judgment before it expired, the United States may file an action against Hickman's in this Court requesting that the Court order: (1) Hickman's to comply with the terms of this Final Judgment for an additional term of at least four (4) years following the filing of the enforcement action; (2) all appropriate contempt remedies; (3) additional relief needed to ensure Hickman's complies with the terms of this Final Judgment; and (4) fees or expenses as called for by this Section XI.

XII. Expiration of Final Judgment

Unless the Court grants an extension, this Final Judgment will expire five (5) years from the date of its entry, except that after four (4) years from the date of its entry, this Final Judgment may be terminated upon motion by the United States to the Court and notice by the United States to Hickman's and the Plaintiff States that continuation of this Final Judgment is no longer necessary or in the public interest. All requirements, including all notice, certification, and reporting requirements will terminate automatically upon the expiration of this Final Judgment.

XIII. Reservation of Rights

This Final Judgment terminates only the claims stated in the Complaint against Hickman's and does not affect any other charges or claims the United States or Plaintiff States may file.

XIV. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including by making available to the public copies of this Final Judgment and the Competitive Impact Statement, public comments thereon, and any response to comments by the United States. Based upon the record before the Court, which includes the Competitive Impact Statement and, if applicable, any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

United States District Court for the Northern District of Iowa Western Division

United States of America, State of Arizona, State of California, State of Colorado, State of Connecticut, State of Florida, State of Hawaii, State of Iowa, State of Maryland, State of Minnesota, State of New York, State of North Carolina, State of Ohio, Commonwealth of Pennsylvania, State of Texas, State of Utah, State of Vermont, and State of Wisconsin, Plaintiffs, v. *Cal–Maine Foods, Inc., Centrum Valley Holdings, LLC, Versova Holdings, LLC, Versova Management Cooperative, and Hickman's Egg Ranch, Inc.,* Defendants.

Civil Action No. 5:26–cv–04060

Competitive Impact Statement

In accordance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (the ''APPA'' or ''Tunney Act''), the United States of America files this Competitive Impact Statement related to the proposed Final Judgments filed in this civil antitrust proceeding against Defendants Cal-Maine Foods, Inc. (''Cal-Maine''); Centrum Valley Holdings, LLC, Versova Holdings, LLC, and Versova Management Cooperative (collectively, ''Versova''); and Hickman's Egg Ranch, Inc. (''Hickman's'') (collectively, ''Defendants'').

I. Nature and Purpose of the Proceeding

On June 29, 2026, the United States, along with the States of Arizona, California, Colorado, Connecticut, Florida, Hawaii, Iowa, Maryland, Minnesota, New York, North Carolina, Ohio, Pennsylvania, Texas, Utah, Vermont, and Wisconsin (''Plaintiff States''), filed a civil antitrust Complaint alleging that Defendants restrained competition in the sale of shell eggs in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The Complaint alleges that Cal-Maine, Versova, and Hickman's violated Section 1 of the Sherman Act, 15 U.S.C. 1, by, among other things, coordinating to submit bids that were designed to artificially inflate the daily price quotations of Urner Barry Publications, Inc. (''Urner Barry''), a market reporting firm. The effect of Defendants' agreement has been to increase the prices retailers and consumers pay for eggs and to reduce competition among Defendants. The Complaint seeks to enjoin this anticompetitive conduct and stop it from recurring.

At the same time the Complaint was filed, the United States and Plaintiff States also filed proposed Final Judgments and Stipulations and Orders (''Stipulations and Orders''), which are designed to remedy the loss of competition alleged in the Complaint.

The proposed Final Judgments, which are explained more fully below, impose several requirements and restrictions on Defendants that Defendants have agreed to and that are designed to remedy the loss of competition alleged in the Complaint. First, the proposed Final Judgments impose restrictions on competitor communications regarding bidding strategies; the price, timing, and number of bids; and the information reported to any benchmark publication. Second, the proposed Final Judgments restrict Defendants from entering into any agreements with competitors regarding the price, number, or other terms of bids and transactions. Third, the proposed Final Judgments prohibit Defendants from communicating with competitors regarding bids that are intended to affect a benchmark or that are not based on legitimate business needs. Fourth, the proposed Final Judgments require Defendants to adopt and comply with a series of compliance measures for a term of five years.

Under the terms of the Stipulations and Orders, Defendants must abide by and comply with the provisions of the proposed Final Judgments until they are entered by the Court or until the time for all appeals of any Court ruling declining entry of the proposed Final Judgments has expired.

The United States, Plaintiff States, and Defendants have stipulated that the proposed Final Judgments may be entered after compliance with the APPA. Entry of the proposed Final Judgments will terminate this action, except that this Court will retain jurisdiction to construe, modify, or enforce the provisions of the proposed

Final Judgments and to punish violations thereof.

II. Description of Events Giving Rise to the Alleged Violation

A. The Shell Egg Industry

Eggs are produced by egg producers and sold to buyers including grocery stores, retailers, restaurants, and food-service distributors.[2] Several of the largest egg companies, including at least two Defendants, operated their egg business with a ''net short'' business model during the relevant period, meaning that they did not produce sufficient eggs to satisfy their existing customer demand. To meet the shortfall in their egg production, Defendants procure eggs from egg producers (or egg brokers) on an electronic exchange—a marketplace where buyers and sellers connect to trade eggs—or through direct purchases from egg producers (or egg brokers).

Egg producers, including Defendants, often sell eggs to retailers including grocery stores and restaurants under contracts for which the price of eggs is based on the daily price quotations published by the market reporting firm Urner Barry. Urner Barry's price quotations are based on, among other things, trades, bids, and offers on an exchange in addition to self-reported trades not on an exchange. On exchanges, egg companies can submit either ''bids'' to purchase eggs or ''offers'' to sell eggs. Executed transactions are often referred to as ''trades.''

In determining its price quotations, Urner Barry considers whether trades, bids, and offers are at prices that are ''premium'' (prices that suggest Urner Barry's price quotations are too low), ''discount'' (prices that suggest that Urner Barry's current price quotations are too high), or ''supportive'' (prices that suggest that Urner Barry's current price quotations are approximately correct). Accordingly, egg companies' bids, offers, and trades for eggs on exchanges affect Urner Barry's price quotations.

B. The Agreement To Increase Egg Prices

Beginning in June 2022 and continuing through March 2025, Defendants conspired to artificially increase Urner Barry's daily price quotations, which increased the price of eggs sold to buyers including grocery stores, retailers, restaurants, and food-service distributors under contracts with prices pegged to Urner Barry's quotations.

Defendants agreed, among other things, to submit many bids, submit bids from multiple Defendants so that Urner Barry would perceive that a diverse set of market participants were bidding, submit many bids in the hours leading up to Urner Barry's egg price quotations, submit bids that were unlikely to lead to executed trades in order to increase Urner Barry's price quotations, and execute trades off of an electronic exchange at premium prices. Defendants also lobbied Urner Barry to increase its price quotations, including by citing their bids and trades at premium prices as justifications for Urner Barry to increase its price quotations. Defendants implemented these strategies to increase Urner Barry's price quotations, which in turn increased the price of eggs sold under contracts with prices pegged to those price quotations.

Defendants' coordinated conduct artificially inflated Urner Barry's price quotations. In addition, since many of Defendants' contracts with retailers base prices in part on Urner Barry's price quotations, Defendants' conduct also artificially increased the prices paid by retailers and, ultimately, consumers.

III. Explanation of the Proposed Final Judgments

The relief required by the proposed Final Judgments will remedy the loss of competition alleged in the Complaint by restricting Defendants' ability to communicate with competitors regarding bids and prohibiting Defendants from entering any agreements with competitors on the price, number, or other terms of bids or transactions. The terms described below are designed to eliminate Defendants' anticompetitive conduct, prevent recurrence of the same or similar conduct, and establish robust antitrust compliance programs.[3]

A. Prohibitions Regarding Competitor Communications and Agreements

Section IV.A of the proposed Final Judgments prohibits Defendants from communicating or discussing with competitors certain information relating to bidding, including specific bidding strategies and the prices, timing, and number of bids. Section IV.A also prohibits Defendants from communicating with competitors about certain information that Defendants or competitors report to benchmark publications,[4] including Urner Barry.

Section IV.B prohibits Defendants from agreeing with their competitors regarding the number, pricing, or terms of bids or transactions submitted by Defendants or any competitor.

The proposed Final Judgments allow for four (4) narrow exceptions to the prohibition of Defendants communicating with competitors regarding specific bidding strategies and the prices, timing, and number of bids. First, Paragraph IV.A permits Defendants to communicate with competitors—and, if necessary, brokers acting as intermediaries—regarding the price, number, or terms of a specific transaction if that transaction is solely between the Defendant and the competitor (and, if applicable, the broker or brokers) to buy or sell eggs. Second, Paragraph IV.A permits Defendants to communicate with competitors (and, if necessary, a broker or brokers) regarding the price, number, or terms of an agreement to co-package eggs so long as the co-packaging agreement is solely between the Defendant and that competitor (and, if applicable, the broker or brokers). Third, Paragraph IV.A permits Defendants to make general statements in an earnings call or public filing regarding their past bids or bidding strategies, as long as those statements do not include current or forward-looking information about the prices, timing, or number of bids, or bidding strategies. Fourth, Paragraph IV.A permits each Defendant to communicate with any benchmark publication, such as Urner Barry, about their respective bids and transactions.

Additionally, the proposed Final Judgments include five exceptions applicable to both Paragraph IV.A's restrictions on communications with competitors and Paragraph IV.B's restrictions on agreements with competitors. First, Paragraph IV.C

[2] The egg industry often uses the phrase ''shell eggs'' to refer to whole eggs sold unbroken in their shells. Unless otherwise stated, the term ''eggs'' in this Competitive Impact Statement refers to ''shell eggs.''

[3] There are minor differences among the three (3) proposed Final Judgments because each was negotiated with a different Defendant. For example, because Defendant Versova is organized as a cooperative, its Final Judgment's definition of ''Member Commercial Associations'' (which includes certain cooperatives) was tailored to account for this status. In addition, the proposed Final Judgment for Hickman's requires its reporting requirements under Paragraphs V.A.1 and VI.C.1 to be made by its Chief Financial Officer, rather than its general counsel, because Hickman's has represented that it does not employ a general counsel.

[4] ''Benchmark publication'' means any publication containing price quotations, benchmarks, indices, or market updates for eggs, including the daily quotations and reports published by Urner Barry, the USDA Agricultural Marketing Service Egg Market News Reports, and any successor publications.

permits Defendants to communicate, discuss, negotiate, and agree with a competitor to buy and sell eggs if that purchase or sale is solely between the Defendant and that competitor. Second, Paragraph IV.C allows Defendants to agree with a person that is not a competitor to buy eggs from or sell eggs to that competitor, if those acquisitions or sales are based on legitimate business needs. Third, Paragraph IV.C permits each Defendant to communicate, discuss, negotiate, or agree with a cooperative or other commercial association of which it is a member regarding the bids and transactions of that commercial association so long as each Defendant does not communicate, discuss, negotiate, or agree with competitors that are members or owners of that commercial association regarding the current or future bids or transactions of Defendants or competitors. Fourth, Paragraph IV.C allows Defendants to communicate, discuss, negotiate, or agree with any person who purchases substantially more eggs than that person produces about bids or transactions by Defendants to acquire eggs for the benefit of that person. Fifth, Paragraph IV.C expressly notes that nothing in Section IV prohibits conduct other than as enumerated in Section IV.

Section IV includes restrictions on communications that Defendants can have with commercial associations, such as cooperatives, and the other members of those associations. These restrictions limit the ability of Defendants to coordinate to inflate benchmark publications through communications with cooperatives and other commercial associations and their members. As described in the Complaint, some of Defendants' coordination involved co-conspirator Cooperative A, a cooperative that Defendants, or farms they managed, were members of during most of the relevant time period.

B. Other Prohibited Conduct

Section V.B of the proposed Final Judgments prohibits Defendants from communicating with competitors or commercial associations regarding bids or transactions that are intended to affect benchmark publications or that are not based on legitimate business needs. Section V.C of the proposed Final Judgments further prohibits Defendants from encouraging, inducing, influencing, soliciting, advising, agreeing with, or assisting any competitor or commercial association to submit bids or execute transactions that are intended to affect benchmark publications or that are not based on legitimate business needs.

To ensure Defendants' compliance with the proposed Final Judgments, Section V.A requires each Defendant to provide the United States and the Plaintiff States a bi-annual (*i.e.,* twice a year) certification, made under penalty of perjury, that the Defendant did not communicate with any competitor or commercial association regarding bids or transactions that the Defendant knows were not based on legitimate business needs. Section V likewise requires each Defendant to provide the United States and the Plaintiff States bi-annual, written explanations, made under penalty of perjury, for each deleted bid (except for bids deleted because the Defendant acquired the necessary eggs through other transactions). The proposed Final Judgments require Defendants to continue to provide bi-annual certifications and written explanations for a period of five (5) years. These provisions enable the Department of Justice and the Plaintiff States to monitor Defendants' bids and transactions and prevent harm to competition.

C. Compliance Terms

Section VI of the proposed Final Judgments requires Defendants to submit a written antitrust compliance policy to the United States and the Plaintiff States and designate an antitrust compliance officer to conduct annual training, engage in compliance audits, and monitor meetings of commercial associations of which Defendants are members and which are reasonably anticipated to include discussion of the supply and demand or marketing of eggs.

Paragraph VI.C requires Defendants to submit an annual certification that they have established and maintained the antitrust compliance policy and annual training and that they complied with the requirements in Sections IV and V of the proposed Final Judgments. Paragraph VI.C further requires Defendants to submit a certification attesting that they have, among other things, taken reasonable steps to comply with Sections IV and V of the proposed Final Judgments, performed the bi-annual audits to ensure compliance with Sections IV and V, and that the antitrust compliance officer has attended or monitored through reports from outside antitrust counsel all commercial association meetings in which the supply and demand or marketing of eggs (including bidding) is reasonably anticipated to be discussed. Paragraph VI.D requires Defendants to notify the United States and the Plaintiff States if, during a defendant's commercial association meetings, any participant engages in conduct, including communications, prohibited by Sections IV and V. Paragraph VI.E requires each Defendant to submit to the United States and the Plaintiff States a detailed written description and documentation, among other things, of any commercial association that the Defendant joins prior to the expiration of the proposed Final Judgment. Finally, Paragraph VI.F requires each Defendant to provide a written copy of the Final Judgment to any commercial association of which it is or later becomes a member with a request that the commercial association share the copy of the Final Judgment with its members.

To facilitate monitoring compliance with the proposed Final Judgments, Section VII requires that Defendants must make available to the United States and the Plaintiff States, upon written request, access to books, records, data, and documents in their possession, custody, or control relating to any matters contained in the proposed Final Judgments. Defendants must also permit the United States and the Plaintiff States to interview, either informally or on the record, their officers, employees, or agents relating to any matters contained in the proposed Final Judgments. In addition, Defendants must, upon written request, prepare written reports or respond to written interrogatories, under oath if requested, relating to any of the matters contained in the proposed Final Judgments.

D. Other Provisions

The proposed Final Judgments also contain provisions designed to promote compliance with and make enforcement of the Final Judgments as effective as possible.

Paragraph XI.A provides that the United States—and, in certain circumstances, Plaintiff States [5]—retains and reserves all rights to enforce the Final Judgments, including the right to seek an order of contempt from the Court. Under the terms of this paragraph, Defendants have agreed that in any civil contempt action, any motion to show cause, or any similar action brought by the United States or a Plaintiff State regarding an alleged violation of any of the Final Judgments, the United States or Plaintiff State may establish a violation and the appropriateness of any remedy by a preponderance of the evidence and that Defendants have waived any argument

[5] Each Plaintiff State retains enforcement authority with respect to actions by any Defendant that impact egg sales in the Plaintiff State.

that a different standard of proof should apply. This provision aligns the standard for compliance with the Final Judgments with the standard of proof that applies to the underlying offense that the Final Judgments address.

Paragraph XI.B provides additional clarification regarding the interpretation of the provisions of the proposed Final Judgments. This Paragraph provides that Defendants may be held in contempt for failing to comply with any provision of the proposed Final Judgments that is stated specifically and in reasonable detail, regardless of whether the provision is clear and unambiguous on its face, and that the proposed Final Judgments should not be construed against either party as the drafter.

Paragraph XI.C provides that if the Court finds in an enforcement proceeding that a Defendant has violated the Final Judgment, the United States may apply to the Court for an extension of the Final Judgment, together with such other relief as may be appropriate. In addition, to compensate American taxpayers for any costs associated with investigating and enforcing violations of the Final Judgment, Paragraph XI.C provides that, in any successful effort by the United States or a Plaintiff State to enforce the Final Judgment against the Defendant, whether litigated or resolved before litigation, such Defendant must reimburse the United States or Plaintiff State for attorneys' fees, experts' fees, and other costs incurred in connection with that effort to enforce the Final Judgment, including the investigation of the potential violation.

Paragraph XI.D states that the United States may file an action against Defendants for violating the Final Judgments for up to four (4) years after the Final Judgments have expired. This provision is meant to address circumstances such as when evidence that a violation of a Final Judgment occurred during the term of the Final Judgment is not discovered until after the Final Judgment has expired or when there is not sufficient time for the United States to complete an investigation of an alleged violation until after the Final Judgment has expired. This provision, therefore, makes clear that, for four (4) years after the Final Judgments have expired, the United States may still challenge a violation that occurred during the term of the Final Judgments.

Finally, Section XII of the proposed Final Judgments provides that the Final Judgments will expire five (5) years from the date of their entry, except that after four (4) years from the date of their entry, the Final Judgments may be terminated upon motion by the United States to the Court and notice by the United States to Plaintiff States and Defendants that continuation of the Final Judgments are no longer necessary or in the public interest.

IV. Remedies Available to Potential Private Plaintiffs

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgments neither impairs nor assists the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgments have no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. Procedures Available for Modification of the Proposed Final Judgments

The United States, Plaintiff States, and Defendants have stipulated that the proposed Final Judgments may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that each proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of each proposed Final Judgment within which any person may submit to the United States written comments regarding each proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or within 60 days of the first date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the U.S. Department of Justice, which remains free to withdraw its consent to each proposed Final Judgment at any time before the Court's entry of the Final Judgment. The comments and the response of the United States will be filed with the Court. In addition, the comments and the United States' responses will be published in the **Federal Register** unless the Court agrees that the United States instead may publish them on the U.S. Department of Justice, Antitrust Division's internet website.

Written comments should be submitted in English to: Zachary Trotter, Acting Chief, Chicago Office, Antitrust Division, United States Department of Justice, 209 South LaSalle Street, Suite 600, Chicago, IL 60604.

The proposed Final Judgments provide that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgments.

VI. Alternatives to the Proposed Final Judgments

As an alternative to the proposed Final Judgments, the United States considered a full trial on the merits against Defendants. The United States could have continued the litigation and brought the case to trial. The United States is satisfied, however, that the relief required by the proposed Final Judgments will remedy the anticompetitive effects alleged in the Complaint, preserving competition in the egg industry. Thus, the proposed Final Judgments achieve all or substantially all of the relief the United States would have obtained through litigation but avoid the time, expense, and uncertainty of a full trial on the merits.

VII. Standard of Review Under the APPA for the Proposed Final Judgments

Under the Clayton Act and APPA, proposed Final Judgments, or ''consent decrees,'' in antitrust cases brought by the United States are subject to a 60-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the Court, in accordance with the statute as amended in 2004, is required to consider:

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the Court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *United States* v. *U.S. Airways Grp., Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the ''court's inquiry is limited'' in Tunney Act settlements); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that a court's review of a proposed Final Judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the final judgment are clear and manageable'').

As the U.S. Court of Appeals for the District of Columbia Circuit has held, under the APPA, a court considers, among other things, the relationship between the remedy secured and the specific allegations in the government's Complaint, whether the proposed Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether it may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the proposed Final Judgment, a court may not ''make de novo determination of facts and issues.'' *United States* v. *W. Elec. Co.,* 993 F.2d 1572, 1577 (D.C. Cir. 1993) (quotation marks omitted); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 16 (D.D.C. 2000); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Instead, ''[t]he balancing of competing social and political interests affected by a proposed antitrust decree must be left, in the first instance, to the discretion of the Attorney General.'' *W. Elec. Co.,* 993 F.2d at 1577 (quotation marks omitted). ''The court should also bear in mind the *flexibility* of the public interest inquiry: the court's function is not to determine whether the resulting array of rights and liabilities is the one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest.'' *Microsoft,* 56 F.3d at 1460 (quotation marks omitted); *see also United States* v. *Deutsche Telekom AG,* No. 19–2232 (TJK), 2020 WL 1873555, at *7 (D.D.C. Apr. 14, 2020). More demanding requirements would ''have enormous practical consequences for the government's ability to negotiate future settlements,'' contrary to congressional intent. *Microsoft,* 56 F.3d at 1456. ''The Tunney Act was not intended to create a disincentive to the use of the consent decree.'' *Id.*

The United States' predictions about the efficacy of the remedy are to be afforded deference by the Court. *See, e.g., Id.* at 1461 (recognizing courts should give ''due respect to the Justice Department's . . . view of the nature of its case''); *United States* v. *Iron Mountain, Inc.,* 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) (''In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[;] it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' (internal citations omitted)); *United States* v. *Republic Servs., Inc.,* 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting ''the deferential review to which the government's proposed remedy is accorded''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (''A district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case.''). The ultimate question is whether ''the remedies [obtained by the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.''' *Microsoft,* 56 F.3d at 1461 (*quoting W. Elec. Co.,* 900 F.2d at 309).

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint and does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''[T]he 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60.

In its 2004 amendments to the APPA, Congress made clear its intent to preserve the practical benefits of using judgments proposed by the United States in antitrust enforcement, Public Law 108–237 § 221, and added the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language explicitly wrote into the statute what Congress intended when it first enacted the Tunney Act in 1974. As Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). ''A court can make its public interest determination based on the competitive impact statement and response to public comments alone.'' *U.S. Airways,* 38 F. Supp. 3d at 76 (citing *Enova Corp.,* 107 F. Supp. 2d at 17).

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgments.

Dated: August 4, 2026.

Respectfully submitted,

For Plaintiff United States of America:

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Part III

Department of Health and Human Services

Administration for Children and Families

45 CFR Part 1301, 1302, et al.
Reducing Federal Burden for Head Start Programs; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1301, 1302, 1303, 1304, and 1305

RIN 0970–AD30

Reducing Federal Burden for Head Start Programs

AGENCY: Office of Head Start (OHS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: This NPRM proposes to rescind and replace the Head Start Program Performance Standards (Performance Standards), last revised in 2024. The proposed Performance Standards would significantly reduce Federal bureaucratic burden on programs; defer to State policies wherever possible; return substantial local control to Head Start agencies delivering the services and to parents as the primary caregivers and decision-makers for their children; reduce unnecessary duplication of Head Start regulations with Federal statute and other regulations; and emphasize the critical role of health, nutrition, and physical exercise for young children.

DATES: Please submit comments on this NPRM by October 6, 2026.

ADDRESSES: You may submit written comments, identified by docket number ACF–2026–0595 and/or RIN number 0970–AD30, by one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Deregulation@acf.hhs.gov.* Include the docket number ACF–2026–0595 and/or RIN number 0970–AD30 in the subject line of the message.

Instructions: All submissions received must include the agency name and docket number or RIN number for this rulemaking. All comments received are a part of the public record and will be posted for public viewing on *www.regulations.gov,* without change. Please be advised that the substance of the comments and the identity of individuals or entities submitting the comments will be subject to public disclosure.

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.* The docket on *https://www.regulations.gov* will include a plain language summary of the NPRM.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority and Requirements

This NPRM is published under the authority granted to the Secretary of the Department of Health and Human Services under sections 641, 641A, 644, 645, 645A, and 646 of the Head Start Act (Act) (42 U.S.C. 9836, 9836a, 9839(c), 9840, 9840a, and 9841), as amended by the Improving Head Start for School Readiness Act of 2007. In these sections, the Secretary is required to establish performance standards for Head Start and Early Head Start programs, as well as Federal administrative procedures. Specifically, the Act requires the Secretary to ''modify, as necessary, program performance standards by regulation applicable to Head Start agencies and programs. . . .'' (Sec. 641A(a)(1)). Further the Act specifies that, ''in developing any modifications to standards . . . the Secretary shall—take into consideration . . . projected needs of an expanding Head Start program . . . [and] guidelines and standards that promote child health services and physical development, including participation in outdoor activity that supports children's motor development and overall health and nutrition'' (Sec. 641A(a)(2)). In order to meet requirements mandated by the Act, give more authority to states and parents, reduce unnecessary burden and regulatory duplication, and promote health, nutrition and physical exercise, this NPRM would reorganize and substantially amend the existing Federal regulations for Head Start programs.

II. Background

Initiated under President John F. Kennedy's efforts and formally launched in 1965 as part of President Lyndon Johnson's ''War on Poverty,'' Head Start was created out of concern for the well-being of children in low-income families based on evidence that they were less likely to succeed in school than their more well-positioned peers. As its name implies, the Head Start program was developed to enhance the experiences of children in low-income families prior to school entry, with the goal of alleviating the negative effects of growing up in poverty.

When Project Head Start was first started in the summer of 1965, over 560,000 children and families across the United States were served in an 8-week program. As the program grew, it expanded opportunities for children to receive services in a number of ways. In 1995, Head Start expanded to include pregnant women and children from birth to 3 years of age through the Early Head Start program, which emphasized the importance of children's earliest years for lifelong development.

The Head Start Program Performance Standards (Performance Standards) are the foundation on which programs design and deliver services to support the school readiness of children from low-income families. The first set of Standards was published in the 1970s. The first major revisions to the Performance Standards were issued in 1996. The 2007 reauthorization of the Head Start Act placed an emphasis on involving parents in the design of the program and placed a stronger focus on the educational outcomes of Head Start children. The proposed landmark 2026 revision would fundamentally transform the landscape, empowering states and local authorities to meet the unique needs of children and families in their communities—free from burdensome Federal regulations that have long constrained progress. With the freedom to create local solutions for local challenges, these changes would ultimately strengthen and revitalize the family unit.

Over time, the delivery of these crucial services became unnecessarily encumbered by onerous regulations. Eliminating these restrictive Federal regulations would also empower small and local businesses, freeing them to focus on excellence in service delivery rather than bureaucratic compliance. This proposed sweeping reform would deliver tangible benefits to children, families, and the broader community, fueling prosperity and opportunity at every level. This NPRM would modernize the Performance Standards; reduce Federal regulation and duplication; empower states, local programs, and families with greater authority and flexibility; advance the health and well-being of children and communities; and reinforce evidence-based standards for health, nutrition, and physical activity.

Expert and Stakeholder Consultation

Throughout the years, ACF has received feedback that the Performance Standards are overly prescriptive, constrain flexibility, and impede coordination with State and local requirements. This input comes from Head Start program leadership staff, including Tribal leaders, and national organizations that represent Head Start programs. Additionally, program

monitoring has provided insight into the strengths and weaknesses of the current Performance Standards. The proposed changes in this NPRM give programs more flexibility and discretion in a way that matches local content. Additionally, the publication of this NPRM initiates a public comment period during which ACF will receive comment from all interested parties. In particular, ACF is interested in hearing from experts in the fields of child development, early childhood education, child health care, family services, administration, and financial management and others with Head Start operations experience.

III. Executive Summary

Purpose of the Proposed Rule

This NPRM proposes to comprehensively rescind and replace the Head Start Program Performance Standards at 45 CFR Chapter XIII to restore flexibility to Head Start programs and families, reduce regulatory burden, eliminate duplication with statutory requirements, reinforce state and local authority, and refocus Federal oversight on core statutory priorities, particularly school readiness and child outcomes, child development and health, and parental engagement. This modernization would ultimately empower states to actively lead the advancement of early childhood education, ensuring meaningful impact for children and families. Its purpose is to drive lasting improvements in early childhood educational outcomes and to foster change by preparing our youngest learners to succeed in their educational journey, and seeking to end generational poverty.

The Performance Standards have grown increasingly detailed and prescriptive, often duplicating or elaborating upon requirements already established in the Head Start Act or other Federal statutes and regulations. This accumulation of regulatory complexity has shifted program focus towards procedural compliance rather than direct service delivery. This expansion has constrained program flexibility, increased administrative workload, and limited the ability of grant recipients to tailor services to the unique needs of their communities.

This proposed rule would rescind Parts 1301 through 1305 of the current Performance Standards in their entirety and replace them with a streamlined Part 1301 that maintains statutory accountability while reducing unnecessary Federal burden and overreach.

Reduce Regulations and Restore Authority to States

The proposed rule would substantially reduce the scope and prescriptiveness of Federal regulatory requirements and return primary authority over areas traditionally within state and local purview. For instance, the proposed rule would give authority to the States to govern group size and ratios, background checks, and transportation practices while eliminating duplicative Federal requirements. By restoring flexibility in these areas, the rule would allow states and local programs to align more effectively with state early childhood systems and community conditions. This approach reflects principles of cooperative federalism and recognizes that state and local entities are best positioned to design and administer services responsive to their populations.

Returning Authority Back to Parents

Consistent with the Head Start Act, this proposed rule specifically recognizes parents as children's primary teachers and essential partners in program governance. Furthermore, the proposed rule would reduce prescriptive Federal requirements governing curriculum implementation, parent committees, family engagement procedures, and service delivery structures. By eliminating detailed procedural mandates not required by statute, the rule reaffirms parental authority and strengthens opportunities for families to make meaningful decisions regarding their children's education and development. This shift ensures that family engagement is grounded in partnership and shared responsibility rather than compliance-driven process requirements.

Reducing Unnecessary Burden

The proposed rule would rescind more than 1,400 highly detailed regulatory provisions and replace them with a consolidated and streamlined framework. It simplifies eligibility, recruitment, selection, enrollment, and attendance (ERSEA) requirements; removes duplicative documentation and procedural mandates; and reduces reporting obligations not required by statute. The rule would also broaden waiver authority, excluding core protections related to nutrition, physical activity, and eligibility, to provide programs greater operational flexibility. Facilities requirements would be simplified, reporting timelines made less prescriptive, and designation renewal processes streamlined to focus on measurable outcomes and fiscal integrity and remain in line with statute. Collectively, these revisions would shift resources from administrative overhead to direct services, reduce compliance-driven operational constraints, and improve program efficiency without altering statutory protections.

Furthers Emphasis on Health, Nutrition, and Physical Exercise

While reducing regulatory burden in many areas, the proposed rule strengthens emphasis on core statutory priorities related to child health and physical development. The proposed regulatory framework would encourage programs to provide nutrient-dense, whole foods compatible with healthy dietary practices within the framework of the USDA Child and Adult Care Food Program meal standards and continue to structure meal times in ways that support both development and learning. In addition, programs would be required to provide a minimum of 30 minutes of physical activity for every three and a half hours that the child participates in the program, with outdoor activity required when weather permits.

Reduce Duplication

The proposed rule would eliminate regulatory provisions that restate requirements already codified in the Head Start Act or other Federal laws and regulations. By removing redundant language and compliance layers, the rule clarifies that statutory requirements remain fully binding while avoiding unnecessary repetition in regulation. This approach reduces confusion, improves regulatory clarity and focus, and ensures that Federal oversight is focused on statutory requirements and areas where regulatory implementation is necessary rather than duplicative of existing law. This clarification is intended to improve regulatory transparency, reduce confusion among grant recipients, and ensure that Federal oversight is grounded in statutory authority rather than duplicative rule text.

Maintain Statutory Accountability

Although many regulatory provisions would be rescinded, all statutory requirements contained in the Head Start Act remain fully in effect. Programs must continue to comply with statutory mandates concerning eligibility, governance, school readiness goals, services for children with disabilities, fiscal controls, monitoring, background checks, civil rights protections, and parent involvement. Federal oversight mechanisms required by statute, including monitoring, audit requirements, and child safety

protections, would remain unchanged. Nothing in this proposed rule alters or waives statutory obligations; rather, it aligns regulatory text more closely with governing law. The proposed regulatory framework is designed not to diminish accountability, but to ensure that accountability flows directly from statutory requirements rather than layered procedural mandates.

Anticipated Impact

If finalized, this rule would substantially reduce Federal regulatory complexity while preserving statutory safeguards and accountability mechanisms. Head Start grant recipients would have increased flexibility to design services responsive to local conditions, align more effectively with state systems, develop child outcome and school readiness goals that mirror state requirements, and prioritize direct services to children and families.

The proposed rule would improve operational efficiency, strengthen fiscal stewardship, increase transparency for parents, reinforce health and physical development priorities, and clarify the appropriate balance between Federal oversight and state and local program administration. These outcomes would support long-term program sustainability while preserving core statutory protections. ACF recognizes there are a range of possible options regarding the effective dates for the proposed rescission and replacement of standards and requests public comment on implementation timing of these changes to maximizing the goals outlined above.

Costs, Benefits, and Transfer Impacts

By removing multiple regulatory requirements in the Performance Standards, this NPRM is expected to reduce compliance costs and create efficiencies in the distribution of resources within the program. The primary quantified effects of this rule are reductions in program expenditures associated with changes in staffing, service delivery, and administrative requirements, as well as program reinvestment effects associated with the proposed administrative cost cap, as described in the Regulatory Impact Analysis (RIA). Because Head Start is a grant-funded program, these reductions may be reallocated by grant recipients to support additional funded slots.

Over a five-year time horizon covering 2027 through 2031, ACF estimates total quantified impacts of approximately $1,476,881,912 to $2,959,495,914 annually at full implementation, with a primary estimate of approximately $2,218,188,913. These estimates reflect the combined effects of scenario-based reductions in personnel expenditures and fixed reductions associated with structural policy changes, and program reinvestment effects associated with the administrative cost cap. Consistent with the phased implementation described in this RIA, these impacts increase over time starting in 2027 and reach full effect in 2031.

For purposes of presenting annualized impacts, ACF calculates annualized cost reductions and transfers over the five-year period using standard discount rates of 3 percent and 7 percent, consistent with OMB Circular A–4. Based on the phased implementation schedule described above, the estimated annualized cost reductions are approximately $1,304,696,469at a 3 percent discount rate and $1,271,000,241 at a 7 percent discount rate under the primary scenario.

Consistent with prior analyses of Head Start policy changes, reductions in program expenditures may translate into increases in funded slots, including approximately 116,516 new Head Start Preschool slots and 45,578 Early Head Start slots in 2031. These estimates represent the number of funded slots that could be supported in that year and are not cumulative across years. These effects are reflected in the funded slot estimates presented in the RIA and are based on nominal cost reductions and program reinvestment effects and incorporate a phased implementation approach.

To produce an estimate of the quantified annual cost savings associated with the proposed rule for purposes of Executive Order 14192, ACF assumes that the impacts of the proposed changes on costs at full implementation in 2031 extend in perpetuity. Under this assumption, ACF calculates annualized cost savings at a 7 percent discount rate relative to the baseline year, excluding transfers and adjusting the estimate to 2024 dollars consistent with OMB guidance for Executive Order 14192 accounting. The annualized cost savings at a 7 percent discount rate are approximately $0.94 billion. This amount reflects quantified reductions in regulatory compliance costs and program expenditures and does not include the administrative cost cap effect, for which the quantified effect is treated as a transfer because it reallocates Head Start resources within the program.

Separately, ACF estimates potential funded slot capacity using the broader set of ongoing quantified impacts, including cost reductions and program reinvestment effects, under the funded slots methodology described above. That funded slot estimate is not used as the Executive Order 14192 accounting value. This estimate is based on 2031 costs and does not assume future appropriations increases, cost-of-living adjustments (COLAs) needed to keep pace with increasing costs, or other funding changes that would affect the number of slots that could be supported in subsequent years.

These estimates represent potential changes in regulatory burden, program reinvestments and reallocations within the Head Start program, and associated impacts on funded slots. Actual realized impacts may differ depending on program-level decisions, state and local requirements, labor market conditions, and the extent to which programs choose to maintain existing practices even when they are no longer required by the Performance Standards.

Severability

The purpose of this Section is to clarify ACF's intent with respect to the severability of the provisions of this NPRM. As explained above, ACF proposes removing Sections of the Head Start regulations because we determined that doing so would make the regulations clearer, less burdensome, and more accessible to the public. To the extent that any portion of the proposed removals are declared invalid by a court, ACF intends for all other provisions of this proposed rule to remain in effect to the greatest extent possible to ensure that Head Start regulations remain as concise and accessible as possible. For example, if section 1301.01 Committees is deemed invalid by a court, all other provisions in 1301 can function independently of 1301.01. As another example, if section 1301.14 on the 5 percent administrative cap is invalidated by a court, all other provisions in 1301 can function independently of 1301.14. None of the provisions contained herein are central to an overall intent of the proposed rule, nor are any provisions dependent on the validity of other, separate provisions.

IV. Table

In this NPRM, we propose rescinding the Performance Standards as they currently exist and replacing them with a streamlined set of requirements that are not duplicative of the Head Start Act and other Federal statutes and regulations. We include the following table to help the public identify which current regulations we propose to remove entirely and which we propose to replace. We also indicate which current regulations will still be required by the Head Start Act, despite being removed or replaced in the proposed

regulations. The table is not an exhaustive list of all other applicable Federal statute or regulations such as the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards that still govern aspects of program operation.

To understand the proposed requirements, it is essential to read them in full and reference the requirements in the Head Start Act, however, the table below is a tool to help reflect the relationship between the current regulations, proposed regulations, and the Head Start Act, at a high level.

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Current Regulation	**Current Regulation Topic**	**Proposed Regulation**	**Act Citation(s)**	**Proposed Change** **Indicates some or all current requirements remain in the Act*
1301.1	Purpose.	--	--	Removed
1301.2	Governing body.	--	642(c-d)	Removed*
1301.3	Policy council and policy committee.	--	642(c-d)	Removed*
1301.4	Parent committees.	1301.01	--	Replaced
1301.5	Training.	--	642(c-d)	Removed*
1301.6	Impasse Procedures.	--	--	Removed
1302.1	Overview.	--	--	Removed
1302.10	Purpose.	--	--	Removed
1302.11	Determining community strengths, needs, and resources.	--	640(g)(1)(C); 641A(c)(2)(D); 641A(e)(1); 641A(h)(3)(B); 654(a)(4) and (5)(A)(ii); 642(h); 642(d)(2)(G)	Removed*

Current Regulation	**Current Regulation Topic**	**Proposed Regulation**	**Act Citation(s)**	**Proposed Change** **Indicates some or all current requirements remain in the Act*
1302.12	Determining, verifying, and documenting eligibility.	1301.02	638; 640(m); 645(a)(1)(B)(i-v); 645(a)(2); 645A(b)(10); 645A(c)	Replaced*
1302.13	Recruitment of children.	--	642(c)(1)(E)(iv)(II); 645(c); 642(g)	Removed*
1302.14	Selection process.	--	642(c)(1)(E)(iv)(II); 641A(c)(2)(J);	Removed*
1302.15	Enrollment.	1301.03	640(m); 642(g); 645(c); 645(a)(1)(B)(iv); 642(d)(2)(C); 641A(h)(2)	Replaced*
1302.16	Attendance.	1301.03	642(d)(2)(C)	Replaced*
1302.17	Suspension and expulsion.	--	--	Removed
1302.18	Fees.	--	645(b)	Removed*
1302.20	Determining program structure.	--	645(a)(5); 645(d)(3)	Removed*
1302.21	Center-based option.	1301.05	640(k)(1)	Replaced*
1302.22	Home-based option.	--	645A(i)(1)	Removed*
1302.23	Family child care option.	--	637	Removed*
1302.24	Locally-designed program option variations.	1301.18	640(f)(1)	Replaced*
1302.30	Purpose.	--	--	Remove

Current Regulation	**Current Regulation Topic**	**Proposed Regulation**	**Act Citation(s)**	**Proposed Change** **Indicates some or all current requirements remain in the Act*
				d
1302.31	Teaching and the learning environment.	1301.04	642(f)(2), 642(f)(4)	Replaced *
1302.32	Curricula.	--	642(f)(3)	Removed*
1302.33	Child screenings and assessments.	--	642(f)(5-6)	Removed*
1302.34	Parent and family engagement in education and child development services.	1301.06	642(b)	Replaced *
1302.35	Education in home-based programs.	--	645A(i)	Removed*
1302.36	Tribal language preservation and revitalization.	1301.17	--	Replaced
1302.40	Purpose.	--	--	Removed
1302.41	Collaboration and communication with parents.	--	642(b)	Removed*
1302.42	Child health status and care.	--	645A(b)(5); 642(f)(9); 645A(i)(2)(E)	Removed*
1302.43	Oral health practices.	--	--	Removed
1302.44	Child nutrition.	1301.04(b); 1301.07	--	Replaced
1302.45	Supports for mental health and well-being.	--	645A(b)(5); 642(f)(9)	Removed*
1302.46	Family support services for health,	1301.08	--	Replaced

Current Regulation	**Current Regulation Topic**	**Proposed Regulation**	**Act Citation(s)**	**Proposed Change** **Indicates some or all current requirements remain in the Act*
	nutrition, and mental health.			
1302.47	Safety practices.	1301.09	--	Replaced
1302.50	Family engagement.	--	642(b)	Removed*
1302.51	Parent activities to promote child learning and development.	--	642(b)	Removed*
1302.52	Family partnership services.	--	642(b)	Removed*
1302.53	Community partnerships and coordination with other early childhood and education programs.	--	642(b)	Removed*
1302.60	Full participation in program services and activities.	1301.10	--	Replaced
1302.61	Additional services for children.	--	642(b)(14-15); 642(e)(2)(B)	Removed*
1302.62	Additional services for parents.	--	642)(b)	Removed*
1302.63	Coordination and collaboration with the local agency responsible for implementing IDEA.	--	642(e)(3)	Removed*

Current Regulation	**Current Regulation Topic**	**Proposed Regulation**	**Act Citation(s)**	**Proposed Change** **Indicates some or all current requirements remain in the Act*
1302.70	Transitions from Early Head Start.	--	645A	Removed*
1302.71	Transitions from Head Start Preschool to Kindergarten.	--	642A	Removed*
1302.72	Transitions between programs.	--	642(e)(3)	Removed*
1302.80	Enrolled pregnant women.	1301.11(a)	--	Replaced
1302.81	Prenatal and postpartum information, education, and services.	1301.11(b)	--	Replaced
1302.82	Family partnership services for enrolled pregnant women.	--	642(b)	Removed*
1302.90	Personnel policies.	1301.12	644(a)(1); 648A(g); 641A(b)(4); 648A(a)(5); 648A(f); 653(a); 653(b); 641(d)(2)(K); 645A(h)	Replaced*
1302.91	Staff qualifications and competency requirements.	--	645A(h); 648A(a); 645A(i); 648A(c)	Removed*
1302.92	Training and professional development.	--	648A(a)(5); 648A(f)	Removed*

Current Regulation	**Current Regulation Topic**	**Proposed Regulation**	**Act Citation(s)**	**Proposed Change** **Indicates some or all current requirements remain in the Act*
1302.93	Staff health and wellness.	--	--	Removed
1302.94	Volunteers.	--	--	Removed
1302.100	Purpose.	--	--	Removed
1302.101	Management system.	--	644(a)(1); 642(c)(1)(E)(i); 644(a)(3)(D); 641(d)(2)(K); 640(d); 642(b)(14-15); 641Λ(b)(4)	Removed*
1302.102	Program goals, continuous improvement, and reporting.	1301.13	641A(e)(2); 641A(g); 642(c)(2)(A); 642(d)(2); 644(a)(2)	Replaced *
1303.1	Overview.	--	--	Removed
1303.2	Purpose.	--	--	Removed
1303.3	Other requirements.	--	--	Removed
1303.4	Federal financial assistance, non-Federal match, and waiver requirements.	--	640(b)	Removed*
1303.5	Limitations on development and administrative costs.	1301.14	--	Replaced
1303.10	Purpose.	--	644(a)(1)	Removed*

Current Regulation	**Current Regulation Topic**	**Proposed Regulation**	**Act Citation(s)**	**Proposed Change** **Indicates some or all current requirements remain in the Act*
1303.11	Limitations and prohibitions.	--	644(e); 644(g)(3); 653; 654; 655; 656; 657A	Removed*
1303.12	Insurance and bonding.	--	--	Removed
1303.20	Establishing procedures.	--	641A(b)(4)(A)	Removed*
1303.21	Program procedures - applicable confidentiality provisions.	--	641A(b)(4)	Removed*
1303.22	Disclosures with, and without, parental consent.	--	641A(b)(4)	Removed*
1303.23	Parental rights.	--	641A(b)(4)	Removed*
1303.24	Maintaining records.	--	641A(b)(4)	Removed*
1303.30	Grant recipient responsibility and accountability.	--	641A(d); 642(a)	Removed*
1303.31	Determining and establishing delegate agencies.	--	637(3), 641A(d), 642(a)	Removed*
1303.32	Evaluations and corrective actions for delegate agencies.	--	641A(d)	Removed*

Current Regulation	**Current Regulation Topic**	**Proposed Regulation**	**Act Citation(s)**	**Proposed Change** **Indicates some or all current requirements remain in the Act*
1303.33	Termination of delegate agencies.	--	641A(d)	Removed*
1303.40	Purpose.	--	--	Removed
1303.41	Approval of previously purchased facilities.	--	644(f)(1)	Removed*
1303.42	Eligibility to purchase, construct, and renovate facilities.	--	644(g)(1)	Removed*
1304.43	Use of grants funds to pay fees.	--	--	Removed
1303.44	Applications to purchase, construct, and renovate facilities.	1301.15	644(f)(2)	Replaced*
1303.45	Cost-comparison to purchase, construct, and renovate facilities.	1301.15	644(f)(2)(D)	Replaced*
1303.46	Recording and posting notices of Federal interest.	--	--	Removed
1303.47	Contents of notices of Federal interest.	--	--	Removed
1303.48	Grant recipient limitations on Federal interest.	--	--	Removed
1303.49	Protection of Federal interest in mortgage agreements.	--	--	Removed
1303.50	Third party leases and occupancy	--	--	Removed

Current Regulation	Current Regulation Topic	Proposed Regulation	Act Citation(s)	Proposed Change *Indicates some or all current requirements remain in the Act
	arrangements.			
1303.51	Subordination of the Federal interest.	--	--	Removed
1303.52	Insurance, bonding, and maintenance.	--	--	Removed
1303.53	Copies of documents.	--	--	Removed
1303.54	Record retention.	--	647(a)	Removed*
1303.55	Procurement procedures.	--	--	Removed
1303.56	Inspection of work.	--	644(g)(3)	Removed*
1303.70	Purpose.	--	--	Removed
1303.71	Vehicles.	1301.09	--	Replaced
1303.72	Vehicle operation.	--	--	Removed
1303.73	Trip routing.	--	--	Removed
1303.74	Safety procedures.	--	--	Removed
1303.75	Children with disabilities.	--	--	Removed
1304.1	Purpose.	--	641A(c); 646(a)	Removed*
1304.2	Monitoring.	--	641A(c)(1-2); 637(2)(C); 641A(e)(1)(B); 641A(e)(2)(A)	Removed*
1304.3	Suspension with notice.	--	646(a)(5)	Removed*

Current Regulation	**Current Regulation Topic**	**Proposed Regulation**	**Act Citation(s)**	**Proposed Change** **Indicates some or all current requirements remain in the Act*
1304.4	Emergency suspension without advance notice.	--	646(a)(5)	Removed*
1304.5	Termination and denial of refunding.	1301.19	646(3)	Replaced*
1304.6	Appeal for prospective delegate agencies.	1301.19	646(a)(1)	Replaced*
1304.7	Legal fees.	--	646(a)(4)(c); 646(a)(6)	Removed*
1304.10	Purpose and scope.	--	--	Removed
1304.11	Basis for determining whether a Head Start agency will be subject to an open competition.	1301.16	641(c); 647; 641A(c); 641A(a)(1); 641(d)(2); 641A(c)(2)(F)	Replaced*
1304.12	Grant recipient reporting requirements concerning certain conditions.	1301.13	--	Replaced
1304.13	Requirements to be considered for designation…	--	641(d)(2)	Removed*
1304.14	Tribal government consultation under the Designation Renewal System …	1301.17	641(c)(7)(B)	Replaced*
1304.15	Designation request, review and notification process.	--	--	Removed

Current Regulation	Current Regulation Topic	Proposed Regulation	Act Citation(s)	Proposed Change *Indicates some or all current requirements remain in the Act
1304.16	Use of CLASS: Pre-K instrument in the Designation Renewal System.	--	--	Removed
1304.17	Flexibility for Head Start Designation Renewal determinations in certain emergencies.	--	--	Removed
1304.20	Selection among applicants.	--	641(d)	Removed*
1304.30	Procedure for identification of alternative agency.	1301.17	646(e)(1)(A-B)	Replaced*
1304.31	Requirements of alternative agency.	--	--	Removed
1304.32	Alternative agency—prohibition.	--	646(e)(2)	Removed*
1304.40	Purpose.	--	648A(d)	Removed*
1304.41	Fellows program.	--	648A(d)	Removed*
1305.1	Purpose.	--	--	Removed
1305.2	Terms.	1301.20	637	Replaced*

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Similar to all sections of this NPRM, ACF requests public comment on how to support states in complying with statute in the absence of the proposed rescinded regulations found to be duplicative with statute, including what challenges states may face in interpreting and complying with statute.

V. Discussion of Proposed Rule

ACF proposes to rescind parts 1301 through 1305 in the current regulation and either completely rewrite or restructure them under subchapter B at 45 CFR Chapter XIII. The order proposed here removes parts 1302 through 1305 in the current regulation and redesignates new and remaining requirements in a new part 1301. The table provided in section IV., above, is intended to help the public readily locate current sections and provisions proposed for revision, removal, and renumbering.

Program Governance

The proposed new § 1301.01 reflects a revision to parent committee requirements by making parent committees optional and eliminating Federal prescriptions regarding committee structure and function. In current § 1301.4, programs must establish parent committees at each center and comply with specific requirements governing their structure and purpose. The proposed regulations at § 1301.01 would allow, but not require, programs to establish a parent committee comprised exclusively of parents of currently enrolled children to advise staff in developing and implementing local program policies, activities, and services to ensure they meet the needs of children and families. Programs would have the flexibility to determine the bylaws of any committee including but not limited to length of a committee member's term and election procedures.

These proposed changes at § 1301.01 seek to reduce administrative burden and duplication of requirements that already exist in the Act. The Act's governance provisions remain in effect regardless of these proposed regulatory changes (Sec. 642(c–d)). The statute requires the establishment of a governing body, a Policy Council and in instances when the recipient has subrecipients, Policy Committees. The Act specifies the roles and responsibilities of each body, the reports that must be shared with these governance groups and the composition requirements of each body (Sec. 642(c)). Under the proposed regulations, Head Start programs would continue to be required to have a Governing Body, Policy Council, and for recipients that have subrecipients, Policy Committees.

These proposed changes do not represent a departure from empowering parents as the lead decision makers for their children's education as the proposed regulation is simply returning to the statutory requirements, which include in Sec. 642(c) that membership of a program's governing body shall ''reflect the community to be served and include parents of children who are currently, or were formerly, enrolled in Head Start programs.'' This proposed rule continues to value and prioritize parental engagement.

Eligibility, Recruitment, Enrollment and Attendance

If finalized, this NPRM would rescind Part 1302 Subpart A of the current Performance Standards, often referred to as Eligibility, Recruitment, Selection, Enrollment, and Attendance (or ERSEA). This NPRM proposes requirements for Eligibility, Enrollment, and Attendance in §§ 1301.02 and 1301.03. The proposed changes in §§ 1301.02 and 1301.03 reflect multiple ACF priorities, including restoring flexibility to local Head Start programs; reducing burden for programs and families; and reducing duplication with relevant statutory requirements. Each of the proposed changes are explained in more detail in the paragraphs that follow.

Proposed Eligibility Requirements Aligned With Current Regulation

Multiple new proposed regulations under § 1301.02 align with current regulations. These represent important policies to maintain that, for the most part, are not separately detailed in statute.

New proposed § 1301.02(a) outlines that a pregnant woman or child is eligible for Head Start if they meet the eligibility requirements in Section 645(a)(1) of the Act. This provision is intended to address the requirement in Section 645(a)(1)(A) that the Secretary prescribes by regulation eligibility for participation in Head Start programs. It is ACF's position that the newly proposed language is sufficient to meet that statutory requirement.

New proposed § 1301.02(b) continues to specify that children in foster care are categorically eligible for Head Start services. New proposed § 1301.02(c)(3) specifies the type of documentation a program must secure to verify that a child is in foster care. Both proposed standards align with the current Performance Standards and do not represent a proposed change in policy (see current § 1302.12(c)(1)(iv) and (i)(4)).

New proposed § 1301.02(c)(1) clarifies the types of documentation programs must gather and use to determine family income for the relevant time period and whether such income meets requirements for eligibility. New proposed § 1301.02(c)(2) describes documentation requirements when a family is found eligible for Head Start due to receipt of or eligibility for public assistance. These standards are consistent with the current Performance Standards and do not represent proposed changes in policy (see current §§ 1302.12(i)(1) and (i)(2) and 1305.2).

Consistent with the current Performance Standards, new proposed § 1301.02(d) describes requirements to reverify a child's eligibility when they move from Early Head Start to Head Start Preschool (*see* current § 1302.12(j)(3)).

Proposed Eligibility Requirements Rescinded and Replaced From Current Regulation

Proposed § 1301.02(c)(4) specifies that self-attestation would no longer satisfy eligibility requirements. If finalized, this change would strengthen risk reduction strategies and mitigate the misuse of funds. Similar to all sections of this NPRM, ACF requests public comment on this proposed change.

Proposed § 1301.02(e) specifies requirements for eligibility determination records. Aligned with current regulation, the proposed paragraph would require programs to maintain such records for each participant while enrolled and for one year after they are no longer enrolled (see current § 1302.12(k)(1) and (k)(3)). Finally, in line with efforts to safeguard Federal funds, proposed § 1301.02(f) would require Head Start programs to make such records available to HHS upon request. Sharing such records must be done in accordance with relevant laws and regulations on protecting the confidentiality of personally identifiable information (PII). Note that Family Educational Rights and Privacy Act (FERPA) has exceptions, including for Federal audits/monitoring as well as law enforcement activities. Presumably, if agencies are adopting policies equivalent to FERPA, then similar exceptions would need to be included in those policies.

To further guard against fraud and misuse of limited Federal funds and to ensure the neediest children are served by Head Start programs, proposed § 1301.02(f) would require programs to report staff who violate eligibility determination regulations to their Office of Head Start Regional Office point of contact. This represents a proposed change in policy from the current requirement at § 1302.12(l) that gives programs the flexibility to determine policies and procedures for violating eligibility determination regulations.

To streamline Federal requirements and reduce duplication across regulations and statute, proposed § 1301.02(g) clarifies that children experiencing homelessness qualify for program eligibility (consistent with current regulations at § 1302.12(c)(1)(iii)) and that programs should address eligibility determinations for this population in accordance with the Act. If finalized, the proposed regulations would allow programs flexibility in documenting homelessness, but self-attestation would no longer meet eligibility requirements.

Programs are reminded that statute specifies that the Secretary shall issue

rules to remove barriers to enrollment and participation of children experiencing homelessness, including allowing such children to apply, enroll in, and attend Head Start while required documentation is gathered within a reasonable time frame (see Sec. 640(m)). In other words, under the proposed regulations, programs must still comply with the statutory requirement to support enrollment of children experiencing homelessness.

Eligibility Requirements Proposed for Removal From Current Regulation

The proposed regulations for eligibility under § 1301.02 would reduce duplication in Federal regulatory requirements for Head Start eligibility and remove provisions that currently allow programs to go beyond statutory authority. While programs would still need to comply with all eligibility requirements specified in the Act, their proposed removal from the Performance Standards would reduce duplicative Federal regulatory requirements and ensure these requirements more closely align with statutory requirements and limitations on eligibility for Head Start services.

This NPRM proposes to remove the following requirements from current § 1302.12 because they are already detailed in statute: age requirements for eligibility for both Head Start Preschool and Early Head Start (described in Sec. 638 and 645A(c) of the Act); eligibility for a pregnant woman or child whose family income is equal to or below the Federal poverty line (see Sec. 645(a)(1)(B)(i) of the Act); eligibility for a pregnant woman or child whose family is eligible for public assistance, or would be in the absence of child care (see Sec. 645(a)(1)(B)(i) of the Act); flexibility to enroll up to 10 percent of children whose family income is over the income threshold (see Sec. 645(a)(1)(B)(iii)(I) of the Act); flexibility to enroll up to 35 percent of children whose family income is between 100 and 130 percent of the Federal poverty line (see Sec. 645(a)(1)(B)(iii)(II)), including requirements to justify such enrollment (see Sec. 645(a)(1)(B)(iv)); flexibilities in eligibility requirements for Migrant or Seasonal programs and for Indian Tribes (see *Further Consolidated Appropriations Act, 2024;* Pub. L. 118–47); eligibility requirements for communities with less than 1,000 individuals (see Sec. 645(a)(2)); eligibility duration for Head Start Preschool (see Sec. 645(a)(1)(B)(v)), including Migrant and Seasonal Head Start; and ensuring children in Early Head Start who are eligible for Head Start Preschool can receive those services if the family desires (see Sec. 645A(b)(10)). Regarding the requirements for those eligible for public assistance, programs are reminded that at the time of this publication, ''public assistance'' for Head Start eligibility is inclusive of Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), and Supplemental Nutrition Assistance Program (SNAP) (ACF–IM–HS–22–03).

A few eligibility-related standards are proposed for removal because they go beyond statutory authorization regarding eligibility. Specifically, the NPRM proposes to reserve eligibility for those who meet the stated income threshold, without incorporating a further expansion of eligibility by applying housing costs for eligibility determination purposes (current 1302.12(i)(1)(ii), (ii)(A), and (ii)(B)). The NPRM also strengthens program integrity by proposing to remove a provision in current § 1302.12(h) that permits programs to enroll a child without documentation of child age, if such documentation could not be provided by the family. We specifically request public comment on the proposed removal of this provision. Removal of these policies ensures programs are more closely aligning with statutory requirements and limitations on eligibility for Head Start services.

Enrollment and Attendance

The requirements proposed in § 1301.03 focus specifically on attendance and enrollment. Section 1301.03(a), which proposes to require programs to track attendance for each child, aligns with § 1302.16(a) of the current Performance Standards. Section 1301.03(b) specifies that all applicable Federal and state statutes and state regulations apply to attendance procedures regarding child safety concerns due to absence(s). This means programs must align their attendance procedures with a broader legal framework on attendance, such as the McKinney-Vento Homeless Assistance Act, the Civil Rights Act of 1964, and the Americans with Disabilities Act (ADA)/Section 504 of Rehabilitation Act, which are examples but not an exhaustive list. Section 1301.03(c), which proposes to require that a program maintain its funded enrollment level and fill any vacancy as soon as possible, but not to exceed 30 days, aligns with § 1302.15(a) of the current Performance Standards.

The requirements proposed in § 1301.03 would reduce the current burden on enrollment and attendance. Programs would continue to comply with requirements in the Act. The Act specifies that programs must enroll 100 percent of their funded enrollment, maintain an active waitlist, and engage in ongoing outreach to the community and activities to identify underserved populations (Sec. 642(g)); are permitted to provide more than one year of Head Start services to eligible children and can recruit and accept applications throughout the year (Sec. 645(c)); and must comply with enrollment-related reporting requirements if serving children under the 130 percent poverty line provision (Sec 645(a)(1)(B)(iv)). Lastly, the Act requires programs to ensure the sharing of accurate and regular information for the governing body and policy councils to use, specifically noting program enrollment reports, including attendance reports for children whose care is partially subsidized by another public agency (Sec. 642(d)(2)(C)).

The proposed changes to enrollment and attendance requirements in § 1301.03 produce significantly fewer Federal requirements for enrollment and attendance, because many of the requirements are not in the Act and they are proposed for removal in the NPRM.

These changes, if finalized, would greatly reduce administrative burden and increase program flexibility. Recipients are reminded that they are and will continue to be required to comply with all applicable state and local requirements that have a bearing on enrollment and attendance.

Other ERSEA-Related Requirements in Current Performance Standards

This NPRM also proposes to remove other Federal ERSEA-related requirements in current Part 1302, Subpart A. The following sections discuss in more detail these requirements in the current Performance Standards and how they would be impacted when these proposed changes are finalized.

Determining Community Strengths, Needs, and Resources

This NPRM proposes to remove the requirements in § 1302.11 of the current Performance Standards to avoid duplication with the Act's requirements and to reduce burden for programs. If these proposed changes are finalized, there would be significantly fewer Federal requirements related to determining community strengths, needs, and resources. Under the proposed regulations, programs would not be required to propose a service area, as this requirement is duplicative of the Notice of Funding Opportunity (NOFO) process. When applying for

funding, a NOFO is posted by service area, and entities apply for the service area(s) outlined in the NOFO. The recipient's Notice of Award also specifies the service area the Federal funding supports, thus providing documentation of the agreement between the recipient and OHS.

The proposed regulations would no longer require programs to produce a complicated community needs assessment that meets current overly prescriptive standards, including how often programs must conduct the community assessment, what data elements must be included, and the timelines for review and updates of the community assessment.

However, the Act clearly requires use of a community needs assessment, and the Act addresses both how programs and the Secretary should use it. First, the Act requires programs to consider the community needs assessment for purposes of program design and designation as a Head Start program. A program must use their community assessment when applying to convert part-day slots to full-working-day sessions and if applying to convert Head Start preschool slots to Early Head Start slots (Sec 645(a)(4) and (5)(A)(ii)) to demonstrate that a shift in the use of funds is responsive to community need. Additionally, the Secretary must consider whether programs have undertaken a communitywide needs assessment when expanding Head Start and have reflected in their application a need to provide full-working-day or full-calendar-year services and collaborate with other child care providers (Sec. 640(g)(1)(C)).

Second, the Act also has several requirements related to the community assessment in the context of monitoring. Reviews must include an assessment of whether programs have addressed the communitywide strategic planning and needs assessment (Sec. 641A(c)(2)(D)) and programs may receive a corrective action if the program fails to address the communitywide needs assessment (Sec. 641A(e)(1)).

Third, the Act requires the use of the communitywide needs assessment for technical assistance, including programs developing an annual technical assistance and training plan based on their self-assessment and their communitywide strategic planning and needs assessment (Sec 642(h)). The Act also requires the Secretary, in providing Training and Technical Assistance (TTA), to assist programs in conducting and participating in communitywide strategic planning and needs assessment, including the needs of children experiencing homelessness and their families (Sec. 648(a)(3)(B)(iii)).

Lastly, programs must share information about program planning, policies, and operations with the governing body and policy council. One source of information is the communitywide strategic planning and needs assessment, including applicable updates (Sec 642(d)(2)(G)).

Selection Process

ACF proposes to remove the requirements in § 1302.12 of the current Performance Standards related to the selection process to allow programs greater flexibility in determining how to enroll children in their funded slots. Under these proposed changes, programs would still be required to have selection criteria, but not at the level of overprescription in the current Performance Standards. Note that programs could continue to consider the enrollment of children of staff members as part of their selection criteria, even though this standard is proposed for removal in this NPRM. The intent with the proposed removal of these requirements is not to take away a guidepost for meeting the Act's requirement for selection criteria and then find programs out of compliance; rather it is to be clear that programs have flexibility to develop criteria for filling their enrollment slots that is grounded in community need and best meets the needs of underserved populations.

As noted, the Act requires programs to have selection criteria and references selection criteria in several ways. First, in outlining the responsibilities of the governing body, the Act includes establishing procedures and criteria for recruitment, selection, and enrollment of children (Sec. 642(c)(1)(E)(iv)(II)). This means the establishment of selection criteria fall within the formal responsibilities of the agency's governing body. Second, the Act requires that monitoring reviews include a review and assessment of whether programs comply with eligibility requirements under section 645(a)(1) and whether programs have met the requirements for outreach and enrollment policies and procedures, and selection criteria (Sec. 641A(c)(2)(J)). Third, the Act requires the Secretary to issue regulations that prescribe eligibility for participation in Head Start, including that programs may (1) implement outreach and recruitment policies and procedures and (2) establish selection criteria that ensure programs serve children who are low-income and experiencing homelessness before serving children whose families have incomes below 130 percent of the poverty line or are over-income.

Lastly, the proposed removal of several provisions in § 1302.14 of the current Performance Standards reduces duplication with requirements included in the Act. The NPRM proposes to remove § 1302.14(b) related to the children eligible for services under IDEA, but the Act requires the Secretary to establish policies and procedures to assure that programs fill at least 10 percent of their actual enrollment slots with children eligible for IDEA (Sec. 640(d)(1)). As such, prior to a final rule taking effect, programs should expect guidance around the 10 percent enrollment requirement.

The NPRM also proposes to remove § 1302.14(c) related to waiting lists, but this base requirement does not change as the Act requires that programs maintain an active waiting list at all times with ongoing outreach to the community and activities to identify underserved populations (Sec. 642(g)). As noted, recipients are required to abide by Federal and state laws that apply to the selection and enrollment of participants in Federally-funded programs.

Recruitment of Children

This NPRM proposes to remove § 1302.13 of the current Performance Standards, which addresses the recruitment of children, to avoid duplication with requirements in the Act and to allow programs more flexibility in how they recruit children and families to participate in Head Start programs. If the proposed changes are finalized, decisions on how best to engage eligible children and families would be at the discretion of local programs. Programs can continue to use the current practices when recruiting children and families and would be compliant with requirements if they do, but programs will no longer be required.

However, the Act includes several provisions that establish recruitment-related requirements and responsibilities, and programs will need to comply with these requirements even if the proposed changes are finalized. First, as noted in the discussion of current § 1302.12: Selection process, the Act requires the governing body to establish procedures and criteria for recruitment, selection, and enrollment of children (Sec. 642(c)(1)(E)(iv)(II)). Second, the Act states that programs should be permitted to recruit and accept applications for enrollment throughout the year (Sec. 645(c)). Lastly, in clarifying expectations related to full enrollment, the Act requires that a program enroll 100 percent of its funded

enrollment and maintain an active waiting list at all times with ongoing outreach to the community and activities to identify underserved populations (Sec. 642(g)). The Act is clear that it is the responsibility of the governing body to establish selection criteria, that programs can recruit and accept children for enrollment throughout the year, and that programs must have ongoing outreach to the community, but the proposed removal of the requirements in current § 1302.13 gives programs more discretion in how they meet the requirements in the Act.

Suspension and Expulsion

This NPRM proposes to remove § 1302.17 of the current Performance Standards, which outlines the limitations on suspension and the prohibition on expulsion. The Act requires that Early Head Start programs ensure that children with documented behavioral problems, including problems related to prior or existing trauma, receive appropriate screening and referral (Sec. 645A(b)(6)), thus programs serving infants and toddlers must comply with this statutory requirement. The removal of these regulatory requirements would apply to both Head Start Preschool and Early Head Start programs and would allow them to determine their own disciplinary policies within the context of state and local licensing requirements.

The rationale for ACF's proposed removal of these requirements is twofold. First, when ACF included these requirements limiting suspension and prohibiting expulsion in its 2016 final rule revising the Performance Standards, many state child care licensing regulations either did not address suspension and expulsion explicitly or addressed them only indirectly through discipline policies. The landscape has changed, and a growing number of states have incorporated suspension and expulsion requirements directly into licensing regulations, quality standards, or state law. Second, the proposed removal of these Federal requirements restores state and local authority in recognition that effective Head Start programs can and do operate under varying approaches based on state and local contexts. These proposed changes are not an endorsement of suspension and expulsion as approaches to address persistent and serious behavioral concerns; rather, the intent is to allow programs to determine their own discipline policies, within the context of state and local licensing requirements. Recipients are reminded that they will continue to be required to comply with all applicable state and local requirements that have a bearing on suspension and expulsion.

Fees

This NPRM proposes to remove § 1302.18 of the current Performance Standards, which outlines the policy on fees, because it is duplicative of requirements in the Act. Section 645(b) of the Act, which aligns with § 1302.18, prohibits the Secretary from prescribing any fee schedule or otherwise provide for the charging of any fees for participation in Head Start programs. The Act notes that this prohibition does not prevent (1) families who participate in Head Start programs and who are willing and able to pay the full cost of participation from doing so, and (2) programs that provide full-working-day services in collaboration with other agencies from collecting a family co-payment to support extended day services, as long as the co-payment does not exceed the copayment charged to families with similar incomes and circumstances.

Education and the Learning Environment

The proposed regulations on education and the learning environment reflect ACF's commitment to providing flexibility to Head Start programs in how they implement services in the classroom context. The proposed regulations address teaching and learning environment (proposed § 1301.04), group size and ratio (proposed § 1301.05), and parent and engagement in education and child development services (proposed § 1301.06).

Teaching and Learning Environment

The proposed regulations for Teaching and learning environment (§ 1301.04) address requirements pertaining to language, nutrition and physical activity.

Language

The proposed regulation regarding language in § 1301.04(a) will require programs to conduct all education to children in English. Further, § 1301.04(a)(1) specifies that if a child's native language is not English, and the child does not speak English, a program must prioritize teaching English to the child. Under the proposed regulations in § 1301.17(d), an Indian Head Start agency will not be subject to § 1301.04(a) so long as the language being spoken relates to the furtherance of tribal heritage.

If finalized, these proposed changes would represent a shift from current Head Start regulations which require programs to support bilingualism, including both English and the home language for children who are dual language learners (see current § 1302.31(b)(2)) as the current requirements are at odds with E.O. 14224, *Designating English as the Official Language of the United States.* As discussed in the E.O., learning English opens doors economically for families and helps individuals better engage with their communities. The changes proposed in this NPRM help achieve these goals as a key part of a young child's education.

The Act includes several requirements aimed at supporting children and families with limited English proficiency (LEP), a term defined in the Act under Sec. 637 which includes children whose native language is not English or who come from an environment where another language affects English proficiency, and whose English difficulties may deny them success in an English-instruction classroom or full participation in society. Under Sec. 641A(a)(1)(B)(x), the Act requires the Secretary to modify, as necessary, standards for LEP children that must include progress toward the acquisition of the English language while also making meaningful progress in the broader domains (language, literacy, math, etc.). The Act requires programs to ensure that assessments are valid, reliable, and appropriately administered for LEP children, with necessary accommodations (Sec. 641A(b)(2)), provide outreach and information to parents of LEP children in a language they can understand, to the extent practicable, and establish procedures to identify LEP children and inform parents about instructional services, including English acquisition (Sec. 642(11) and Sec. 642(f)(10)), and build workforce capacity through training and technical assistance. In addition, the Act requires all recipients to establish goals and measurable objectives for educational services (Sec. 642(f)(9)).

In summary, if these proposed regulations are finalized, programs would be required to conduct all education to children in English (except for Tribal programs, so long as the language being spoken relates to the furtherance of Tribal heritage). However, Head Start programs will continue to be required to continue to comply with all language requirements, for LEP children and their parents, as detailed in the Act. In addition to alignment with E.O. 14224, these

proposed changes would minimize non-essential multilingual services and redirect resources toward English-language education and assimilation.

Nutrition

The proposed regulation regarding nutrition in section § 1301.04(b) requires snack and meal times to be structured and used as learning opportunities that support teaching staff-child interactions and foster communication and conversations that contribute to a child's learning, development, and socialization. Additionally, the proposed regulation encourages programs to meet this requirement with family style meals when developmentally appropriate. These proposed nutrition regulations under the teaching and learning environment align to current § 1302.31(e)(2) and clarify and elevate key aspects of nutrition services and how they strengthen and reinforce education services. This emphasizes ACF's commitment to the Make America Healthy Again (MAHA) agenda through Head Start program services and places a spotlight on the role nutrition plays in promoting children's growth, development, and lifelong healthy habits.

In summary, if the proposed regulations are finalized, programs would continue to be required to use snack and meal times as learning opportunities that support teaching staff-child interactions and foster communication and conversations that contribute to a child's learning, development, and socialization. Additionally, the proposed regulation continues to encourage programs to meet this requirement with family style meals when developmentally appropriate.

Physical Activity

The proposed regulation regarding physical activity in section § 1301.04(c) requires programs to recognize physical activity as important to learning and integrate intentional movement and physical activity into curricular activities and daily routines in ways that support health and learning. A program must provide a minimum of 30 minutes of physical activity for every three and a half hours that t the child participates in the program. The proposed regulation also states that, weather permitting, the activity should take place outside. While the proposed policy aligns with existing requirements to ''integrate intentional movement and physical activity into curricular activities and daily routines'' it goes a step further by setting a minimum baseline for the duration that such activity must take place. Programs that exceed this baseline would still be within compliance with these proposed requirements.

For infants, physical activity may include a range of developmentally appropriate movements beyond prone positioning, such as supervised floor play and interactive movement. While ''tummy time'' is an important component of development, it is typically recommended in shorter intervals and does not represent the full scope of physical activity for infants. The proposed changes emphasize the importance of physical activity in young children's healthy development. Higher amounts of physical activity are associated with better indicators of bone health and reduced risk for excessive increases in weight in children 3 to 6 years of age.[1] Regular physical activity is crucial for physical, metabolic, and mental health, as well as for the proper development of the musculoskeletal system in children.[2] The proposed policy would ensure children receive a baseline amount of physical activity while attending Head Start programs.

Group Size and Ratio

The proposed regulations for group size and ratio (§ 1301.05) would require Head Start programs to establish and publish both a maximum group size and a ratio of children to staff that is consistent with applicable state and local laws and Child Care and Development Fund regulations. The published group size and ratio must be in a location and format visible to parents. Research indicates that staff-child ratios in early care and education settings demonstrates that state child care licensing regulations provide adequate supervision to protect children's health and safety while supporting normal developmental progress. Research has found few, if any consistent or statistically significant associations between child-staff ratios (within the ranges permitted under state licensing standards) and children's cognitive, language, or social emotional outcomes.[3] Therefore, the proposed regulations would replace Federally mandated staff-to-child ratios and group-size limits with state-established minimum standards that programs have the flexibility to either follow or remain more stringent.

Group size and ratio requirements are currently established only in regulation. The Performance Standards establish different group size and teacher-child ratio requirements for center-based Head Start Preschool (current § 1302.21(b)(3) and (b)(4)), center-based Early Head Start (current § 1302.21(b)(2)), and family child care (current § 1302.23(b)). Ratios and group sizes are currently differentiated within program option type depending on the age of children served.

Because the Act does not prescribe specific group size or staff-to-child ratios, the proposed regulations would effectively rescind the current requirements in the Performance Standards, and Head Start programs would no longer be required to adhere to these requirements. Rather, they would be required to maintain a group size and a ratio of children to staff that is consistent with applicable state and local licensing laws and Child Care and Development Fund regulations.

Currently, the Head Start ratio requirements are more restrictive than any state in the nation for three of the four categories of ratio requirements specified in the current performance standards, and in the remaining category, the ratio is more restrictive than every state other than Vermont and Massachusetts. Requirements are similarly more restrictive for group size, where the current Head Start regulations are more restrictive than every state in the nation for three of the four specified group size categories. The remaining category has a more stringent requirement for group size than every state other than Vermont. Thus, programs in all 50 states would be given the opportunity to serve more children if the program chose to do so, but programs would still have the right to remain at the current thresholds.

Additionally, programs would be required to publish the group size and ratio in a location and format visible to parents. Collectively, these proposed changes would allow programs to defer to state licensing laws for group size and ratios. This proposed change allows programs to align with the state and local requirements on ratios and groups

[1] Pate, R. R., Hillman, C. H., Janz, K. F., Katzmarzyk, P. T., Powell, K. E., Torres, A., & Whitt-Glover, M. C. (2019). *Physical activity and health in children younger than 6 years: A systematic review.* Medicine & Science in Sports & Exercise, 51(6), 1282–1291. *https://doi.org/10.1249/MSS.0000000000001940.*

[2] Veldman, S. L. C., Chin A Paw, M. J. M., & Altenburg, T. M. (2021). *Physical activity and prospective associations with indicators of health and development in children aged <5 years: A systematic review. International Journal of Behavioral Nutrition and Physical Activity, 18,* Article 6. *https://doi.org/10.1186/s12966-020-01072-w.*

[3] Perlman, M., Fletcher, B., Falenchuk, O., Brunsek, A., McMullen, E., & Shah, P. S. (2017). Child-staff ratios in early childhood education and care settings and child outcomes: A systematic review and meta-analysis. *PLoS One,* 12(1).

sizes that are best for their communities. Public posting of this information would support transparency for parents in their selection of the best early education arrangement for their child.

HHS acknowledges that the current ratio and group size requirements were adopted to promote child safety, support effective supervision and teacher-child interactions, and foster high-quality early learning environments. HHS continues to recognize the importance of these objectives and the research supporting them. However, the specific numerical thresholds currently prescribed in the Performance Standards were established decades ago based on the research and policy considerations available at that time. Since then, state early childhood systems have evolved significantly, including through more robust licensing and oversight requirements.

HHS has therefore reconsidered whether a single set of Federally prescribed ratio and group size thresholds is necessary to achieve these objectives in all program settings across the country. While HHS continues to recognize the benefits associated with smaller group sizes and lower staff-child ratios, HHS has determined that a single Federally mandated approach may unnecessarily limit program capacity and local flexibility. HHS notes that the current requirements are more restrictive than those applicable in nearly all state early childhood systems, and programs remain subject to applicable state and local requirements.

This proposal is also consistent with prior efforts to simplify requirements and provide greater flexibility to programs. In ACF's 2015 NPRM and 2016 final rule on Head Start, HHS retained the existing ratio and group size thresholds while modifying related requirements to simplify implementation and increase flexibility. HHS believes this proposal continues that approach by allowing programs to make staffing and classroom organization decisions based on local needs and circumstances while maintaining responsibility for providing safe, high-quality services.

Parent and Family Engagement in Education and Child Development Services

Proposed § 1301.06(a) would require center-based and family child care programs to structure education and child development services to recognize parents' roles as children's primary teachers and nurturers. This proposed regulation aligns to current § 1302.34(a) and demonstrates ACF's commitment to supporting families and ensuring programs prioritize the role of parents in the delivery of their education services. The strong emphasis on engaging parents in the context of the proposed streamlined regulatory framework spotlights the important role parents play in their child's development and growth and the partnership that programs need to forge to honor parents' decision making in regards to their child's education.

Next, proposed § 1301.06(b) would require programs to implement strategies to engage parents and family members in their children's learning and development and support parent-child relationships, including specific strategies for father engagement, and provide educational material and instruction that demonstrates healthy marriage as a positive good. Notably, the proposed regulations would add a new requirement to provide educational material and instruction that demonstrates the value of healthy marriage. This proposed change to current requirements reflects ACF's commitment to supporting strong families as the cornerstone of a healthy society.

The Act authorizes and encourages programs to provide family support and family strengthening services, which can include activities that support healthy relationships and marriage. Under the Act, Head Start programs must provide family and community partnership services designed to support parents in improving family well-being and achieving family goals (Sec. 642(b)). The Act permits programs to offer services that support family stability, including activities related to relationship-building and father involvement. This includes education on marriage and healthy relationships. The Act also emphasizes responsible father engagement and family strengthening as part of comprehensive services to families (Sec. 641(d)(2)(J)(vii)).

In summary, this NPRM promotes healthy marriage as a positive good and emphasizes the critical role of fathers. Under the proposed regulation, Head Start programs would be required to implement strategies to engage parents and family members in their children's learning and development and support parent child relationships, including specific strategies for father engagement, and have increased flexibility to so do. Additionally, if finalized, Head Start programs would newly be required to provide educational material and instruction that demonstrates healthy marriage as a positive good. These proposed changes would empower parents as their children's primary decision-makers and help to show how healthy married households often have better economic and social outcomes for children and adults.

Determining Program Structure

The proposed regulations remove existing limiting regulations regarding program options. As such, given that center-based, family day care (family child care), home-based services and locally-designed program options are outlined or defined in the Act programs will continue to be able to operate under these models with greater flexibility due to the removal of specific regulatory requirements.

The conversion process from Head Start Preschool to Early Head Start is not impacted as the statutory authority for conversion is maintained in the Act (Sec. 645(a)(5)(A)).

Center-Based Service Duration

Under the proposed regulations, the Performance Standards would no longer require programs to adhere to current center-based, Head Start Preschool service duration requirements (current § 1302.21(c)(2)). Instead, programs are still required to abide by the Act which sets a floor whereby the Secretary must allow such programs to align with the hours of service in regulation in 1994, as long as programs do not provide less than 3 hours of service per day and do not reduce the number of service days per week or per year required in 1994 (Sec. 640(k)(1)). When the current service duration requirements were finalized in 2016, ACF recognized that research generally supported the value of longer early education services for children, while also acknowledging that the evidence did not identify a clear threshold or specific combination of hours and days necessary to achieve positive child outcomes. Upon further consideration, ACF believes that prescribing a minimum annual number of service hours is not the most appropriate means of promoting positive outcomes for children. ACF believes that grant recipients, in partnership with their Policy Councils, are better positioned to determine service schedules that reflect the needs of their communities and families. Removing the service duration requirements as proposed in this NPRM will provide greater flexibility to design program schedules that reflect local family and community needs. To the extent that programs choose to reduce duration, ACF acknowledges that families may need to secure alternative child care arrangements, which could impose additional financial costs or lost work time for families. However,

programs will also have the flexibility to develop operational hours that align with the needs of parents' work schedules, including maintaining their current hours of operation if desired.

Specifically, if the proposed regulations are finalized, the center-based, Head Start service duration requirements from 1994 would remain in place and stipulate that center-based preschool programs that operate four days per week must provide at least 128 days per year of planned class operations. Under the 1994 requirements, Center-based preschool programs that operate five days per week must provide at least 160 days per year of planned class operations. Those programs implementing a combination of four and five days per week must plan to operate between 128 and 160 days per year. All center-based preschool programs must provide a minimum of 32 weeks of scheduled days of class operations over an eight- or nine-month period. Every effort should be made to schedule makeup classes using existing resources if planned class days fall below the number required per year.

With respect to center-based EHS service duration, the proposed regulations would return to the requirements found in the Act, which specifies that EHS programs must provide ''continuous'' comprehensive child development and family support services (Sec. 645A(b)(1)). Even prior to the establishment of 1,380 hours policy in regulation in 2016, ACF has long interpreted this statutory requirement to mean the provision of full-day, year-round services for infants and toddlers in EHS programs. This interpretation better supports working parents, children, and families as a whole, aligning with Head Start's core mission of fostering healthy child development, strengthening the family unit and helping families rise out of poverty into sustained economic self-sufficiency. Under these proposed regulations, recipients would still have to comply with the requirement for continuous EHS service duration and any other applicable state and local requirements.

Center-Based Licensing and Facility Square Footage

Under the proposed regulations, the Performance Standards would no longer establish Head Start specific square footage and space arrangement requirements (see current § 1302.21(d)(2) and (3)). These requirements are not specified in the Act. Therefore, these changes, if finalized, would reduce administrative burden and increase program flexibility to determine whether and how to continue these practices. Recipients are reminded that they still will be required to comply with all applicable state and local requirements, including continuing any of these practices if mandated by state or local law or regulations.

Home-Based Option

With the exception of the proposed regulation at § 1301.05(a) already discussed previously, the proposed regulations remove regulatory requirements with respect to how to conduct the home-based program option as currently described in § 1302.22. As in other areas of the proposed regulations, this represents ACF's commitment to reducing regulatory burden and returning control to local programs. Under the proposed rules, hyper specific requirements regarding home visitor caseloads (current § 1302.22(b)), service duration (current § 1302.22(c)), and make-up requirements (current § 1302.22 (c)(3)) would be removed and those determinations will instead be made by local and state decisionmakers.

Furthermore, the proposed rule removes all of the Federal regulations found at § 1302.35 regarding home—based program design, instructional activities for home visits, curriculum, staff support, adapting curriculum, and group socialization structure. As the Act does not specify these requirements, the removal of these regulations would give programs greater flexibility in implementation.

Family Child Care Option

With the exception of the proposed regulation at § 1301.05(a) already discussed previously, the proposed regulations remove other requirements regarding the family child care program option as currently described in § 1302.23. The Act does recognize and define the program option ''Head Start family day care'' as ''Head Start services provided in a private residence other than the residence of the child receiving such services'' (Sec. 637). Therefore, Head Start recipients would still be authorized to provide services through the family child care program option; this is not a change from current policy.

Under the proposed rule family child care homes would still be required to accommodate children and families with disabilities (proposed § 1301.10 and current § 1302.23(a)(2)), as required by applicable Federal and state statutes and regulations regarding providing services for children with disabilities. Additionally, under the proposed rule, programs operating the family child care option would not be required to adhere to service duration requirements that specify a minimum of at least 1,380 hours of operations per year (current § 1302.23(c)) or have a child development specialist (current § 1302.23(e)). The requirement for 1,380 hours of service duration for family child care was added to the Performance Standards through a 2016 final rule. That final rule noted that, prior to this requirement being developed, nearly all Head Start family child care providers already provided longer service duration to families. Therefore, ACF believes that this regulation is unnecessary, as it is clear that family child care providers adapt well to the needs of working families without an overly prescriptive regulatory requirement. This NPRM will provide family child care programs the flexibility they need to design schedules that reflect local family and community needs, and ACF anticipates that many will choose to continue to offer longer hours of operation. If programs do choose to reduce duration, ACF acknowledges that families may need to secure alternative child care arrangements or may miss work time. However, programs will have the flexibility to develop operational hours that align with the needs of parents' work schedules, including maintaining their current hours of operation if desired.

Overall, the proposed removal of regulatory requirements under the family child care option aligns with ACF's efforts to reduce prescriptive Federal oversight on local programs and provide more autonomy to local programs to operate as they see fit, within the bounds of Federal and state statutes.

Locally-Designed Program Option Variations

The proposed regulations under § 1301.18(c) related to locally-designed program option variations are discussed in greater detail in the section of this preamble titled, *Program Flexibility.*

Curricula

The proposed regulations do not restate curricula expectations which are currently specified under § 1302.32, as the Act maintains that each Head Start agency must implement a standardized, research-based early childhood curriculum that promotes school readiness in language, literacy, mathematics, science, cognitive, social and emotional development, and physical development, and that is aligned with ongoing assessment, learning goals, and the Head Start Birth

to 5 Early Learning Outcomes Framework (Sec. 642(f)(3)). Therefore under these proposed rules, programs would only be required to comply with the applicable curricula requirements as detailed in the Act.

Child Screenings and Assessments

This NPRM proposes to rescind current § 1302.33 Child screenings and assessments to remove duplication with the Act, reduce administrative burden, and restore more flexibility to local Head Start agencies to make decisions on how best to implement screening and assessment practices in their programs.

The Act requires that programs use research-based assessment methods to support the educational instruction and school readiness of children in the program (Sec. 642(f)(5)). The Act includes further specification that assessment methods should be developmentally appropriate, consistent with nationally recognized professional standards, administered by staff with appropriate training for such administration, and high-quality research-based measures (see Sec. 641A(b)(2)).

In addition, the Act requires programs to use research-based developmental screening tools that have been demonstrated to be standardized, reliable, valid, and accurate for the child being assessed, to the maximum extent practicable, and aligned to the Head Start Early Learning Outcomes Framework (Sec. 642(f)(6)). In addition, some requirements related to the referral and support of children who may be or are eligible for services under IDEA still apply (see Services for Children with Disabilities for more details). Based on the requirements included in the Act, under the proposed regulations programs will continue to be required to conduct screenings and assessments for enrolled children.

In summary, under the proposed regulation programs would continue to be responsible for conducting screenings and assessments but will have additional flexibility in how these are implemented as long as they continue to meet the requirements specified in the Act.

Parent and Family Engagement in Education and Child Development Services

The proposed regulation in § 1301.6 would substantially reduce the hyper specificity currently required of programs with respect to parent and family engagement in education and child development services currently found at § 1302.34. This proposed change grants programs the flexibility to engage parents and families in ways that are best suited to individual needs and seeks to strike an appropriate balance between reducing regulatory burden on programs, while still recognizing the critical role of parents as children's first and lifelong educators and nurturers.

Programs will still be required to comply with relevant provisions of the Act. These include the statutory requirement that parents participate in the governance of Head Start programs, including through policy councils responsible for program direction (Sec. 642(c) and (d)), and are involved in the development, conduct, and overall program direction at the local level (Sec. 642(b)). Accordingly, while the proposed rule would remove hyper specific regulations (such as the group size requirement that the number of family members to staff that conduct the family partnership process and work on family, health and community engagement is no more than 40:1(current § 1305.52(d)(2))), core statutory requirements concerning parent involvement and governance under the Act will remain, but with much greater discretion and control on the part of local programs to implement the requirements as they and the families they serve see fit.

Health and Nutrition

The proposed regulatory changes related to Child Health and Nutrition reflect ACF's commitment to supporting the healthy development and nutrition of children served in Head Start programs. The proposed regulations address Child Nutrition (§ 1301.07) and Family Support Services for Health and Nutrition (§ 1301.08). The proposed regulations would require programs to have staff or consultants to support nutrition services, in alignment with current § 1302.91(e)(8)(iii), that promote development and learning and ensure that infants are held during bottle feeding. The proposed changes in this NPRM will would require programs to serve nutrient-dense, whole foods consistent with a healthy and nutritious diet, aligned to the program requirements of the Child and Adult Food Care Program (CACFP) or, where applicable, provide an opportunity for infants to be served breastmilk during the day. Similar to all sections of this NPRM, ACF requests public comment on the proposed changes, including whether any additional, and if so, what, supports programs may require to implement the proposed changes.

In addition, programs would need to collaborate with parents to promote children's health and well-being through nutrition and physical activity support services. Under the proposed regulations, this collaboration would include discussions regarding: the child's nutritional status; the importance of physical activity and healthy eating; the negative health consequences of sugar-sweetened beverages and grain-based desserts; and selecting and preparing nutritious foods within family budgets. This proposed regulation retains the core principles of Head Start to engage families and provide for the health, nutrition and well-being of children and families. Prescriptive requirements pertaining to nutrition are proposed in contrast to the otherwise de-regulatory approach of this NPRM to highlight the importance associated with healthy eating. Other nutrition-related provisions affecting the learning environment and program goals are addressed elsewhere in this preamble (see §§ 1301.04 and 1301.13).

The Act contains additional requirements that programs will continue to be required to comply with under the proposed regulations. The Act requires all recipients to establish goals and measurable objectives for health and nutritional services (Sec. 642(f)(9)). Statute requires programs to conduct screenings (Sec. 642(f)(6)); so, while the proposed regulations would no longer specify that programs must conduct hearing and vision screenings, this requirement will still apply due to statutory requirements. However, programs would have more flexibility on timeline and process for ensuring screenings are completed. Early Head Start programs must coordinate with other state and local entities to ensure a comprehensive array of services, including health and mental health services (Sec. 645A(b)(5)).

In addition, Section 657A of the Act outlines requirements for parental consent for nonemergency intrusive physical examinations. ACF recognizes that USDA's CACFP is an important source of Federal funding to support access to nutritious foods in Head Start programs. Programs must continue to use USDA as a funding source for meals and snacks and programs must comply with applicable regulations regarding nutrition and food safety.

While the Act establishes high-level requirements for these services, the proposed removal of multiple prescriptive requirements, including requirements to maintain a Health and Mental Health Services Advisory Committee, to obtain advance authorization for health, mental health, and developmental procedures, to have monthly mental health consultation, to assist children with daily teeth brushing, to conduct health

determinations, to assist families in navigating health systems, and to facilitate access to health care and insurance, would provide recipients more flexibility to design and implement health, nutrition, and mental health services that best meet their communities' needs. Many mental Health regulations were introduced in a 2024 final rule to reinforce that mental health should be integrated into all aspects of the Head Start program, but upon further consideration, ACF believes these requirements were overly prescriptive and limit programs' ability to tailor services to the needs of their communities.

Safety and Transportation Practices

Licensing

This NPRM proposes to streamline safety and transportation requirements in the Performance Standards by removing regulations that duplicate state and local requirements. In proposed § 1301.09(a), programs would be required to be licensed by the state, tribal, or local entity and comply with all Federal and State statutes, and regulations regarding safety and transportation practices for children. If exempt, programs must meet CCDF basic health and safety requirements. While some states narrowly define ''licensing exempt'', for the purposes of this proposed rule, ACF considers all programs that are not required by the state to be licensed ''exempt'', including school-based and tribal programs that do not have an applicable licensing mechanism. Based on administrative data on service locations and licensing, ACF estimates that approximately 26 percent of Head Start service locations are not licensed under state child care licensing requirements. These locations commonly include programs that are license-exempt, operating under public school or local education agency authority; home-based or other non-center-based service models; and sites licensed, permitted, or overseen through another authority or partner rather than through the state child care licensing process. Smaller shares reflect sites that are closed or not yet operational, and locations in the process of obtaining or renewing licensure.

Preventing Lead Exposure

In proposed § 1301.09(b), programs would be required to prevent children from being exposed to lead in the water and paint of Head Start facilities. Research has indicated there are higher than acceptable rates of lead in the water of child care facilities,[4] and exposure to any amount of lead in early childhood is particularly detrimental for development.[5] This proposed requirement is not new for programs; it would replace current § 1302.47(b)(9), while giving programs and states greater flexibility on the specific pathways to prevent children from being exposed to lead.

Reducing Duplication With State and Local Systems

While the proposed rule would remove Federal requirements currently found in § 1302.47 (safety practices) and §§ 1303.70–1303.75 (transportation) because they are duplicative with state and local requirements. The Act requires programs to collaborate on the shared use of transportation and facilities with the Local Education Agency, in appropriate cases (Sec. (642(e)(4)(A)).

Under the proposed rule, programs continue to be required to meet all applicable state and local licensing and regulatory requirements pertaining to safety and transportation. These requirements include, but are not limited to, state transportation laws and vehicle safety standards, local building and fire codes, state child abuse and neglect reporting laws, state and local emergency preparedness requirements, and state requirements for use of child safety restraints in moving vehicles. Licensing exempt and programs that are not required to be licensed such as school-based or Tribal programs must meet CCDF's basic health and safety requirements. These include but are not limited to core safety requirements such as building safety, child protection and emergency preparedness. This proposal would return primary licensing and regulatory authority to states and eliminate regulations where Federal duplication of state and local standards exists.

While the proposed rule would remove overly specific and detailed Federal requirements for transportation services in current Part 1303 Subpart F, such as the requirement to have at least one bus monitor while transporting children, programs would remain permitted and encouraged to offer transportation services under the proposed rule. The proposed rule would also remove overly prescriptive safety requirements related to facilities, equipment and materials, safety training, hygiene practices, administrative safety procedures, and disaster preparedness in current § 1302.47.

Programs must continue to meet applicable state and local licensing and other regulatory standards including USDA food safety standards. Programs may voluntarily continue any practices from the current Performance Standards that support child safety, even if not required by state or local regulation, and programs retain discretion to implement safety practices that exceed minimum state and local requirements. Head Start programs will remain accountable for ensuring the safety of enrolled children. The Act requires the Secretary to monitor programs (Sec. 641A(c)), and HHS retains authority to issue deficiencies when monitoring reveals a systemic or substantial material failure that poses a threat to the health or safety of children or staff (Sec. 637(2)(A)(i)).

Services for Children With Disabilities

The proposed § 1301.10 ''Services for children with disabilities'' would require programs to comply with all applicable Federal and state statutes and regulations regarding providing services for children with disabilities. This Section is proposed to replace Part 1302 Subpart F of the current Performance Standards. This proposal is intended to reduce duplication of regulations while still maintaining the protection required for children with disabilities in statute.

Additionally, the Act has multiple requirements that pertain to services with children with disabilities that will still apply to programs. The Act requires Head Start programs to establish effective procedures for timely referral of children with disabilities to the State or local agency providing services under IDEA and collaborate with that agency (Sec. 642(b)(14)). It also requires that programs establish effective procedures for providing necessary early intervening services to children with disabilities prior to an eligibility determination by the State or local agency responsible for providing services (Sec. 642(b)(15)). The Act also requires Head Start agencies to coordinate with the local education agency and programs offering services under Part C of IDEA and Early Head Start programs must ensure formal linkages with providers of early intervention services for infants and

[4] Triantafyllidou, S., Gallagher, D., & Edwards, M. (2020). Assessing risk and mitigation options for lead in drinking water in U.S. child care facilities. Environmental Research, 181, 108907; Redmon, J. H., et al. (2022). *Lead levels in tap water at licensed North Carolina child care facilities, 2020–2021.*

[5] Centers for Disease Control and Prevention (CDC). (2024). Lead exposure and health effects in children; Wehby, G. L. (2025). *Early-life low lead levels and academic achievement in childhood and adolescence.;* Lanphear, B. P., Hornung, R., Khoury, J., et al. (2005). *Low-level environmental lead exposure and children's intellectual function: An international pooled analysis.*

toddlers with disabilities (Sec. 642(e)(3)). Lastly, the Act specifies that programs must work with schools to support children's entry into Kindergarten and to facilitate and seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children—these requirements are not specific to children with disabilities but apply to them and all other children enrolled in the program (Sec. 642)(b)).

Furthermore, the Act requires the Secretary to establish policies and procedures that will ensure recipients provide early support services (educational and behavioral) to children who may have disabilities, *before* a formal IDEA eligibility determination is made and promptly refer children to the appropriate state or local IDEA agency and collaborate to coordinate services for children with special needs (Sec. 640(d)). While these requirements are no longer specified in the proposed regulations, if this proposed rule becomes final, the Secretary would issue policies and procedures to ensure these requirements are met.

Under proposed § 1301.10 programs would continue to be held to all Federal and state requirements to support children with disabilities and the core requirements of those services do not change under the proposed regulations. That said, the proposed changes would provide programs with additional flexibility to carry out these requirements. For example, the Act requires programs to help parents become full partners in the education of their children and create linkages to other agencies, the program will have flexibility with these proposed changes to do that in a way that best meets the needs of enrolled families as long as they are compliant with all other state and Federal laws and regulations.

Family Engagement and Program Transitions

Family Engagement

The proposed rule includes requirements for family engagement as they pertain to education services (proposed § 1301.06) and health and nutrition (proposed § 1301.08). These proposed regulations are discussed in more detail in Education and the Learning Environment and Health and Nutrition, respectively.

In addition, this NPRM proposes to rescind current 1302 Subpart E—Family and Community Engagement Program Services to reduce duplication with the Act and increase program flexibility. The Act establishes as a central obligation for Head Start agencies that they actively involve families and members of the community in the life of the program. To meet this requirement, Head Start programs must actively engage parents and community members as meaningful partners in shaping and carrying out the program, ensuring they have a direct role in decisions and program design (Sec. 642(b)(1–2)). Programs are expected to establish strong, accessible processes that support parents as full participants in their children's education, including offering transportation when appropriate (Sec. 642(b)(3)). They must provide family-focused supports such as literacy services, parenting education, and substance abuse counseling, and conduct individualized family needs assessments in clear, understandable language. Programs are also required to conduct community outreach to attract new volunteers, ensure information is accessible to offer family literacy services and parenting skills training families (Sec. 642(b)(4–5)). The Act also requires programs to provide a family needs assessment (Sec. 642(b)(7)) and support to help parents secure assistance from public and private sources (Sec. 642(b)(12)).

Per the Act, Head Start agencies may also provide additional supports to parents, including training in basic child development, assistance in developing literacy and communication skills, opportunities for parents to share experiences with other parents, health services information, including maternal depression, regular in-home visitation, and other activities designed to help parents become full partners in their children's education (Sec. 642(b)(6)).

Under this NPRM many of the requirements in current 1302 Subpart E would still apply either through the proposed regulations or because they are required by the Act as summarized above. Other hyper specific requirements are proposed for removal and would no longer be Federal Head Start requirements which would increase program flexibility to better meet the needs specific to the families that are being served.

While the Act requires family needs assessments (Sec. 642(b)(7)) the specific requirements in current regulation would no longer apply (current § 1302.52) and programs would have flexibility to implement family needs assessments in ways that best meet the needs of their community. Overall, these changes seek to reduce duplication between program regulations and the Act and increase program flexibility.

Community Engagement

This NPRM proposes to rescind current 1302 Subpart E—Family and Community Engagement Program Services to reduce duplication with the Act and increase program flexibility.

The Act requires Head Start programs to actively collaborate and coordinate with public and private organizations in its community to improve the availability and quality of services for children and families (see Sec. 642(e)). This means working closely with the local schools, which children will attend after Head Start, school districts, businesses, community-based and faith-based organizations, museums, and libraries to build community support and strengthen school readiness efforts. In communities where both Head Start and public prekindergarten programs operate, the agencies must coordinate their activities. This includes working together to identify eligible children and align services. Head Start agencies must also coordinate with a range of other programs that serve young children and families, such as child care assistance programs, child welfare and foster care services, programs serving children experiencing homelessness, family literacy initiatives, and early intervention and special education services. In addition, per the Act, Head Start programs must take steps to work with local educational agencies and schools to share transportation and facilities when appropriate, reduce duplication of services, improve efficiency, expand access for underserved children, and exchange information about noneducational services such as health and social supports (see Sec. 642(e)). Finally, the Act requires Head Start agencies to enter into a written memorandum of understanding with the local entities responsible for managing publicly funded preschool programs in their service area, if one exists (see Sec. 642(e)).

While this NPRM proposes to rescind the regulations on Community Engagement (current § 1302.53), the majority of these requirements would continue to apply through the requirements specified in the Act, including coordinating and collaborating with public and private entities (*e.g.,* schools, other early childhood programs, health, mental health, child welfare) to improve the availability and quality of services to Head Start children and families (Sec. 642(e)). In proposing to rescind the regulations at current § 1302.53, this NPRM removes prescriptive guidance for how programs should operationalize

their coordination and collaboration, including that programs should participate in state Quality Rating and Improvement Systems (QRIS).

With respect to QRIS specifically, while there is some evidence that participation in QRIS leads to increases in quality ratings particularly based on indicators or structural quality.[6] Other academic research [7] [8] has generally found weak or inconsistent association between QRIS ratings and children's developmental outcomes. Overall, there is not clear evidence that the QRIS infrastructure and strategies developed by states have had a meaningful impact on driving quality that produces child outcomes. Under the proposed regulations, programs would retain the flexibility to participate in their State or local QRIS and share relevant data with state systems, as long as doing so does not violate any state or Federal statutes or regulations, but the regulations would no longer tell programs they should participate. These proposed changes to regulations on Community Engagement greatly reduce duplication between the regulations and the Act and restore needed flexibility to programs to make determinations on how to coordinate with state partners and systems.

Program Transition Supports

This NPRM proposes to rescind current 1302 Subpart G—Transition Services from the Performance Standards and does not propose new regulations on the topic of transition services. However, the Act includes several requirements for supporting families in transitions that will still apply to programs that ACF will hold programs accountable to through monitoring.

The Act directs Head Start agencies to take specific actions to promote continuity of services and effective movement of children from Head Start into elementary school settings (see Sec. 642A). Each Head Start agency must take steps to enable children to maintain the developmental and educational gains achieved in Head Start and to build upon those gains in further schooling by coordinating with the local educational agency. Agencies are required to establish ongoing communication channels between Head Start staff and their counterparts in the schools and promote the continued involvement of parents in their children's education as children transition to elementary school. Agencies must help prepare parents to be involved with schools, school personnel, and school-related organizations.

The Act also requires programs to coordinate and collaborate with other entities providing early childhood education (Sec. 642(e)(3)). This collaboration should, among other things, be used to support the transition of children between early childhood programs; however, the Act does not specify requirements of what this process looks like, which gives programs the opportunity to choose how best to structure these transition practices. In addition, section 645A requires Early Head Start programs to develop and implement a systematic procedure for transitioning children and parents from an Early Head Start program to a Head Start program or other local early childhood education and development program.

In summary, this NPRM proposes to remove regulations on transition services that are largely duplicative of requirements outlined in the Act. The Act includes specific, detailed requirements about supporting families transitioning to kindergarten. The requirements in the Act regarding supporting children transitioning from Early Head Start to Head Start and from Head Start to other early childhood programs are less restrictive than the requirements in the current regulations which give programs more flexibility and reduces administrative burden.

Services for Pregnant Women

This NPRM proposes to streamline requirements for providing services to pregnant women to reduce administrative burden, while still ensuring programs provide important support to pregnant and postpartum women. Under the proposed § 1301.11, programs would continue to be required to provide newborn visits and offer comprehensive supports through referrals that at a minimum includes nutritional counseling and food assistance. In addition, the proposed rule maintains the current requirement to provide postpartum information, education, and services that address, as appropriate, fetal development, the importance of nutrition in the prenatal and postpartum stage including breastfeeding, the risk of alcohol, drugs, and smoking, and the benefits of substance use treatment, labor and delivery, postpartum recovery, and infant care and safe sleep practices.

The Act requires recipients to provide for family involvement, including conducting an individualized needs assessment for each participating family (see Sec. 642(b)). This is inclusive of enrolled pregnant women so under the proposed regulation, this requirement will still apply. While the proposed removal of current § 1302.82 removes some specific Federal requirements around this process for pregnant women, the overarching requirements from the Act will remain.

For example, while newborn visits will continue to be required, the NPRM proposes to no longer require programs to schedule the newborn visit within two weeks of birth. This proposed change provides much needed flexibility to programs to determine when to schedule the newborn visit with families.

The NPRM proposes to remove requirements to reduce administrative burden, including the requirement that programs conduct health care determinations and facilitate access to health insurance for pregnant women, to provide services that help reduce barriers to healthy maternal and birthing outcomes, and to track all services provided to enrolled pregnant women. Several of these requirements were introduced in a 2024 final rule in an effort to address maternal health-related challenges and infant health needs during the early postpartum period. Upon further consideration, ACF no longer believes that Federally prescribed requirements regarding services to enrolled pregnant women are necessary to achieve the goals of the Early Head Start program and impose administrative burdens on grant recipients. While these requirements are proposed to be removed, if finalized, programs would not be prevented from providing currently specified services to pregnant women, but would no longer be required to do so by Federal regulations.

This proposed rule also removes a requirement in current § 1302.80(f) that programs provide services that help reduce barriers to healthy maternal and birthing outcomes for each family, including services that address disparities across racial and ethnic group in alignment with E.O. 14151 *Ending Radical And Wasteful*

[6] Gomez, C. J., Whitaker, A. A., & Cannon, J. S. (2023). Do early care and education programs improve when enrolled in quality rating and improvement systems? Longitudinal evidence from one system. *Early Education and Development, 34*(5), 1236–1253. *https://doi.org/10.1080/10409289.2022.2105624.*

[7] Markowitz, A. J., Bassok, D., & Player, D. (2020). Simplifying quality rating systems in early childhood education. *Children and Youth Services Review, 112,* 104947. *https://doi.org/10.1016/j.childyouth.2020.104947.*

[8] Hong, S. L. S., Howes, C., Marcella, J., Zucker, E., & Huang, Y. (2015). Quality rating and improvement systems: Validation of a local implementation in LA County and children's school-readiness. *Early Childhood Research Quarterly, 30*(Part B), 227–240. *https://doi.org/10.1016/j.ecresq.2014.05.001.*

Government DEI Programs And Preferencing. The proposed removal of this requirement is responsive to feedback from programs after the release of the 2024 final rule that addressing disparities in birth outcomes is beyond the scope of what programs can reasonably be expected to do.

Management Systems and Administrative Costs

The proposed regulatory changes on Management Systems and Administrative Costs reflect ACF's commitment to fiscal stewardship, federalism, and regulatory streamlining. Consistent with the principles of restoring authority to state and local programs and reducing unnecessary regulatory burden, these proposed regulations address Personnel and Records Policies (proposed § 1301.12), Program Goals, Continuous Improvement and Reporting (proposed § 1301.13), and Limitations on Administrative Costs (proposed § 1301.14).

Personnel and Records Policies

The proposed regulation at § 1302.12(a) on personnel policies would continue to require programs to comply with all Federal and state statutes and regulations regarding staff, contractor, and volunteer background checks, including work authorization, staff standards of conduct, and other affiliated human resource requirements. In proposed § 1302.12(b) programs would be required to establish policies, protections, and rights equivalent to those in FERPA, 20 U.S.C. 1232g, for the confidentiality of any personally identifiable information (PII) in child records.

Finally the proposed regulation also introduces a new requirement in § 1301.12(c) related to staff hiring considerations. Under this provision, programs may not require or incentivize the attainment of postsecondary education credits, hours, or credentials unless they can demonstrate that such educational attainment is necessary for the position based on specified skills that can only be acquired through a particular postsecondary education pathway. Programs must also provide explicit alternatives for demonstrating required skills, including assessments, industry-recognized credentials, or relevant work experience, rather than relying solely on postsecondary educational attainment. This requirement is intended to promote skills-based hiring practices, expand access to employment opportunities for individuals without traditional postsecondary credentials, and help ensure that education requirements are directly tied to the competencies needed to perform the job.

The proposed changes streamline requirements currently found in 1302 Subpart I—Human Resources Management by eliminating prescriptive regulations not mandated by statute (*e.g.,* staffing requirements for dual language learners and volunteer requirements) and removing duplicative requirements found in the Act and other regulations (*e.g.,* establishing personnel policies and standards of conduct). Programs will still be required to comply with the Act and all other applicable Federal and state statutes. In addition to retaining these statutory protections, the proposed revisions remove certain regulatory provisions that exceed or duplicate those requirements, as described below. This NPRM does not address the removal from the Performance Standards of all the wages and benefits requirements in current § 1302.90(e) and (f) because they have been proposed for removal by ACF in a separate NPRM, *Restoring Flexibility to Support Head Start Program Access,* which was published in the **Federal Register** for a 30-day public comment period on May 12, 2026. ACF is considering public comments on the proposed rescission of the wages and benefits requirements from that NPRM and will address them in a final rule.

Child Safety and Background Checks

The proposed regulations remove restrictive Federal process mandates and provide programs greater flexibility in developing personnel policies and standards of conduct that reflect local community needs. However, statutory requirements related to staff accountability and background checks will remain in effect. As described in the Act, programs must adopt rules that ensure full staff accountability in matters governed by law, regulation, or agency policy (Sec. 644(a)(1)). Programs must also continue to conduct interviews, verify references, and obtain required State, tribal, or Federal criminal record checks before hiring staff (Sec. 648A(g)). In addition, programs remain subject to applicable state requirements aligned with the Child Care and Development Block Grant Act of 2014, including criminal background check requirements for all child care staff members.

The proposed revisions would eliminate existing prescriptive regulatory requirements, including those related to performing background checks. Many of these regulatory requirements related to background checks, such as requiring programs to conduct subsequent background checks every five years following the initial background check, were introduced in a 2016 final rule to highlight the importance of protecting child safety and to complement the background check requirements in the Child Care and Development Block Grant Act of 2014. Although ACF continues to regard child safety as a paramount responsibility, upon further consideration, these highly prescriptive Federal requirements impose unnecessary administrative burden on grant recipients, create duplicative screening requirements, and reduce local flexibility in personnel practices. However, programs would continue to be required to comply with all other applicable Federal, State, Tribal, and local laws governing criminal background screening.

Staff Qualifications and Professional Development

Under the proposed regulations, the Performance Standards would no longer contain any specific requirements for staff qualifications and professional development beyond those expressly required by statute. The Act requires programs to meet qualification requirements for specified staff positions, including those for education managers, education coordinators, mentor teachers, curriculum specialists, Head Start Preschool center-based teachers and assistant teachers, and Early Head Start center-based teachers (see Sec. 648A(a) and 645A(h)). All other staff qualification requirements that expand beyond statutory language currently found at § 1302.91 (*e.g.,* Head Start director, Family Child Care provider, coaches, family service staff, and health professional qualification requirements) would be removed under the proposed regulations.

In a 2016 final rule, ACF introduced several additional staff qualification requirements beyond those expressly required by statute, in an effort to increase staff quality. However, at the time, ACF acknowledged that the available research did not support the need for specific degree requirements for certain positions. In general, education requirements of classroom staff are not strongly related to quality or child outcomes; research finds that increased qualifications do not consistently correlate to better child outcomes.[9] There is not significant or

[9] Yang, X., Abdul Rahman, M.N., & Sun, Y. (2025). The impact of teachers' qualifications on development outcomes in early childhood: a

Continued

meaningful research on educational requirements of other staff roles and their relationship to quality or child outcomes. Upon further consideration, ACF believes that these non-statutory qualification requirements unnecessarily restrict grant recipients' ability to recruit and retain qualified staff and may limit programs' ability to respond to local workforce conditions and community needs. ACF now believes that, for positions not subject to qualification requirements in statute, grant recipients are better positioned to determine the combination of education, training, experience, competencies, and other qualifications necessary for effective service delivery. Removing these requirements will reduce barriers to hiring, expand the pool of qualified candidates, and provide important flexibilities for programs to determine the needed qualifications for staff positions and return qualifications to what Congress authorized in the Act.

Programs must continue to meet statutory requirements related to professional development for staff. This includes creating and regularly evaluating professional development plans for all full-time Head Start employees who provide direct services to children (Sec. 648A(f)). Programs must also continue to ensure each classroom teacher completes at least 15 clock hours of professional development annually (Sec. 648A(a)(5)). The Act continues to require Mentor Teachers (648A(b)) which align to coaching requirements. Programs also remain required under statute to establish plans to assist limited English proficient children in making progress toward English language acquisition and toward attaining the knowledge, skills, abilities, and development described in section 641A(a)(1)(B) (Sec. 641(d)(K)).

In alignment with E.O. 14151 *Ending Radical And Wasteful Government DEI Programs And Preferencing,* the proposed revisions also eliminate prescriptive regulatory requirements that require staff, consultants, or contractors demonstrate familiarity with the ethnic backgrounds and heritages of families served; and require at least one classroom staff member or home visitor to speak the non-English language spoken by a majority of children in a class or program.

Confidentiality and Records Protections

Under the proposed regulation, current 1303 Subpart C—Protections for the Privacy of Child Records would be replaced with proposed § 1301.12(b), which would require that a program establish policies, protections, and rights equivalent to those in FERPA, 20 U.S.C. 1232g, for the confidentiality of any personally identifiable information (PII) in child records. This will give programs the flexibility to establish their own policies and procedures provided that they are equivalent to FERPA.

Furthermore, the Act requires programs to protect personally identifiable information in child records through policies, protections, and rights equivalent to those provided to parents under the Family Educational Rights and Privacy Act (FERPA) (Sec. 641A(b)(4)(A)). Accordingly, under the proposed regulation, programs would be afforded flexibility to establish their own confidentiality policies and procedures, provided those policies are equivalent to FERPA. Programs must also continue to comply with confidentiality provisions under Part B or Part C of IDEA to protect personally identifiable information in records of children who are referred to, or found eligible for, services under IDEA.

Staff Health and Wellness

The proposed revisions remove prescriptive regulatory requirements concerning staff health and wellness that are not expressly required by statute. Requirements proposed for removal include staff breaks, staff health exams, and provision of mental health information to staff; programs will now have increased flexibility in these areas. In addition to the Act requirements, programs remain required to comply with the Americans with Disabilities Act, section 504 of the Rehabilitation Act, and all other applicable Federal, state, and local laws and regulations related to staff health and wellness.

Program Goals, Continuous Improvement, and Reporting

The proposed regulations on program goals, continuous improvement, and reporting (§ 1301.13) promote child safety and the delivery of effective, high-quality program services. The proposed regulations would continue to require programs to establish goals and measurable outcomes, including provision of evidence-based education, health, nutritional, and family engagement services to further promote the school readiness of enrolled children. The proposed regulations specify that educational services must be evidence-based, reflecting the importance of using proven practices to improve child outcomes. Programs will continue to be required to conduct a self-assessment of their progress towards meeting such goals and submit the findings to ACF (as required by current § 1302.102). In addition, the proposed regulation would continue requiring programs to report any incident regarding circumstances affecting the financial viability of the program, breaches of personally identifiable information, or program involvement in legal proceedings, or any matter for which notification or a report to State, Tribal, or local authorities is required by applicable law. The proposed regulations maintain the requirement to submit to HHS any significant incident that affects the health and safety of a child that occurs in the setting where head start services are provided immediately, but no later than, seven calendar days following the incident.

The proposed changes would streamline requirements currently found in 1302 Subpart J—Program Management and Quality Improvement by removing duplicative requirements found in the Act and other regulations. Although these requirements are not explicitly restated in the proposed regulation, programs are required to comply with the Act and all other applicable Federal and state statutes. The statutory and other legal requirements summarized below will continue to apply.

Consistent with the Act, programs are required to establish school readiness goals that are aligned with the Head Start Child Outcomes Framework: Ages Birth to Five, state and tribal early learning standards, as appropriate, and the requirements and expectations of the schools Head Start children will attend (Sec. 641A(g)(2)(A)). Programs will also still be required to establish and implement a system of ongoing oversight to ensure the effective implementation of the Performance Standards, including child safety, and compliance with other applicable Federal regulations (Sec. 641A(g)(3)).

In addition, programs will still be required to annually publish and disseminate a report in accordance with section 644(a)(2) of the Act. If applicable, programs must submit a quality improvement plan as required under section 641A(e)(2) of the Act.

Programs will remain subject to statutory requirements governing services for children with disabilities and must provide services through collaboration with IDEA, as described in sections 640(d) and 642(b)(14)–(15) of the Act, consistent with section 504 of the Rehabilitation Act and the

systematic literature review. *International Journal of Early Years Education, 33*(2), 426–445. *https://doi.org/10.1080/09669760.2025.2451301.*

Americans with Disabilities Act (Sec. 640(d)(2)).

In addition, programs will still comply with applicable provisions of the OMB Uniform Guidance (2 CFR part 200), including requirements related to financial management (2 CFR 200.302) and internal controls (2 CFR 200.303).

Finally, programs will still be required to comply with applicable State, Tribal, and local mandatory reporting laws concerning reasonably suspected or known incidents of child abuse and neglect, consistent with the Child Abuse Prevention and Treatment Act (CAPTA) and any other applicable Federal laws.

In addition to streamlining requirements, the proposed changes remove prescriptive requirements not mandated by statute and restore flexibility to local programs. Under the proposed regulations programs would no longer be required to adhere to prescribed data aggregation and analysis processes for child-level assessment data, including the requirement to conduct subgroup analysis. Instead, programs would continue to conduct annual self-assessments and use data for continuous improvement as required by statute, while gaining flexibility to analyze child-level data when and how it best informs local decision-making and program improvement. The proposed changes also eliminate requirements that programs implement prescriptive coordinated approaches and procedures at the beginning of each program year. Programs will continue to collaborate with schools, child care providers, disability services, and other community partners as required by statute, while eliminating prescriptive coordination procedures and timelines that do not account for local partnership contexts. These proposed eliminations provide programs with flexibility to develop management and reporting systems that best meet local community needs while maintaining compliance with all statutory accountability and quality standards, including continued reporting to state and local authorities under Federal child protection laws.

Limitations on Administrative Costs

The proposed regulation on administrative costs (§ 1301.14) would reduce the allowable costs to develop and administer a Head Start program from 15 percent to 5 percent of the total approved program cost, which includes both Federal costs and non-Federal match. ACF considered administrative cost limitations in other Federal grant programs and found that 5 percent caps are used in several HHS programs with many Head Start programs already operating within this range. At a time when needs exceed available resources, this proposed regulation prioritizes direct service delivery and ensures that more Federal dollars reach children and families in communities throughout America. Programs would retain the flexibility to allocate costs within the 5 percent limit to best support their operational and administrative needs.

The proposed changes streamline requirements currently found in 1303 Subpart A—Financial Requirements by removing duplicative requirements found in the Act and other regulations. Although these requirements are not explicitly restated in the proposed regulation, programs will still be required to contribute 20 percent of the total approved program cost as non-Federal match, as described in section 640(b) of the Act, which provides that Federal financial assistance will not exceed 80 percent of the total approved program cost. While the proposed regulations do not restate the specific cost categorization and delineation procedures currently found at § 1303.5(a)(2), programs remain subject to all applicable provisions of the OMB Uniform Guidance (2 CFR part 200) regarding financial management and administration, including applicable cost categorization and reporting requirements.

This NPRM proposes a broader waiver provision at § 1301.18. Under that proposed regulation, programs may request a waiver of any regulatory requirement, including the administrative cost cap and non-Federal match, provided (1) the request is submitted in writing to HHS; (2) does not relate to nutrition, physical activity, or eligibility requirements; (3) does not violate any Federal statutes; and (4) demonstrates that the waiver will not negatively impact the health or safety of children in care. These proposed regulatory changes would streamline financial requirements for grant recipients, reduce duplication across the Act and other Federal regulations, maximize resources for direct service delivery, and safeguard efficient use of taxpayer dollars. The proposed waiver language would still allow for HHS to determine which waivers to grant, but allows for programs to submit waivers on a variety of components of operation.

Separately, this NPRM proposes to eliminate current 1303 Subpart B—Administrative Requirements that are duplicative of requirements already established in the Act and other Federal regulations, while making clear that programs remain fully subject to all applicable provisions of the Act and other Federal and state statutes. Although these regulatory sections are proposed for elimination, grant recipients will still be required to adhere to sections 644(e), 644(g)(3), 653, 654, 655, 656, and 657A of the Act. These sections pertain to union organizing, the Davis-Bacon Act, limitations on compensation, nondiscrimination, unlawful activities, political activities, and obtaining parental consent. In addition, recipients must continue to observe standards of organization, management, and administration that will ensure that all program activities are conducted in a manner consistent with the purposes of the Act and the objective of providing assistance effectively, efficiently, and free of any taint of partisan political bias or personal or family favoritism (Sec. 644(a)(1)). Finally, recipients will still be required to carry sufficient insurance coverage and maintain adequate fidelity bond coverage consistent with applicable provisions of the OMB Uniform Guidance (2 CFR part 200). Together, these eliminations reduce regulatory redundancy and administrative burden without diminishing any program accountability or financial integrity obligation.[10]

Facilities

Proposed § 1301.15 specifies the requirements related to the application and eligibility to purchase, construct, and renovate facilities. Proposed § 1301.15(a) would continue to require programs to submit an application for funds to purchase, construct, or renovate a facility. Proposed § 1301.15(b) aligns with current § 1303.42(d), which states that prior to applying for such funds, grant recipients must establish that the proposed construction of a facility is more cost-effective than the purchase of available facilities or renovation of an existing facility. These proposed regulatory changes advance ACF's priorities of promoting quality early learning environments and practicing fiscal stewardship. They also further the goals of streamlining regulations and reducing administrative burden.

The proposed regulations would continue to require programs to submit an application for funds to purchase, construct, or renovate a facility. Prior to applying for such funds, grant recipients would continue to be required to establish that the proposed construction of a facility is more cost-effective than the purchase of available facilities or renovation of an existing facility.

[10] OECD (2025), *OECD Regulatory Policy Outlook 2025*, OECD Publishing, Paris, *https://doi.org/10.1787/56b60e39-en.*

This NPRM would simplify and significantly streamline the facilities application process by removing from regulation requirements not mandated by statute. For example, the proposed changes would remove from regulation the requirement that programs complete 20-year useful life cost comparisons, agree to minimum lease terms (30 years for purchase/construction and 15 years for renovation), and adhere to strict filing deadlines for legal documents, among others outlined in § 1303.44 of the current performance standards. HHS acknowledges that the requirements in § 1303.44 were adopted to support review of facilities applications, ensure cost-effective use of Federal funds, and protect the Federal interest in facilities funded under the Head Start program. HHS continues to believe these are important objectives. However, HHS has determined that the specific procedural requirements currently prescribed in regulation are not necessary to achieve those objectives. HHS can evaluate facilities proposals, protect the Federal interest, and ensure responsible stewardship of Federal funds through case-by-case review and application requirements established by the Secretary. Accordingly, HHS proposes to remove these prescriptive requirements from regulation to provide greater flexibility and reduce administrative burden while maintaining appropriate oversight of facilities investments.

The application would outline the uniform procedures for requesting facilities related approvals. HHS would specify requirements for facilities applications at the Secretary's discretion.

The proposed regulatory changes also remove duplicative provisions that restate requirements in the Act and other Federal regulations. Although such requirements are not explicitly stated in the proposed regulation, programs will still be required to adhere to the Act, OMB Uniform Guidance, and all other applicable Federal and State statutes and regulations. These include but are not limited to: meeting eligibility criteria requiring that facilities be available to Indian Tribes, rural, or low-income communities; being located within the designated service area; and demonstrating necessity due to lack of suitable facilities (Sec. 644(g)(1)); describing efforts to coordinate or collaborate with other providers in the community to seek assistance, including financial assistance, prior to using funds as described in Section 644(f)(2); at a minimum, meeting or exceeding State and local licensing requirements and ensuring continued compliance (Sec. 641A(a)(1)(D)); retaining records which fully disclose financial assistance and other records of cost required for an effective audit (Sec. 647(a)); adhering to the access requirements of the Americans with Disabilities Act, section 504 of the Rehabilitation Act, and the Flood Disaster Protection Act of 1973; and complying with National Historic Preservation Act of 1966. Programs will also still be required to follow all applicable parts of the Uniform Guidance such as insurance coverage (2 CFR 200.310), real property (2 CFR 200.311), property trust relationship (2 CFR 200.316), and retention requirements for records (2 CFR 200.334) regardless of whether these proposed changes are finalized.

This NPRM removes duplicative procedural detail, while preserving all statutory safeguards and Federal property protections. In total, these proposed changes condense 17 regulatory sections (currently found at § 1303.40–1303.56) into a single streamlined provision (§ 1301.15), meaningfully reducing administrative burden on programs and allowing them to focus their time and resources on serving children and families.

Designation Renewal

The proposed regulatory changes in § 1301.16 on Designation Renewal reflect ACF's commitment to improved outcomes for children and families, regulatory streamlining, and fiscal stewardship. The proposed changes in this NPRM are consistent with the values of prioritizing high-impact investments based on evidence and results.

Basis for Determining if an Agency Is Subject to Open Competition

Consistent with the current Head Start Designation Renewal System (DRS) implemented by ACF, the proposed regulation in § 1301.16 would continue to require a Head Start agency to compete for its next five years of funding if ACF determines that such agency is not delivering a high-quality and comprehensive Head Start program that meets the educational, health, nutritional, and social needs of the children and families it serves, or is not meeting program and financial management requirements and standards described in section 641A(a)(1) of the Act. Mostly consistent with current regulations at § 1304.11, this NPRM proposes for a Head Start agency to be required to compete for its next five years of funding if one or more of the following conditions existed during the award period of the current grant:

- Two or more deficiencies identified across Federal monitoring reviews conducted under section 641A(c)(1)(A), (B), (C), or (D) of the Act;
- Failure to produce suitable results towards achieving program goals for improving the school readiness of children, as required by section 641A(g)(2) of the Act, based on a review conducted under section 641A(c)(1)(A), (C), or (D) of the Act;
- Determination that the agency is not delivering classroom quality as measured under section 641A(c)(2)(F) of the Act;
- Revocation of the agency's license to operate a Head Start center or program by state or local licensing authorities;
- Suspension from the Head Start program, after an initial opportunity to show cause, that has not been overturned or withdrawn;
- Debarment from receiving Federal or state funds from any Federal or state department or agency or has been disqualified from the Child and Adult Care Food Program;
- Risk of failing to continue functioning as a going concern within the current project period;
- Two or more audit findings of material weakness or questioned costs associated with Head Start funds in audit reports submitted to the Federal Audit Clearinghouse; or
- Any other measure as specified in the Head Start Act.

The proposed changes would reduce administrative burden by simplifying and streamlining the designation renewal process to focus on outcomes rather than prescriptive compliance procedures not mandated by statute. Under the current regulations, agencies can be required to compete based on whether they established school readiness goals that meet detailed specifications (current § 1304.11(b)(1)), and took prescribed steps to achieve those goals, including aggregating and analyzing child assessment data at least three times per year and documenting specific analysis procedures (current § 1304.11(b)(2)). Under the proposed regulation, the relevant condition on school readiness goals would instead focus on whether the agency produced suitable results towards achieving its program goals for improving the school readiness of children, as required by the Act. This proposed approach would focus on evidence and results and would provide programs with flexibility to determine the best methods for achieving goals and assessing outcomes, while still maintaining accountability for delivering measurable improvements in school readiness.

Similarly, current regulations (§§ 1304.11(c) and 1304.16) specify the CLASS: Pre-K instrument as the instrument ACF uses to measure classroom quality within the context of the DRS. Under current regulations (§ 1304.11(c)), agencies can be required to compete based on classroom quality scores using the CLASS: Pre-K instrument with specific numerical thresholds. The proposed regulation retains classroom quality as a condition under the DRS, consistent with sections 641(c)(1)(D) and 641A(c)(2)(F) of the Act, which require that Head Start classroom quality be assessed using a valid and reliable research-based observational instrument and that the results of such observations be considered as part of the DRS. However, this NPRM proposes to remove from regulation both the requirement to use CLASS: Pre-K as the sole measure of classroom quality and the associated CLASS: Pre-K thresholds that trigger competition. Although ACF anticipates continuing to use CLASS: Pre-K as the observational tool to assess classroom quality for the foreseeable future, this proposed change to regulations provides ACF with flexibility to possibly use other methods to measure and assess classroom quality in the future. Safeguarding effective instruction in Head Start classrooms remains a key component of quality assessment under the proposed regulation.

The proposed changes also strengthen fiscal stewardship by restructuring fiscal-related conditions for greater clarity and appropriate accountability. Current regulations at § 1304.11(g) combine two distinct fiscal criteria, (1) risk of failing to continue functioning as a going concern and (2) two or more audit findings of material weakness or questioned costs associated with Head Start funds, into a single condition. Under current regulations, an agency meeting either or both fiscal criteria would be considered to have met one condition. The proposed regulation will separate these into two independent fiscal conditions: agencies at risk of failing to continue functioning as a going concern (proposed § 1301.16(e)), and agencies with two or more material audit findings or questioned costs associated with their Head Start funds (proposed § 1301.16(f)). This proposed change would ensure that each fiscal concern is independently evaluated and appropriately assessed. Under the proposed regulation, an agency with both fiscal concerns would now meet two separate conditions rather than one combined condition, reflecting the cumulative seriousness of multiple fiscal management concerns. In addition, the proposed regulation retains deficiencies and revocation of license as conditions without change and includes a provision allowing for competition based on any other measure specified in the Head Start Act, preserving the Secretary's statutory authority to evaluate program quality comprehensively.

Separately, the proposed regulation would retain deficiencies, suspensions, and revocation of license as conditions without change and includes a provision allowing for competition based on any other measure specified in the Head Start Act, preserving the Secretary's statutory authority to evaluate program quality comprehensively.

Finally, this NPRM proposes to simplify the designation renewal section to include only the conditions that would require a recipient to compete for their next five years of funding. Under this proposed regulatory change, purely procedural and administrative requirements would be removed or relocated. The proposed changes will eliminate and/or relocate multiple sections, as described in the paragraphs that follow.

Reporting requirements concerning certain conditions (current § 1304.12) would be addressed in the proposed Program goals, continuous improvement, and reporting (proposed § 1301.13).

Tribal government consultation (current § 1304.14) would be addressed in the proposed ''Tribes'' section (proposed § 1301.17). Consistent with the government-to-government relationship and unique considerations for tribal grant recipients, the proposed regulation would maintain the existing consultation process if a Tribe meets one or more DRS criteria (Sec. 641(c)(7)(B)) and reiterates that non-Indian Head Start agencies are ineligible to carry out an Indian Head Start program unless there is no other option, and then only until an Indian Head Start agency becomes available (Sec. 641(e)).

Requirements to compete for designation for a five-year grant (current § 1304.13): will be eliminated under the proposed regulatory changes. While not restated in the proposed regulation, agencies remain required to submit an application that demonstrates that it is the most qualified entity to deliver a high-quality and comprehensive Head Start program. The application must address the criteria for selection listed in section 641(d)(2) of the Act.

Designation request, review and notification process (current § 1304.15) would be eliminated under the proposed regulatory changes. While these procedural requirements are not restated in the proposed regulation, a grant recipient must continue to submit applications as required by the Secretary (see Sec. 641(b)). ACF will continue to provide timely notice and adequate opportunities for agencies to respond to designation renewal determinations, consistent with all application and notification requirements under section 641 of the Act.

Selection among applicants (current § 1304.20) would be eliminated under the proposed regulatory changes. While not restated in the proposed regulation, ACF will continue to consider the applicable criteria under Section 641(d) of the Head Start Act when selecting an agency to provide Head Start Preschool, Early Head Start, Migrant or Seasonal Head Start, or Tribal Head Start Preschool or Early Head Start services.

Tribes

Proposed section 1301.17 would align with provisions in the Act for Tribal programs but would streamline and reorganize the requirements specific to Tribal programs in one section. These proposed requirements reiterate the existing requirement that Tribal programs have a reevaluation process if they meet one or more DRS criteria (Sec. 641(c)(7)(B)) and that non-Indian Head Start agencies are ineligible to carry out an Indian Head Start program unless there is no other option, and then only until an Indian Head Start agency becomes available (Sec. 641(e)). The requirements proposed in § 1301.17 outline the process by which a Tribal program may designate an alternate agency to provide Head Start services to Tribal members if there is a relinquishment, termination, or denial of refunding (Sec. 646(e)(1)(A–B)) and specifies that the alternative agency must meet all requirements established in the Head Start Act and cannot be prohibited from designation as detailed in Sec. 646(e)(2). These proposed regulations are more streamlined and concise than what is in current § 1304.30 of the Performance Standards. Proposed § 1301.17(d) is new language that proposes to exempt Tribal programs from the English-only provision in proposed § 1301.04(a) if the language being spoken relates to the furtherance of tribal heritage.

The Act includes provisions specific to Tribal programs that will remain in effect, even though they are not included in the proposed regulations. The Act requires the Secretary to conduct annual consultations with tribal governments operating Head Start

programs to address issues that affect service delivery, to publish a **Federal Register** notice before consultations, and to issue a detailed report to all Tribal governments within 90 days (Sec. 640(l)(4)). The Act also requires training and technical assistance be provided by staff with knowledge of and experience in working with Indian populations (Sec. 640(l)(3)(A)), appointment of a national Indian Head Start Collaboration Director (Sec. 640(l)(3)(B)), and studies and reporting specific to Indian and Alaska Native populations (Sec. 649(k)).

Tribal programs would also continue to have flexibilities provided in the Act even though they are not included in the proposed § 1301.17. Tribal programs operating both Early Head Start and Head Start programs may reallocate funds between programs at their discretion to address population fluctuations (Sec. 645(d)(3)). Additionally, section 238 of the Further Consolidated Appropriations Act, 2024 amended the Head Start Act to allow Tribal programs to consider eligibility for Head Start services regardless of income and establish selection criteria to prioritize Tribal children, and those statutory flexibilities will remain in place under the proposed regulations.

There are multiple provisions in the current Performance Standards that address flexibilities for Tribal programs that would no longer be relevant because the NPRM proposes to remove those restrictive sections and grant that flexibility to all Head Start programs. For example, current § 1302.11(a)(1)(i)–(ii) allows Tribal programs the flexibility to define service areas based on where members of the Indian tribes reside. This flexibility would no longer be needed under the NPRM, because the NPRM proposes to remove the requirements in current § 1302.11. Additionally, current § 1302.53(b)(4) allows Tribal programs to determine whether to participate in Quality Rating and Improvement Systems and state education data systems; this flexibility would no longer be needed, as the NPRM proposes to remove requirements related to coordination with other programs and systems. Lastly, current § 1302.36 allows Tribal Head Start programs to integrate efforts to preserve, revitalize, restore, or maintain the Tribal language for enrolled children into program services. This flexibility would no longer be relevant because the proposed § 1301.17(d) exempts Tribal programs from the English-only requirement in proposed § 1301.04(a).

Program Flexibility

Proposed § 1301.18 would significantly expand the flexibilities available to Head Start programs, if finalized. Proposed § 1301.18(a) would allow programs to request a waiver for almost any requirement in the entirety of proposed § 1301, as long as a waiver would not negatively impact the health or safety of children and would not violate any Federal or State laws. The exception, as noted in proposed § 1301.18(b), is that requirements in the proposed regulations relating to nutrition, physical activity, or eligibility would not be eligible for a waiver. All waiver requests are subject to approval by HHS. Proposed § 1301.18(c) would align with the flexibility provided in current § 1302.24 in the Performance Standards that programs can request to operate locally-designed options (LDO) to better meet the unique needs of their communities. Note that while the proposed LDO flexibility aligns with the concepts outlined in current § 1302.24(a) and (b), the more specific requirements in the current § 1302.24(c)(1)–(5) regarding ratios, group size, and duration are proposed for removal to give local programs further flexibility in operationalizing an LDO.

While the Act provides the Secretary of HHS with waiver authority for a small subset of requirements, including operating locally-designed options (Sec. 640(f)(1)), waiving non-Federal share (Sec. 640(b)), exceeding the current 15 percent cap for administrative costs (Sec. 644(b)(2)), filling at least 10 percent of actual enrollment slots with children eligible for IDEA (Sec. 640(d)(4)), and meeting teacher qualification requirements (Sec. 648A(a)(4)), proposed § 1301.18 would broaden waiver flexibility beyond those explicitly stated in the Act. The rationale for this proposed change is to increase flexibility for state and localities to deliver Head Start services in a manner that is responsive to their local context, while still maintaining the emphasis on health, nutrition, physical exercise, and eligibility requirements, which are the requirements in the proposed § 1301.18 programs would not be able to waive. HHS would not grant waiver requests for requirements that are mandated by the statute where the statute does not allow for a waiver.

The current Performance Standards that reiterate and expand upon the flexibilities provided in the Act are no longer relevant because the flexibility proposed in § 1301.18 provides a more blanket waiver authority. For this reason, ACF proposes removal of these provisions in the current Performance Standards that address more specific flexibilities. For example, § 1304.17 in the current Performance Standards, which provides flexibility for DRS determinations in cases of certain emergencies when data may not be available, is proposed for removal in the NPRM. Additionally, the current Performance Standards mentioned in the prior paragraph that mirror the flexibilities included in the Act, are proposed for removal because they are duplicative of the Act. For example, § 1302.14(b) requires programs to fill 10 percent of their actual enrollment with children eligible for services under IDEA. This provision is proposed for removal because the flexibility is provided in the Act, and proposed § 1301.18 allows for more expansive flexibilities than both the Act and the current Performance Standards.

Appeals and Other Federal Procedures

The proposed changes on Appeals and Other Federal Procedures are consistent with ACF's commitment to faithfully administer programs consistent with statute and congressional intent. By reducing duplication and unnecessary administrative burden, the proposed regulation consolidates appeals provisions under § 1301.19.

The proposed regulation on appeals would continue to honor an agency's right to appeal a final decision by ACF to terminate financial assistance or deny refunding of an application. The Departmental Appeals Board procedures in 45 CFR part 16, govern notice and appeal rights and establish a fair and impartial process for review of final agency decisions in cases properly before the Departmental Appeals Board. Similarly, if a Head Start Agency denies, or fails to act on a prospective agency's funding application, prospective delegate agencies will retain the right to appeal within 30 days of the agency's decision or 120 days after the agency's inaction on the prospective delegate's application. Head Start agencies will continue to be required to respond to both ACF and the prospective delegate agency within 30 days of the filed appeal. As with current practice, the decision rendered by ACF would be final and not subject to additional appeals.

The proposed changes remove redundant regulatory text that restates statutory requirements and procedures already contained in section 646 of the Act and 45 CFR part 16. Rather than repeating these requirements, the proposed regulation explicitly cross-references the governing statutory and regulatory authorities. Additionally, the proposed regulation eliminates non-statutory procedural requirements and timelines.

Monitoring

While the discussion of monitoring (current § 1304.2) is proposed for removal from the NPRM, ACF remains statutorily required to conduct monitoring reviews at least once during each three-year period, as described in section 641A(c) of the Act. Additionally, if a grant recipient meets one or more of the criteria for a deficiency as defined in section 637(2) of the Act, ACF must continue to inform the grant recipient of the deficiency and require correction in accordance with section 641A(e) of the Act. The proposed removal of § 1304.2 would not alter ACF's statutory monitoring authority, its obligation to address deficiencies, or the process by which ACF would notify and consult with agencies to address deficiencies.

Suspension

This NPRM proposes to remove current § 1304.3 and § 1304.4 related to suspension with notice and suspension without notice. However, ACF remains authorized under Section 646(a)(5) of the Act to suspend financial assistance for up to 30 days, or longer in limited circumstances involving multiple and recurring deficiencies, provided that ACF gives notice and an opportunity to show cause why financial assistance should not be suspended.

In emergency situations, such as those involving risk to property, misuse of funds, criminal violations, or threats to health and safety, ACF remains authorized, under Section 646(a)(2) of the Act, to suspend financial assistance without prior notice and opportunity to show cause.

In all cases grant recipients must continue to adhere to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200. Restrictions on incurring new obligations during suspension and the allowability of necessary and otherwise allowable costs continue to be governed by 2 CFR 200.375, and cost sharing or matching requirements, including third-party in-kind contributions, remain governed by 2 CFR 200.306.

Under these proposed changes related to suspension in § 1301.19 there would be significantly fewer bureaucratic processes, because many of the requirements are not in the Act and they are proposed for removal in this NPRM. Under the proposed rule, ACF would no longer be required to follow specific requirements for suspension notices beyond those required by statute.

Termination, Denial of Refunding, and Legal Fees

Similarly, this NPRM proposes to remove §§ 1304.5, 1304.6 and 1304.7 from the Performance Standards. ACF remains authorized under section 646(a)(3) of the Act to terminate financial assistance or deny refunding to a grant recipient after providing reasonable notice and an opportunity for a full and fair hearing. Grant recipients retain the right to file an appeal within 30 days of receiving notice and to receive a hearing within 120 days of filing such appeal.

While these statutory authorities and protections remain unchanged, the proposed rule removes regulations that exceed or duplicate statutory requirements. Specifically, this NPRM eliminates prescriptive procedural provisions not explicitly required by statute, such as specific procedures for termination and denial of funding (§ 1304.5), procedures for appeal for prospective delegate agencies (§ 1304.6) and policies regarding the allowability of legal fees (§ 1304.7). The proposed removal of these overly prescriptive procedural provisions aligns with an overall goal of this NPRM to ensure that the only requirements that exist in regulation are those that are required by the Act. ACF will provide additional information for recipients on procedures for termination and denial of funding, appeals for prospective delegate agencies, and legal fees in forthcoming sub-regulatory guidance. ACF does not intend to change existing policies or procedures on these topics.

With respect to legal fees, the proposed regulation does not create new authority or modify existing practice. Although current 1304.7 is proposed for removal from this NPRM, consistent with section 646(a)(4)(C) of the Act, grant recipients may not charge to their grant legal fees or other costs incurred in appealing termination, reduction, or denial decisions. However, ACF retains existing authority under section 646(a)(6) to reimburse reasonable and customary legal fees if the grant recipient prevails.

Head Start Fellows Program

The proposed regulations remove discussion of the Head Start Fellows Program (current § 1304.40 and § 1304.41) since these requirements are largely duplicative of those outlined in the Act. However, the Secretary retains authority to establish a program of fellowships in accordance with Section 648A(d) of the Act.

Delegate Agencies

This NPRM proposes to rescind 1303 Subpart D- Delegation of Program Operations because these regulations are, in large part, duplicative of the requirements in the Act. Under the Act, a Head Start agency is empowered to transfer Federal funds and delegate powers to other agencies when doing so will improve efficiency, effectiveness, or otherwise further program goals (Sec. 642(a)). The statute makes clear that the authority to transfer funds and delegate powers includes the ability to transfer and delegate for component projects when appropriate to support program objectives.

The Act further outlines specific procedures that each Head Start agency must establish concerning its delegate agencies (Sec. 641A(d)). These procedures must include mechanisms for evaluating delegate agencies, procedures for defunding a delegate agency, and procedures that allow a delegate agency to appeal a defunding decision. Once these procedures are in place, the agency must evaluate each delegate agency in accordance with those procedures and inform the delegate agency of deficiencies identified through that evaluation that must be corrected. If a delegate agency's performance is found to be deficient, the Head Start agency is required to take action, which can include initiating steps to terminate the delegate agency's designation or conducting monthly monitoring visits to the delegate agency until all identified deficiencies are corrected or until the Head Start agency decides to defund the delegate agency. The statute also places constraints on when a Head Start agency may terminate a delegate agency or reduce its service area by requiring the agency to show cause or demonstrate the cost-effectiveness of the decision before doing so.

While the proposed regulations do not include current § 1303.30, under the proposed regulation the grant recipient retains legal responsibility and authority and bears financial accountability for the program when services are provided by delegate agencies.

While this proposed rule would remove regulations regarding delegate agencies in an effort to eliminate duplication between the regulation and the Act, most requirements regarding delegate agencies would remain in place through the Act. The proposed rule would also remove reporting and procedural requirements to increase program flexibility and reduce administrative burden.

In summary, these proposed revisions to regulations on appeals and other Federal procedures remove duplicative and non-statutory procedural details, while preserving all statutory authorities, notice requirements, appeal rights, and due process protections mandated by the Head Start Act and 45 CFR part 16. The changes are intended to reduce unnecessary administrative burden and procedural rigidity without altering substantive rights or enforcement authority and faithfully administer programs consistent with statute and congressional intent.

Definitions

Replacing the current § 1305.2 definitions with the proposed § 1301.20 definitions would remove any unused or commonly understood defined terms in the Head Start regulations. For ease of viewing the proposed regulations in relation to the current regulations on Definitions, please view the comprehensive comparison table below:

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§ 1305.2 Term	In Proposed § 1301.20?	Defined in Head Start Act?	Notes on Change
ACF	No	No	Term not used in proposed regulation – Removed
Act	No	No	Term not used in proposed regulation – Removed
Agency	Yes	No	Retained
Aggregate child-level assessment data	No	No	Term not used in proposed regulation – Removed
Allowable alternate vehicle	No	No	Term not used in proposed regulation – Removed
Budget period	No	No	Term not used in proposed regulation – Removed
Case plan	No	No	Term not used in proposed regulation – Removed
Child-level assessment data	No	No	Term not used in proposed regulation – Removed
Child records	No	No	Term not used in proposed regulation – Removed
Child restraint system	No	No	Term not used in proposed regulation – Removed
Child with a disability	No	Yes	Term defined in statute -- Removed
CLASS: Pre-K	No	No	Term not used in proposed regulation – Removed
Commercial Driver's License	No	No	Term not used in proposed regulation – Removed
Construction	Yes	No	Retained
Continuity of care	No	No	Term not used in proposed regulation – Removed
Deficiency	No	Yes	Term defined in statute -- Removed

Delegate agency	No	Yes	Term defined in statute -- Removed
Denial of Refunding	Yes	No	Retained
Development and administrative costs	Yes	No	Retained
Disclosure	No	No	Term not used in proposed regulation – Removed
Double session variation	No	No	Term not used in proposed regulation – Removed
Dual benefit costs	No	No	Term not used in proposed regulation – Removed
Dual language learner	No	No	Term not used in proposed regulation – Removed
Early Head Start	Yes	Yes	Retained
Enrolled	Yes	No	Retained
Enrollment year	No	No	Term not used in proposed regulation – Removed
Facility	Yes	No	Retained
Family	Yes	No	Retained
Federal interest	No	No	Term not used in proposed regulation – Removed
Federal Motor Vehicle Safety Standards (FMVSS)	No	No	Term not used in proposed regulation – Removed
Financial viability	Yes	No	Retained
Fixed route	No	No	Term not used in proposed regulation – Removed
Foster care	Yes	No	Retained
Full-working-day	No	No	Term not used in proposed regulation – Removed
Funded enrollment	Yes	No	Retained
Going concern	Yes	No	Retained
Grant recipient	Yes	No	Retained
Head Start	Yes	Yes	Retained
Head Start agency	Yes	Yes	Retained
Head Start Early Learning Outcomes Framework	No	Yes – Referenced / Authorized	Term not used in proposed regulation – Removed
Head Start Preschool	Yes	Yes	Retained
Homeless children	No	Yes – Referenced / Incorporated	Term defined in statute -- Removed
Home visitor	No	No	Term not used in proposed regulation – Removed
Hours of planned class operations	No	No	Term not used in proposed regulation – Removed

Housing costs	No	No	Term not used in proposed regulation – Removed
Income	Yes	No	Retained
Indian Head Start agency	Yes	Yes	Retained
Indian tribe	No	Yes	Term defined in statute -- Removed
Individualized Education Program	No	No (defined in IDEA)	Term not used in proposed regulation – Removed
Individualized Family Service Plan	No	No (defined in IDEA)	Term not used in proposed regulation – Removed
Legal status	No	No	Term not used in proposed regulation – Removed
Local agency implementing IDEA	No	No	Term not used in proposed regulation – Removed
Major renovation	No	No	Term not used in proposed regulation – Removed
Migrant family	No	No	Term not used in proposed regulation – Removed
Migrant/Seasonal HS Program	No	Yes – Authorized	Term defined in statute -- Removed
Minor renovation	No	No	Term not used in proposed regulation – Removed
Modular unit	No	No	Term not used in proposed regulation – Removed
National Driver Register	No	No	Term not used in proposed regulation – Removed
Parent	Yes	No	Retained
Participant	Yes	No	Retained
Personally identifiable information (PII)	Yes	No	Retained
Poverty line	No	Yes	Term defined in statute -- Removed
Program	Yes	No	Retained
Program costs	Yes	No	Retained
Purchase	Yes	No	Retained
Real property	No	No	Term defined in statute -- Removed
Recruitment area	No	No	Term not used in proposed regulation – Removed
Relevant time period	Yes	No	Retained
Repair	No	No	Term not used in proposed regulation – Removed
Responsible HHS official	No	No	Term not used in proposed regulation – Removed
School readiness goals	Yes	Yes –	Retained

		Referenced / Required	
School bus	No	No	Term not used in proposed regulation – Removed
Service area	No	No	Term not used in proposed regulation – Removed
Staff	Yes	No	Retained
State	No	Yes	Term defined in statute -- Removed
Suspension	No	No	Removed
Termination of grant/delegate agreement	No	Yes – Authorized (not defined)	Removed
Total approved costs	Yes	No	Retained
Transportation services	No	No	Term not used in proposed regulation – Removed
Verify	No	No	Removed

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In summary, the proposed changes would preserve core statutory program and fiscal definitions while eliminating definitions that are either commonly accepted or are tied to terms that are no longer found in the proposed regulations.

VI. Regulatory Process Matters

ACF has examined the impacts of the proposed rule under *Executive Order 12866, Executive Order 13563, Executive Order 13132,* 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, costs, and transfers of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits.

Section 3(f) of *Executive Order 12866* defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely affecting 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) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. The Office of Information and Regulatory Affairs has determined that this proposed rule is a significant regulatory action under section 3(f)(1) of Executive Order 12866 and we have prepared a Regulatory Impact Analysis (RIA). This proposed rule, if finalized, is anticipated to be a deregulatory action under *Executive Order 14192.*

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), see 5 U.S.C. 605(b), as amended by the Small Business Regulatory Enforcement Fairness Act, requires Federal agencies to determine, to the extent feasible, a rule's impact on small entities, consider regulatory options for reducing any significant impact on a substantial number of such entities, and explain their regulatory approach. The term ''small entities,'' as defined in the RFA, includes small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. Under this definition, many Head Start grant recipients, particularly nonprofit organizations and certain local governmental entities, may be considered small entities. A rule is generally considered to have a significant economic impact on a substantial number of small entities if it has at least a three percent impact on revenue for at least five percent of such entities.

To provide context for the potential number of entities that may meet or exceed Small Business Administration size standards, we conducted a screening analysis using Head Start funding levels and organizational type. The applicable SBA size standard for Child Day Care Services (NAICS 624410) is based on average annual receipts and is currently $9.5 million. Because data on total organizational receipts are not available, we compared Head Start grant funding levels to this threshold as a conservative proxy. Separately, we identified agencies that are nonprofit organizations, which may qualify as small entities under the RFA definition.

We then combined these two screens to identify agencies that meet at least one of these criteria. Based on this combined screening, approximately 1,450 (95 percent) of agencies either have Head Start funding levels below the $9.5 million threshold, are nonprofit organizations, or meet both conditions. Taken together, these counts provide an upper-bound estimate of the number of entities that may be considered small entities for purposes of this analysis. However, for entities with Head Start funding below the threshold, this method does not determine whether the entity qualifies as small, because such entities may have additional revenue from other funding sources. As a result, this analysis does not represent a definitive classification of small entities under the RFA.

The proposed rule primarily reduces and streamlines existing regulatory requirements and is expected to reduce

administrative burden and provide greater operational flexibility for Head Start grant recipients. One provision of the proposed rule reduces the allowable administrative cost cap from fifteen percent to five percent of total approved program costs. This change may require some entities to adjust how administrative and programmatic costs are allocated within existing funding levels, and it may have a particularly significant impact on Head Start programs classified as small entities. This change is intended to direct a greater share of Head Start resources toward services for children and families. Approximately 3.7 percent of Head Start grants currently operate at or below a five percent administrative cost threshold. In addition, as discussed in the RIA, an additional 27.7 percent of grants currently operate above 5 percent but below 10 percent administrative costs. The proposed rule's broader reductions and streamlining of regulatory requirements are expected to reduce administrative workload and may support programs in transitioning toward the proposed cap while maintaining service delivery. If needed, programs may request a waiver of the administrative cost cap pursuant to proposed § 1301.18, subject to HHS review and approval. However, given the possible impact on small businesses, below we provide an initial regulatory flexibility analysis.

The proposed requirement for English-only instruction may affect a subset of programs, particularly those serving high proportions of dual language learners. Based on available data, ACF estimates that approximately 33.4 percent of non-tribal Head Start classrooms may be impacted by this requirement. While ACF does not expect this requirement to result in a significant economic impact for most entities, impacts may be more concentrated in certain programs, including those serving predominantly non-English-speaking communities (*e.g.,* Migrant and Seasonal Head Start programs). ACF recognizes that this requirement may result in additional costs or operational challenges for programs serving dual language learners or operating in predominantly non-English-speaking communities. At the same time, this requirement reflects Administration priorities and broader Federal policy emphasizing the importance of English language acquisition for early learners, including supporting children's ability to participate in English-language educational settings and engage with community institutions.

Initial Regulatory Flexibility Analysis

Consistent with the Regulatory Flexibility Act (5 U.S.C. 603), ACF has prepared this Initial Regulatory Flexibility Analysis to assess the potential economic impact of the proposed rule on small entities and to consider significant alternatives that would minimize such impacts. The proposed reduction of the allowable administrative cost cap from 15 percent to 5 percent of total approved program costs may require some entities to adjust administrative and programmatic cost allocations. Based on program budget data, this change corresponds to an estimated reduction in allowable administrative expenditures of approximately $754,343,701 annually. The extent of impact will vary depending on existing cost structures and may be more pronounced for smaller programs. About half of Head Start grants (about 50 percent) serve 200 or fewer children, representing smaller-scale operations that may have more limited ability to distribute fixed administrative costs. These smaller grants span a range of organizational types, including nonprofit organizations, school systems, governmental entities, and Tribal programs, many of which may meet the RFA definition of small entities.

ACF considered regulatory alternatives to minimize potential impacts on small entities, including setting the administrative cost cap at 10 percent rather than 5 percent and applying an exemption for programs funded to serve 200 or fewer Head Start slots. Under a 10 percent cap, estimated reductions in allowable administrative expenditures would be approximately $146,002,007 annually, reflecting a smaller change from current administrative spending levels. This smaller reduction is driven in part by the fact that many programs currently operate below the 15 percent cap and closer to the 10 percent level; as a result, the adjustment required on the part of programs under a 10 percent cap is more limited than under a 5 percent cap. Such a change may also prove less burdensome for small entities. ACF also considered exempting smaller programs (those with 200 or fewer Head Start funded slots) from the proposed cap.

ACF expects that reductions in administrative burden associated with other provisions of the proposed rule may partially offset the impact of the administrative cost cap. While some entities, particularly smaller programs, may experience adjustment needs, ACF has also provided for the availability of waivers (proposed § 1301.18), which may allow programs to address specific circumstances where compliance with the administrative cap of 5 percent would present undue operational challenges. ACF determined that the proposed approach appropriately balances regulatory burden, program efficiency, and the objective of maximizing resources available for services to children and families. These considerations inform ACF's broader assessment of the overall economic effects of the proposed rule on small entities. Like all components of this NPRM, ACF will accept public comment on these alternatives under consideration for the policy change on the administrative cap for small entities.

Overall, ACF expects that the proposed rule will reduce regulatory burden and associated costs for Head Start grant recipients, allowing recipients the flexibility to reinvest funds into other areas, including the potential to serve more eligible children within existing operational budgets. While certain provisions, such as the reduction in the administrative cost cap, may require adjustments for some entities, the combined effects of the proposed rule are expected to reduce overall compliance burden. To the extent that impacts vary across entities, including smaller entities, such variation is expected to reflect differences in organizational structure, existing cost allocations, and local implementation decisions rather than the imposition of new regulatory compliance requirements.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (*Pub. L. 104–4,* section 202(a)) requires us to prepare a written statement, which includes estimates of anticipated impacts, before publishing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $193 million, using the most current (2025) Implicit Price Deflator for the Gross Domestic Product. This proposed rule, if finalized, will not result in unfunded mandates that meet or exceed this amount. Head Start grant recipients receive over $12 billion annually in Federal funding to implement the requirements of the program, including policy changes as a result of this proposed rule.

Federalism Assessment 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. 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 proposed rule, if finalized, would not have substantial direct impact on the states, on the relationship between the Federal government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of *Executive Order 13132,* it is determined that this action does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement.

Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act of 1999 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. ACF believes it is not necessary to prepare a family policymaking assessment (see *Pub. L. 105–277)* because the action it takes in this proposed rule does not have any impact on the autonomy or integrity of the family as an institution.

Paperwork Reduction Act of 1995

The Paperwork Reduction Act (PRA) of 1995, *44 U.S.C. 3501 et seq.,* minimizes government-imposed burden on the public. In keeping with the notion that government information is a valuable asset, it also is intended to improve the practical utility, quality, and clarity of information collected, maintained, and disclosed.

The PRA requires that agencies obtain OMB approval, which includes issuing an OMB number and expiration date, before requesting most types of information from the public. Regulations at *5 CFR part 1320* implemented the provisions of the PRA and § 1320.3 defines a ''collection of information,'' ''information,'' and ''burden.'' PRA defines ''information'' as any statement or estimate of fact or opinion, regardless of form or format, whether numerical, graphic, or narrative form, and whether oral or maintained on paper, electronic, or other media (*5 CFR 1320.3(h)*). This includes requests for information to be sent to the Government, such as forms, written reports and surveys, recordkeeping requirements, and third-party or public disclosures (*5 CFR 1320.3(c)*). ''Burden'' means the total time, effort, or financial resources expended by persons to collect, maintain, or disclose information.

The proposed rule will affect the information collection approved under OMB control number 0970–0148. ACF will revise the associated PRA package for the Head Start Performance Standards (Performance Standards) to align with the regulatory changes.

VII. Regulatory Impact Analysis

Summary

The changes to the Performance Standards in this proposed rule would produce substantial net reductions in regulatory compliance costs across Head Start programs, primarily by eliminating or streamlining prescriptive Federal requirements related to eligibility, recruitment, selection, enrollment, and attendance (ERSEA); education; staffing; service duration; health services; and administrative requirements. Major quantified cost reductions stem from increased flexibility in staffing models (*e.g.,* removal of Federal ratio requirements, requirements for a coaching system, and certain staff roles), reduced administrative and reporting requirements (including for community assessments and data aggregation), and a decrease in allowable administrative spending (from 15 percent to 5 percent), alongside smaller savings in facilities, transportation, and safety requirements. Consistent with the Head Start program structure, where Federal funds must be used to deliver services, these cost reductions in certain areas are expected to function largely as resource reallocations (transfers) that may support expanded enrollment, enhanced service delivery, or other program priorities.

Because the proposed rule would increase local program discretion, this RIA applies behavioral adjustment thresholds (low, primary, high scenarios) to estimate impacts of the proposed policy changes, which are intended to reflect varying degrees of possible program response: lower adjustment assumptions are used where external constraints (*e.g.,* state licensing requirements, physical infrastructure, operational limitations) may limit operational changes by programs, while higher adjustment assumptions are applied where historical stakeholder feedback indicates that existing requirements have been particularly burdensome and programs are more likely to scale back activities in response to policy changes. ACF assumes that the proposed policy changes are implemented over a five-year time horizon and the total cost reductions would be realized upon full implementation in year five. Unless otherwise noted, wage and compensation inputs based on 2025 BLS or PIR data are adjusted by 2 percent to express estimates in constant 2026 dollars before applying fringe benefit adjustments. Fringe benefits are assumed to represent 24 percent of total compensation.

For purposes of this analysis, ACF assumes that the wage and non-wage benefit requirements established in the 2024 final rule will not take effect, but that other provisions of the 2024 final rule will take effect. This reflects the proposed rescission of the wage and non-wage benefit requirements through the proposed rule ''Restoring Flexibility to Support Head Start Program Access'' (91 FR 25842). Accordingly, the estimated cost reductions presented in this analysis are measured relative to a baseline in which those requirements are not implemented. However, we also present a sensitivity analysis to consider the impacts of this proposed rule if all requirements of the 2024 final rule are fully implemented or if this proposal is finalized before the rescission proposal.

Overall, this analysis shows that the proposed changes would reduce compliance costs and give programs more flexibility, allowing resources to shift toward direct services, though implementation may vary by program. As with all other sections of this NPRM, we invite public comments on the assumptions made in this RIA that underline the quantitative and qualitative discussions of costs and benefits of the proposed policy changes.

Education and the Learning Environment

Overview

Part 1302 Subpart C of the current Performance Standards requires programs to support both English acquisition and home language development for dual language learners. The proposed rule would require that all education for Head Start children be conducted in English, except for American Indian and Alaska Native (AIAN) Head Start programs that are using their tribal language in the program to further tribal heritage.

This proposed change introduces one-time implementation costs for certain non-tribal programs that currently provide primary instruction in languages other than English or primarily serve dual language learners. AIAN programs are excluded from this estimate consistent with the proposed exemption.

Additionally, Part 1302 Subpart B of the current Performance Standards establishes detailed requirements for program structure, including center-based ratios and group sizes, center-based service duration requirements, home-based service duration and caseload limits, and requirements for child development specialists in family child care settings.

The proposed rule would remove certain Federal ratio, duration, and caseload requirements and defer to applicable state requirements or local program design, thereby increasing flexibility and reducing prescriptive Federal standards.

A. One-Time Costs With Requirement for English-Only Instruction

We estimate that 33.4 percent of non-tribal Head Start service locations (including classrooms, family child care homes, and group socialization sites) with available language-related data are operated by programs that primarily serve dual language learners (*i.e.,* at least 50 percent of children in the program speak or are learning a language other than English at home) or where the reported primary language of instruction is not English. This reflects 18,767 [11] classrooms that will be potentially impacted with one-time costs to implement the changes necessary to comply with this requirement. To implement English-only instruction, affected classrooms may need to replace curriculum and instructional materials and books that contain non-English content. Per proposed § 1301.18, programs may request a waiver of these requirements, subject to HHS review and approval. ACF invites comment on the proposed waiver process, including circumstances under which programs may seek waivers from the proposed English-language instruction requirements.

The cost methodology assumes the estimated cost of replacing classroom materials at $2,500 per classroom. This is based on the costs of replacing frequently used curricula and related teaching materials, estimated at $2,000, and an estimated additional cost of $500 for classroom materials that have words, such as educational toys and books. We multiply this estimate of $2,500 by the estimated number of affected classrooms (18,767) for an estimated one-time cost total of $46,917,500.

Table 1. One-Time Costs for Materials and Curriculum Associated with English-Only Instruction

Estimated cost of replacing materials per classroom	$2,500
Estimated number of classrooms with primary instruction in a language other than English or 50% or more dual language learners served	18,767
Estimated one-time cost to replace classroom materials	$46,917,500

We also estimate potential one-time costs associated with teacher retraining, recruitment, or administrative adjustments for the same classrooms discussed previously. Using PIR data, there are 103,186 preschool classroom teachers, preschool assistant teachers, and infant/toddler classroom teachers across Head Start Preschool and Early Head Start, of which an estimated 34,464 teachers and assistant teachers are in potentially affected classrooms.

We assume a per-teacher retraining or recruitment cost of $3,000 reflecting moderate targeted professional development (*e.g.,* English-language instruction training and support), or recruitment process expenditures (*e.g.,* job board posting, screenings and interviews, onboarding, overhead). This estimate reflects a blended assumption that some affected teachers would require retraining while others may need to be replaced. For recruitment-related costs, ACF considered estimates used by the Centers for Medicare & Medicaid Services (CMS),[12] which assumed recruitment and hiring costs of approximately $5,000 per worker based on inflation-adjusted estimates of direct hiring costs and recruitment expenditures. ACF does not adopt the full CMS estimate because the proposed rule anticipates that some affected teachers would be retained and retrained rather than replaced. For retraining costs, ACF assumes approximately $1,000 per teacher, reflecting moderate professional development activities and training materials associated with implementing English-language instruction requirements. This assumption reflects targeted training intended to support existing staff in adapting instructional practices. Accordingly, ACF adopts a blended estimate of $3,000 per teacher, representing a midpoint between lower-cost retraining activities and higher-cost recruitment and onboarding activities associated with staff replacement. Under the primary scenario, we assume 50 percent of teaching positions in affected classrooms incur retraining or recruitment costs, representing moderate behavioral adjustment. The low scenario assumes 25 percent, and the high scenario assumes 75 percent. We apply higher adjustment assumptions to this policy change relative to other policy changes in this proposed rule, as we expect some programs may need to make significant changes to classroom staffing to comply with this proposed requirement.

[11] This figure is based on the PIR to identify programs where at least 50 percent of children in the program speak or are learning a language other than English at home, and based on administrative data on service locations and their class level data provided to identify classrooms or groups of children served where the primary language of instruction is not English.

[12] Centers for Medicare & Medicaid Services (CMS), *Medicare and Medicaid Programs; Omnibus COVID–19 Health Care Staff Vaccination,* 86 FR 61555, 61668 (Nov. 5, 2021). CMS assumed recruitment and hiring costs of approximately $5,000 per worker, based on inflation-adjusted hiring cost estimates of $4,000 for lower-skilled workers and $6,000 for higher-skilled workers. Available at: *https://www.federalregister.gov/d/2021-23831/p-642.*

We multiply this estimate of $3,000 per teacher times the share of teaching staff for the given scenario (n= 34,464 teachers). Under these assumptions, estimated one-time staffing-related costs are approximately $25,848,093 under the low scenario, $51,696,186 under the primary scenario, and $77,544,279 under the high scenario.

Inputs for estimating another key portion of transition costs once again include 34,464 baseline Head Start staff, as well as ratios of 25-percent, 50-percent, and 75-percent. Also used here is an estimate of $8,000 in per-employee welfare harm of employment disruption (updated to 2026 dollars from estimates reflecting normal economic conditions, as reported in Table 1 of Kuminoff et al., 2015 [13]). If roughly one-third of affected teachers experience employment disruption, rather than retraining, the resulting upfront cost they experience is approximately $139 million, with a range from $69 million to $208 million.

ACF recognizes that English-only instruction may result in additional costs or burden not described here for programs serving dual language learners or operating in predominantly non-English-speaking communities.

Table 2. One-Time Staffing Costs Associated with English-Only Instruction

Scenario	Behavioral Assumption (Teachers Affected)	Estimated One-Time Cost
Primary	50% of teachers	$51,696,186
Low	25% of teachers	$25,848,093
High	75% of teachers	$77,544,279

B. Removal of Head Start Group Size and Ratios

Under the current regulation, the maximum group sizes and staff-child ratios for center-based settings are specified by age group. These findings indicate that replacing the current prescriptive Federal standards with deference to state licensing requirements will not impede children's development or leave children unsafe, while enabling programs to allocate resources more efficiently toward direct services and expanded enrollment. The proposed rule would remove these specific Federal ratio requirements and defer to applicable state licensing and Child Care and Development Fund (CCDF) requirements.

To estimate potential reductions in personnel costs, we compare the reported number of teachers under current Head Start ratio requirements and compare it to the number required under applicable state maximum ratios. By using the maximum ratio of children to adults under state ratios, this analysis represents a maximum adjustment in behavior, which we later use as the upper bound on the potential impacts of this rule change. This analysis is conducted at the state level, using PIR data on number of teachers and enrollment by single-year age groups, and state licensing ratios identified through a comprehensive research of ratios required by licensing for each state.

For each state and age group, we calculate the number of teachers required under state ratios by dividing the number of enrolled children in each single-year age group by the maximum number of children permitted per adult. Because state ratios do not align to single-year age groups, we converted state age ranges into one-year groups and averaged ratios across the months covered within each group. When multiple ratios applied to the same month, we used the least strict ratio to avoid double-counting. For limited data gaps (*e.g.,* ages 5 or older and select U.S. territories), we applied averages from available data to ensure those slots were included. Once state ratios were standardized to calculate the number of teachers required in each single-year age group, we then used the number of children served in each one-year age group by state and territory (as reported in the PIR) to estimate the total number of teachers required under state and territory ratios for the specific one-year age ranges. After taking a sum of the number of teachers required in each age range for each state and territory, we applied a reduction of approximately 13 percent to account for the fact that the reported data on the number of children served in each age range by state and territory reflects cumulative enrollment.

By reducing the estimated number of teachers by 13 percent, we adjust for the difference between cumulative enrollment reported in the PIR and funded enrollment. Because cumulative enrollment includes children who enter and exit programs during the year, it exceeds the number of children enrolled at any given point in time. The 13 percent adjustment reflects the difference between cumulative enrollment and funded enrollment and is intended to align the teacher estimate with the number of children occupying funded slots during the program year.

The following example illustrates the methodology used to estimate the number of teachers required under state licensing ratios. Using Texas as an example, the analysis applies the state's maximum child-to-staff ratio for each age group to the number of children served in that age group, as reported in the PIR. The resulting estimates are summed across age groups to determine the total number of teachers required under state ratios. Because PIR enrollment data reflect cumulative enrollment over the course of the program year, including children who enter and exit programs during the year, the total is then reduced by 13 percent to align the estimate with funded enrollment levels, which more closely reflect the number of children served at a given point in time.

[13] Kuminoff, N.V., Schoellman, T., & Timmins, C. (2015), Environmental regulations and the welfare effects of job layoffs in the United States: A spatial approach, *Review of Environmental Economics and Policy,* 9(2): 198–218.

Table 3. Example Calculation of Teachers Required Under Texas Child-to-Staff Ratios

Age Group	Children Served in Texas (PIR)	Texas Maximum State Ratio (Children per Adult)	Teachers Required
Under age 1	4,702	5.92	794
Age 1	6,517	7.36	885
Age 2	9,517	11.00	865
Age 3	25,027	15.00	1,668
Age 4	23,403	18.00	1,300
Age 5 and older	284	22.00	13
Total before adjustment	**69,450**	—	**5,525**
13 percent cumulative enrollment adjustment	—	—	(718)
Total after adjustment	—	—	**4,807**

We compare this figure to the number of teaching staff currently reported in the PIR, broken out by teaching staff type (*e.g.,* preschool classroom teachers, preschool assistant teachers), and multiply the number of staff by their respective average annual salaries as reported in the PIR, adjusted by 2 percent to express the estimates in constant 2026 dollars, and then apply a 24 percent fringe adjustment to estimate the teaching personnel expenditures at current levels. We calculate the difference between the number of teaching staff reported in the PIR and the total estimate of the number of teachers required by state ratios to identify the estimated maximum potential reduction in the teaching workforce. We calculate the proportional reduction in the teacher workforce by dividing the difference in teaching staff by the current reported teaching staff, and we apply this ratio to the estimated teaching personnel expenditures to arrive at the maximum potential reduction in personnel expenditures.

Recognizing that not all programs may immediately or fully adjust to state maximum ratios, we apply behavioral multipliers to reflect different levels of response. ACF recognizes that any steps towards lower ratios will lead to lower cost per child costs, which will improve program efficiency. The table below illustrates the low estimate assumes 25 percent of the maximum potential reduction is realized in year five, representing minimal behavior change. The primary estimate assumes 50 percent realization in year five. The high estimate assumes 75 percent realization, representing significant behavior change in year five. These estimates are calculated by multiplying the respective percent realizations by the maximum potential reduction in personnel expenditures. ACF assumes that the proposed policy changes are phased in over the five-year time horizon and fully implemented in year five.

Results from this analysis are presented in the following table. Under the primary scenario, the annual reduction in personnel expenditures associated with ratio flexibility is estimated at $668,299,826, with corresponding low and high estimates of $334,149,913 and $1,002,449,739, respectively.

Table 4. Annual Reduction in Personnel Expenditures from Removal of Ratio Requirements

Scenario	Behavioral Adjustment Towards Maximum State Ratio Requirements	Estimated Annual Reduction
Primary	50% realization	$668,299,826
Low	25% realization	$334,149,913
High	75% realization	$1,002,449,739

The estimated reduction in teaching staff can be used to estimate the potential change in the average number of children per teacher. Under the maximum adjustment scenario, the estimated number of teachers required

under state licensing ratios is approximately 24 percent lower than the number of teaching staff currently reported in the PIR (80,078 compared to 105,423). Holding enrollment constant, this implies an increase of approximately 32 percent in the average number of children per teacher. Under the primary scenario, which assumes programs realize 50 percent of the maximum adjustment, the increase in the average number of children per teacher would be approximately 16 percent. Actual changes would vary across programs and states depending on staffing decisions and the extent to which programs adjust toward state licensing ratios.

No adjustments were made to these estimates for the proposed removal of the Head Start per-child facility square footage requirements. Although related, any effects from the removal of these requirements are expected to be marginal because state licensing standards already align closely with, or in some cases exceed, current Head Start center-based requirements of 35 square feet of usable indoor activity space per child and 75 square feet of outdoor play space per child. While a small number of states permit lower space standards in limited circumstances, many states impose more stringent requirements that would already apply to Head Start programs operating in those states. For example, Texas requires 80 square feet of outdoor space per child, the District of Columbia and Rhode Island require 45 square feet of indoor space for infants and toddlers, and Illinois increases required square footage depending on whether sleep and play areas are combined and whether cribs are used. As a result, in many states, about 30 to 40 states depending on the measure, licensing standards already meet or exceed Head Start space benchmarks, making the proposed removal of the Federal per-child facility requirement negligible for this estimate.

C. Removal of Center-Based Head Start Preschool Duration and Program Schedule Requirements

The current regulation requires that at least 45 percent of Head Start Preschool center-based funded enrollment receive 1,020 annual hours of planned class operations and establishes minimum days and hours for remaining slots. The proposed rule removes this Federal duration requirement for Head Start Preschool. Early Head Start is excluded from this analysis because, as discussed in the preamble of this NPRM, the Act specifies that EHS programs must provide ''continuous'' comprehensive child development and family support services, which ACF has long interpreted to mean a full day and full year of services for infants and toddlers in EHS center-based programs.

To estimate potential reductions in personnel costs associated with reduced duration, we compare median annual hours of operation using administrative data reported on program schedules of operation, weighted by funded enrollment, prior to the 2016 final rule that introduced these requirements on program duration (fiscal year 2015 used to characterize the analytic baseline) to median annual hours, weighted by funded enrollment, from fiscal year 2025. In fiscal year 2015, estimated median annual hours of operation were 960 hours, and estimated median annual days of operation were 162 days; both of these figures are weighted by funded enrollment. After computing the weighted median hours of operation per child per year, we calculated the difference between the fiscal year 2025 median and the fiscal year 2015 median, which is 132 hours per child per year. This difference of 132 hours represents the maximum potential reduction in annual hours of operation, from which the subsequent calculations are computed.

While some programs will reduce their duration, Head Start programs primarily serve working families who rely on consistent care, and programs must continue meeting these needs to sustain enrollment—particularly as early childhood options expand. Accordingly, we assume a range of behavioral adjustments in response to this proposed policy change. The low estimate assumes a 25 percent reduction of the 132-hour gap (33 hours), the primary estimate assumes a 50 percent reduction (66 hours), and the high estimate assumes a 75 percent reduction (99 hours). These represent low, primary, and high behavioral adjustments, respectively.

Using 2025 PIR data, the average annual salary for Head Start Preschool classroom teachers is $62,746 and for assistant teachers is $42,272, after adjusting the PIR salary data by 2 percent to express the estimates in constant 2026 dollars and applying a 24 percent fringe adjustment. Multiplying by the number of teachers reported in the PIR (32,262 classroom teachers and 35,881 assistant teachers) yields total annual teacher compensation of approximately $3,541,086,867.

Applying the percentage reduction in annual hours to total compensation yields estimated reductions of approximately $107,010,867 under the low estimate, $214,021,734 under the primary estimate, and $321,032,601 under the high estimate. ACF assumes that the proposed policy changes are implemented over a five-year time horizon and these cost reductions would be fully realized upon implementation in year five.

These reductions reflect reduced required instructional hours and associated staffing time. Resources made available through reduced duration requirements may be redirected toward other program priorities or expanded enrollment.

Table 5. Annual Reduction in Teacher Compensation from Removal of Head Start Preschool Duration Requirements

Scenario	Reduction in Hours	Percent Reduction of Total Teacher Compensation	Estimated Annual Reduction
Primary	66 hours	6.04%	$214,021,734
Low	33 hours	3.02%	$107,010,867
High	99 hours	9.07%	$321,032,601

In addition to these estimated reductions in program expenditures, the proposed changes may also affect how families arrange child care, although these impacts are not quantified in this analysis. The proposed removal of Head Start Preschool duration requirements may result in changes to the number of hours of care provided to enrolled children, depending on program-level implementation decisions. To the extent that program hours change, families may adjust their arrangements by using a mix of formal child care, informal supports, or parental care, based on their individual preferences and local availability of options.

The extent of these adjustments is uncertain and likely to vary across communities and households. Key factors include the availability and affordability of alternative child care, local labor market conditions, program implementation decisions, and access to informal care networks. Due to this variability, ACF has not quantified these impacts but recognizes that families may respond in different ways, consistent with their needs, resources, and local conditions. These factors are also discussed further below in the section on Non-Quantified Impacts (Costs and Benefits).

D. Removal of Home-Based Service Duration and Caseload Requirements

The current regulation prescribes minimum numbers of home visits and group socializations and limits home visitor caseloads. The proposed rule would remove these Federal duration and caseload requirements.

For purposes of this estimate, we assume that states do not impose significant independent requirements on home-based service duration or home visitor caseloads.

We assume that, in response to removal of Federal duration and caseload requirements, programs may adjust the number of home visits per year as well as the number of families assigned per home visitor (caseloads), resulting in a reduced overall need for home visiting staff. Using PIR data, there are 5,556 home visitors reported. The average annual salary for home visitors is $62,373, after adjusting the PIR salary data by 2 percent to express the estimates in constant 2026 dollars and applying a 24 percent fringe adjustment.

We estimate potential reductions in the home visitor workforce under three scenarios as outlined in the following table. Current standards establish minimum expectations for visit frequency and duration (*e.g.,* weekly visits of defined length), which shape staffing and service delivery. Absent these requirements, we anticipate programs will likely shorten home visits, increase caseloads, and adjust staffing. Accordingly, the scenarios reflect significant changes to staffing costs.

The low estimate assumes a 25 percent reduction in the home visitor workforce, the primary estimate assumes a 50 percent reduction, and the high estimate assumes a 75 percent reduction. The low estimate represents minimal behavioral adjustment, while the high estimate reflects significant restructuring of home-based service delivery.

Table 6. Annual Reduction in Personnel Expenditures from Removal of Home-Based Duration and Caseload Requirements

Scenario	Workforce Reduction Assumption	Estimated Annual Reduction
Primary	50%	$173,272,194
Low	25%	$86,636,097
High	75%	$259,908,291

Under these assumptions, estimated annual reductions in personnel expenditures are approximately $86,636,097 under the low estimate, $173,272,194 under the primary estimate, and $259,908,291 under the high estimate.

E. Removal of Requirement for Child Development Specialist Role

The current regulation mandates that family child care providers partner with child development specialists. The proposed rule would remove this requirement.

Using PIR data, there are 570 child development specialists reported. Because salary data for this role are not separately reported in the PIR, we use the average annual salary for family child care providers as a proxy adjusted by 2 percent to express the estimate in constant 2026 dollars and then adjusted for fringe benefits, resulting in an estimated annual compensation of $67,123.

We assume the proposed policy change in this NPRM will result in many programs reducing or eliminating staffing for this role. Therefore, the low estimate assumes a 25 percent reduction in this workforce, the primary estimate assumes a 50 percent reduction, and the high estimate assumes a 75 percent reduction.

Under these assumptions, estimated annual reductions in personnel expenditures are approximately $9,564,986 under the low estimate, $19,129,973 under the primary estimate, and $28,694,959 under the high estimate.

Table 7. Annual Reduction in Personnel Expenditures from Removal of Child Development Specialist Requirement

Scenario	Workforce Reduction Assumption	Estimated Annual Reduction
Primary	50%	$19,129,973
Low	25%	$9,564,986
High	75%	$28,694,959

Safety and Transportation Practices

A. Removal of Requirement for Bus Monitors on Board at All Times

The proposed rule would remove the regulatory requirement that at least one bus monitor be present on vehicles transporting Head Start children at all times. Current regulations governing vehicle operation require programs that provide transportation services to ensure that a bus monitor is on board during transportation services.

The proposed change would provide programs with greater flexibility to determine how to structure transportation staffing based on local operational considerations, safety practices, and state or local transportation regulations.

This proposed regulatory change would reduce costs for programs that currently employ personnel to fulfill the Federal bus monitor requirement. Programs that determine a bus monitor is not necessary under their transportation model may reduce staffing costs associated with these positions. ACF acknowledges that programs may choose to continue employing bus monitors to comply with applicable state or local requirements.

To estimate potential reductions in personnel expenditures, the analysis first estimates the number of bus monitors currently associated with Head Start transportation services. According to the PIR, a total of 94,230 children received transportation to and from classes. This analysis estimates the number of bus monitors at the grant level by dividing the number of transported children for each grant, by an assumed ratio of 20 children per bus monitor and rounding the result upward to account for whole staff positions. This ratio is based on the capacity ranges of Type A buses. Based on this approach, the estimated number of bus monitors associated with Head Start transportation services is 5,130.

Compensation for bus monitors is estimated using the Bureau of Labor Statistics Occupational Employment and Wage Statistics for School Bus Monitors (SOC 33–9094), May 2025 mean annual wage of $35,150. Adjusting for a 2 percent inflation rate to achieve 2026 dollars results in a mean annual wage of $35,853. This analysis then applies a 24 percent adjustment to account for fringe benefits, resulting in an estimated annual compensation of $47,175 per bus monitor which reflects a fully loaded hourly compensation rate of $22.68.

Because bus monitoring responsibilities are frequently performed by staff who hold multiple roles within Head Start programs (*e.g.,* teachers, aides, etc.) or part-time staff, the analysis assumes that removal of the requirement would affect an average of one-third of a full-time equivalent position per monitor rather than eliminating a full staff position in every case. To account for uncertainty regarding program responses to this policy change, the analysis models three behavioral scenarios reflecting different levels of reduction in bus monitoring hours. The low scenario assumes programs reduce bus monitor staffing hours by 25 percent, representing minimal behavioral change. The primary scenario assumes a 50 percent reduction in hours. The high scenario assumes a 75 percent reduction, representing more substantial adjustment in transportation staffing practices.

These scenario assumptions are set based on evidence that Head Start programs have historically reduced transportation services in response to cost pressures and regulatory burden. The added flexibility is expected to enable programs to continue offering transportation in a more cost-efficient manner, which many are likely to adopt. Under the primary scenario, assuming a 50 percent reduction in hours devoted to bus monitoring, the estimated annual reduction in personnel expenditures is approximately $39,931,279. Under the low scenario, assuming a 25 percent reduction in hours devoted to bus monitoring, the estimated reduction is approximately $19,965,639. Under the high scenario, assuming a 75 percent reduction in hours, the estimated reduction is approximately $59,896,918.

Table 8. Estimated Annual Cost Reduction in Personnel Expenditures from Removal of Bus Monitor Requirement

Scenario	Estimated Reduction
Primary (50% reduction in hours)	$39,931,279
Low (25% reduction in hours)	$19,965,639
High (75% reduction in hours)	$59,896,918

These estimates reflect potential reductions in staff time associated with the proposed removal of the Federal bus monitor requirement. Actual cost reductions may be smaller if programs retain bus monitors to comply with state or local transportation regulations or to maintain existing safety practices. As with other personnel-related adjustments discussed in this RIA, any reductions in staffing time may allow programs to reallocate resources to other program activities.

Health and Mental Health Services

The current standards require programs to conduct health determinations, assist families in navigating health systems, facilitate access to health care and insurance for pregnant women within specified timeframes, conduct tooth brushing activities, and provide mental health supports for children and families, including ongoing mental health consultation at least monthly. The proposed rule would remove specific Federal requirements across these areas.

To estimate the annual reduction in costs associated with these removals, we use FY 2025 budget line-item reports for health contractual services ($40,966,609 total reported across all Head Start grant applications) and personnel costs for health and mental health services ($177,357,309 total reported across all Head Start grant applications). These FY 2025 amounts are adjusted by 2 percent to express the estimates in constant 2026 dollars before applying the scenario multipliers, resulting in $41,785,941 for health contractual services and $180,904,455 in personnel costs for health and mental health services. These categories include expenditures associated with health, mental health, and nutrition-related personnel and consultants to the extent such costs are reported by grant recipients and therefore reflect the primary budget categories through which nutrition consultation and related services are funded. Because these expenditures are reported in aggregate, ACF is unable to separately identify or estimate the costs associated solely with nutrition and health consultants. See the Non-Quantified Impacts discussion of nutrition-related provisions for additional discussion regarding anticipated impacts and costs associated with those requirements. We sum these amounts and apply multipliers of 25 percent (low), 50 percent (primary), and 75 percent (high). Head Start programs remain responsible for ensuring the provision of health, mental health, and related services per the Act and must also continue to comply with applicable state and local requirements. In addition, staff will still need ongoing support to address children's challenging behaviors; therefore, programs are likely to retain staff for these supports. If they choose, programs may maintain health and mental health services as currently implemented in their programs, if this best fits the needs of their families and communities. Accordingly, we apply scenarios that anticipate more moderate behavioral adjustments in this area.

This analysis also reflects the removal of requirements introduced in the 2024 final rule related to monthly mental health consultation, which were previously estimated to result in approximately $64 million in annual costs and reflected the cost of providing regular mental health consultation and related supports.[14] The current NPRM proposes to modify those requirements, along with removal of additional prescriptive provisions, so the estimates presented here reflect a broader set of changes to health and mental health service delivery rather than a direct one-to-one reversal of the prior estimate from the 2024 final rule.

Table 9. Annual Reduction in Health and Mental Health Services Costs

Scenario	Contractual Health Services	Personnel (Health + Mental Health)	Multiplier	Estimated Annual Cost Reduction
Primary (50%)	$41,785,941	$180,904,455	0.50	$111,345,198
Low (25%)	$41,785,941	$180,904,455	0.25	$55,672,599
High (75%)	$41,785,941	$180,904,455	0.75	$167,017,797

Under the primary scenario, the estimated annual reduction is approximately $111.3 million. Under the low and high scenarios, the estimated annual reductions are approximately $55.7 million and $167.0 million, respectively.

These reductions reflect flexibility for programs to redesign service delivery in alignment with the Act, state licensing requirements, and local health systems, while maintaining focus on core health and nutrition outcomes. Overall, ACF continues to anticipate a net reduction in costs as previously estimated due to the removal of prescriptive health and mental health requirements.

Family Service Worker Caseloads

The current family engagement standards require that the planned number of families assigned to staff conducting the family partnership process be no greater than 40 families per staff member, subject to limited waivers. The proposed rule would remove the 40:1 caseload limit that was introduced in a final rule published in 2024, restoring discretion to local programs to determine family services staffing patterns that are better aligned with family needs and available resources.

Based on the same methodological framework used in the 2024 final rule but incorporating updated data and baseline assumptions, we estimate that 2,170 additional family services staff would be required to meet the 40:1 ratio under current requirements.

The 2024 final rule estimated approximately $125 million in annual costs associated with implementing the 40:1 family service worker caseload requirement using similar

[14] This dollar estimate is what was published in the 2024 final rule analysis and is not adjusted to 2026 dollars.

methodological assumptions. The estimates presented here build on that approach but incorporate updated 2025 PIR data on family service worker staffing levels and do not apply the same assumptions regarding associated benefits, as the baseline for this analysis assumes rescission of those requirements. These adjustments result in differences between the estimates, which is why the 100 percent scenario presented here does not directly align with the $125 million estimate from the 2024 final rule.

We employ the assumption of a $40,000 average annual salary used in the 2024 final rule, this analysis applies a 2 percent annual inflation adjustment for two years to express the salary in 2026 dollars, resulting in an average annual salary of $41,616. Fringe benefits are assumed to represent 24 percent of total compensation; therefore, this analysis divides wages by 0.76 to estimate fully loaded compensation, resulting in a fully loaded average annual salary of $54,758. Because this requirement has not yet taken effect, we estimate future cost reductions associated with eliminating the anticipated need for these additional staff.

This model applies scenarios with high behavioral adjustments because programs have yet to implement this requirement and ACF recognizes there are challenges with hiring and retaining family services staff based on program feedback. Accordingly, the added flexibility through the removal of the 40:1 ratio requirement is expected to enable programs to continue offering family support services in a more cost-efficient manner, which many programs are likely to maintain. We apply reduction scenarios of 50 percent, 75 percent, and 100 percent of the projected 2,170 positions, while adjusting for 24 percent fringe.

Table 10. Annual Reduction in Family Service Worker Costs

Scenario	Reduction in Additional Staff	Estimated Annual Cost Reduction
Primary (75%)	1,628	$89,120,314
Low (50%)	1,085	$59,413,543
High (100%)	2,170	$118,827,085

Under the primary scenario, the estimated annual reduction is approximately $89.1 million. Under the low and high scenarios, estimated reductions are approximately $59.4 million and $118.8 million, respectively. ACF assumes that the proposed policy changes are implemented over a five-year time horizon and these cost reductions would be fully realized upon implementation in year five.

These reductions reflect that programs will likely determine alternative staffing configurations to meet family needs without a Federally prescribed caseload ratio. Without a Federally specified caseload limit, family service workers may structure services differently, which may affect the intensity or frequency of individualized support provided to families.

Management Systems and Administrative Cost

Overview

This proposed rule would rescind requirements in Part 1302 Subpart I related to staff qualifications and certain human resources policies. It would remove specific Federal qualification requirements for several non-education staff positions, remove prescriptive requirements to implement a coordinated coaching strategy for education staff, and remove requirements related to staff breaks that were introduced in a 2024 final rule. These changes are intended to restore discretion to local programs, reduce Federally prescribed staffing constraints, and allow programs to align staffing models with local labor market conditions and state requirements, while continuing to comply with statutory requirements under the Act. Certain education staff qualification requirements remain in the Act, including those applicable to Head Start Preschool teachers, preschool assistant teachers, Early Head Start teachers, and education managers or coordinators, while the proposed revisions would remove regulatory qualification requirements for other specified roles.

The proposed rule includes requirements related to program-level aggregation and analysis of child assessment data that align to current regulation in that they would continue to require programs to establish program goals, conduct self-assessments, and submit findings to HHS but the proposed regulations do not include the specified minimum frequency in current § 1302.102(c)(2)(ii).

In addition, the proposed rule would reduce the cap on allowable costs to develop and administer a Head Start program under § 1303.5 from 15 percent to 5 percent of total approved program costs.

A. Removal of Staff Qualification Requirements for Non-Education Staff

Under the current Performance Standards at § 1302.91, specific minimum qualifications apply to certain management and service delivery positions. These include requirements related to education and credentials for roles such as Head Start directors; fiscal officers; management staff overseeing family, health, and disability services; home visitors; family child care providers; and family services staff.

The proposed rule would remove these Federal qualification requirements for these roles, allowing programs to determine appropriate qualifications, consistent with state, tribal, and local laws and their own operational needs.

The economic effect of removing these qualification requirements is expected to reduce average personnel expenditures as vacancies are filled and compensation aligns more closely with the qualifications of newly hired staff, who may hold lower credentials than currently required. The estimated reduction in compensation is presented below; however, reductions related to health staff and coaches are not included in this estimate, as they are addressed in other sections of this RIA.

To estimate the potential reduction in compensation, the analysis first determines a potential ''floor salary'' for each position by applying a percentage

reduction to the current average salary for that position. Under the baseline scenario, we assume that management staff hold at minimum bachelor's degrees, which aligns with requirements under the current performance standards. For management staff positions that previously required a baccalaureate degree, the analysis uses data from the National Center for Education Statistics' National Teacher and Principal Survey of Public School Principals (2020–21) to estimate differences in compensation by education level. Based on that distribution, the analysis estimates that the reduction in salary from a bachelor's degree to no degree for a management position in education is approximately six percent. Accordingly, a six percent reduction is applied to current average salaries for Head Start management positions to estimate the potential floor salary, which assumes no degree requirements for these roles. For positions that previously required a Child Development Associate credential, the analysis uses PIR data on EHS classroom teacher salary differentials by credential level and estimates a nine percent reduction from CDA to no credential. That nine percent reduction is applied to the relevant staff categories to estimate the potential salary floor, which assumes no credential requirements for these roles.

For each position, the salary difference is calculated by subtracting the estimated floor salary from the current average salary. This difference represents the maximum potential per-position reduction if all staff in that role were replaced with individuals holding no credential. Recognizing that programs are unlikely to terminate existing staff or replace all staff with individuals holding no credentials to realize these savings but may instead adjust hiring practices by filling vacancies at lower salary rates, three adjustment scenarios are modeled. The narrow range for the scenarios (10 to 50 percent) reflects that changes to staffing patterns are expected to be limited through attrition and hiring decisions. In the low scenario, 10 percent of positions move toward the estimated floor; in the primary scenario, 30 percent; and in the high scenario, 50 percent. The total reduction for each scenario is calculated by multiplying the per-position salary difference by the number of staff in that role and then by the applicable scenario adjustment percentage and summing across all affected positions.

Average salary inputs are derived from the PIR, except for family services staff, which are based on salary assumptions used in the 2024 final rule analysis. Where PIR salary data are used, ACF applies a 2 percent inflation adjustment to express estimates in constant 2026 dollars before applying fringe benefits. Counts of staff are also derived from the PIR. This analysis applies a 24 percent fringe adjustment to all salary estimates. These inputs are shown in the following table.

Table 11. Average Annual Salary and Count of Staff by Position

Staff Position	Average Annual Salaries, adjusted for constant 2026 dollars and 24% fringe	Count of Staff
Head Start Director	$151,266	1,807
Fiscal Officers	$165,479	1,665
Family Services Management Staff	$95,240	2,219
Health Services Management Staff	$83,859	1,913
Disability Services Management Staff	$93,969	1,571
Home Visitors	$62,373	5,556
Family Child Care Providers	$67,123	2,237
Family Services Staff	$54,758	16,340

The estimated annual reduction in personnel expenditures associated with removal of non-education staff qualification requirements is presented in the following table.

Table 12. Estimated Annual Reduction in Personnel Expenditures from Removal of Non-Education Staff Qualification Requirements

Scenario	Estimated Annual Reduction
Primary (30% adjustment toward floor)	$56,557,211
Low (10% adjustment toward floor; minimal behavioral change)	$18,852,404
High (50% adjustment toward floor; significant behavioral change)	$94,262,018

In the low estimate, which reflects minimal behavioral change in how programs currently operate in relation to these roles, annual reductions in staff salaries due to lowered qualifications are estimated at approximately $18.8 million. In the primary estimate, reflecting moderate adjustment in staffing patterns, annual reductions are estimated at approximately $56.6 million. This primary estimate is considered most representative, as programs are likely to still hire candidates that have comparable educational attainment for their role as their predecessor, rather than intentionally seeking and hiring candidates with no degrees for these positions. In the high estimate, reflecting more substantial adjustment in hiring practices, annual reductions are estimated at approximately $94.3 million.

B. Removal of Coaching Requirement for Education Staff

Current § 1302.92(c) requires programs to implement a research-based coordinated coaching strategy for education staff, including intensive coaching for identified staff. The proposed rule would remove these requirements, thereby reducing the level of prescriptive Federal expectations regarding coaching structures and allowing programs greater flexibility in how instructional support is delivered, including associated staffing or contractual arrangements. ACF notes that programs must continue to meet statutory requirements related to mentor teachers under section 648A(b), which may overlap with certain coaching functions, though these statutory requirements allow much more flexibility for programs in implementation of coaching supports.

Although programs may continue to provide coaching at their discretion or to align with the Act, the proposed removal of the regulatory requirements is expected to reduce the intensity and frequency of coaching activities in some programs. In this analysis, these changes are operationalized as a reduction in the number of staff or contracted personnel dedicated to coaching-type services, which may result in lower expenditures associated with coach salaries and related fringe benefits. The analysis assumes an average annual compensation of $50,000 per coach, expressed in constant 2026 dollars, and applies a 24 percent adjustment for fringe benefits, resulting in an average total compensation of $65,789. Based on PIR data, 5,432 individuals currently provide coaching services.

The total baseline annual compensation associated with coaching staff is calculated by multiplying 5,432 coaches by $65,789, resulting in approximately $357.4 million. Because some programs may continue coaching activities and maintain instructional support functions through mentor teachers as required by the Act, three adjustment scenarios are modeled. The wider adjustment range (25 percent to 75 percent) reflects that, unlike staffing changes tied to education qualifications, coaching is a program activity that may be integrated into broader instructional support roles and can generally be scaled back in intensity more quickly following the removal of regulatory requirements, including through reductions in dedicated staff or contracted services. In the primary scenario, 50 percent of coaching expenditures are reduced. In the low scenario, 25 percent of expenditures are reduced, reflecting less significant behavioral change. In the high scenario, 75 percent of expenditures are reduced, reflecting more substantial reduction of coaching activities.

Table 13. Estimated Annual Reduction in Coaching Expenditures

Scenario	Reduction Percentage	Estimated Annual Reduction
Primary	50%	$178,684,211
Low (minimal behavioral change)	25%	$89,342,105
High (significant behavioral change)	75%	$268,026,316

Under the primary scenario, annual reductions are estimated at approximately $178.7 million. Under the low scenario, annual reductions are approximately $89.3 million. Under the high scenario, annual reductions are approximately $268.0 million.

Variations in the extent to which programs continue to use coaching, including through mentor teacher roles or other instructional supports, may influence instructional support structures and how programs monitor and support teaching practices.

C. Removal of Staff Break Requirement

A Head Start final rule in 2024 introduced a requirement that programs provide regular breaks of adequate length and frequency to staff, including classroom staff, during hours worked. This requirement would go into effect for programs in August 2027. The proposed rule would remove this and related requirements, so programs would not be required to comply with this policy by August of 2027.

The cost estimate for the staff break requirement in the 2024 final rule was based on assumptions regarding the number of affected staff, the duration and frequency of breaks, and how programs would provide coverage. The analysis assumed approximately 108,869 education staff, with an average of 28 minutes of break time per shift and 180 shifts per year, resulting in approximately 5,049 minutes of break time per staff annually, or about 9.2 million total hours of break time across all education staff.

Because detailed data on existing break policies were not available, the analysis assumed that 20 percent of programs already provided breaks under baseline conditions. Of the remaining programs, it was assumed that 50 percent would accommodate break requirements by shifting workloads among existing staff, while the remainder would provide coverage by hiring additional staff, referred to as ''floaters,'' compensated at rates comparable to assistant teachers without credentials.

Applying these assumptions, the analysis estimated that approximately 2.7 million hours of additional break coverage would be required annually. Valuing this time using assistant teacher wages, including fringe benefits, resulted in an estimated annual cost of approximately $64 million in the 2024 final rule. This analysis adjusts that estimate by 2 percent annually for two years to express the estimate in constant 2026 dollars, resulting in an estimated future annual reduction of approximately $66.6 million.

Using the same cost assumptions from the prior rule, adjusted by 2 percent annually for two years to express the estimate in constant 2026 dollars, the removal of the requirement is estimated to reduce future annual expenditures by approximately $66.6 million. This estimate does not model alternative adjustment ranges, as it reflects the removal of a previously estimated compliance cost using the same underlying assumptions from the 2024 final rule, adjusted to constant 2026 dollars, rather than new behavioral responses.

Table 14. Estimated Future Annual Reduction from Removal of Staff Break Requirement

Activity	Estimated Annual Reduction
Removal of Required Staff Breaks	$66,585,600

D. Removal of Requirements Related to Data Use in Program Management

Under the current regulations, programs must establish a comprehensive and structured approach to program goals, monitoring program performance, and continuous improvement, while using data to assess progress and inform decision-making. This includes, as part of these approaches, aggregating and analyzing child-level assessment data multiple times per year, as well as reviewing data related to professional development, family engagement, and service delivery. In addition, programs must conduct a comprehensive community assessment at least once during the five-year grant period and review and update it annually to reflect significant changes in the community. Programs are required to use community assessment data to inform key program decisions, to identify community resources to support partnerships and coordinate services, and to guide strategic planning and continuous improvement efforts.

This proposed rule would streamline program goals, improvement, and reporting requirements. Programs must still set measurable goals for education, health, nutrition, and family engagement, assess their progress, and report findings to HHS, but would remove detailed and prescriptive requirements related to data collection, analysis, and use. Specifically, it would eliminate requirements for programs to aggregate and analyze child-level assessment data at specified intervals, as well as requirements to systematically analyze data related to professional development, family engagement, and other program services for continuous improvement. It would also remove prescriptive continuous improvement processes tied to specific data inputs and timelines. In addition, the proposed rule would include requirements related to community assessment that align to current regulations but do not include the specified frequency for conducting a comprehensive assessment and the requirement to annually review and update it. These changes are intended to reduce administrative burden, provide greater flexibility to programs in how they use data and community information to inform improvement, and would reduce ongoing compliance burden associated with use of data in program management.

The economic effects of these changes are expected to reduce total staff time associated with data use in program management for the 1,526 Head Start agencies. Based on the Supporting Statement for the Paperwork Reduction Act (OMB Control Number 0970–0148), programs spend an average of 79 hours per year in the collection and use of data for monitoring program performance, continuous improvement efforts, and conducting their self-assessment, as well as conducting a comprehensive community assessment at least once during the five-year grant period including an annual review and update to identify significant changes in community demographics, needs, and resources.

To estimate the reduction in expenditures associated with reduced staff time for these activities, we examined salary data on education and child care administrators from the BLS. The hourly compensation rate applied in this analysis is based on the BLS Occupational Employment and Wage Statistics for Education and Childcare Administrators, Preschool and Daycare (SOC 11–9031), May 2025 mean hourly wage of $31.15, from which this analysis applies a 2 percent inflation adjustment to express the estimate in constant 2026 dollars, resulting in a mean hourly wage of $31.77. This analysis then applies a 24 percent adjustment to account for fringe benefits, resulting in $41.81 per hour.

We calculated the baseline annual cost of data use in program management by multiplying 1,526 Head Start agencies by 79 hours per year of administrator staff time and by $41.81 per hour. To estimate reductions, three adjustment scenarios are modeled. The adjustment range (25 percent to 75 percent) reflects that programs have flexibility in the frequency and intensity of data collection and use as part of their approach to program management and decision-making. In the primary scenario, programs reduce staff time spent on these activities by 50 percent. In the low scenario, programs reduce staff time by 25 percent, reflecting minimal behavioral change. In the high scenario, programs reduce staff time by 75 percent, reflecting more substantial adjustment in these approaches.

Table 15. Estimated Annual Reduction from Removal of Data Aggregation and Community Assessment Requirements

Scenario	Agencies	Hours per Year	Hourly Rate (incl. fringe)	Reduction Percentage	Estimated Annual Reduction
Primary	1,526	79	$41.81	50%	$2,519,975
Low (minimal behavioral change)	1,526	79	$41.81	25%	$1,259,988
High (significant behavioral change)	1,526	79	$41.81	75%	$3,779,963

Under the primary scenario, annual reductions are estimated at approximately $2.5 million. Under the low scenario, annual reductions are approximately $1.3 million. Under the high scenario, annual reductions are approximately $3.8 million. The extent to which programs make changes in the frequency and intensity of using data as part of program management may influence how programs identify trends and the extent to which this informs continuous improvement strategies.

E. Reduction of Allowable Administrative Costs From 15 Percent to 5 Percent

Current § 1303.5 limits allowable costs to develop and administer a Head Start program to 15 percent of total approved program costs, inclusive of both Federal and non-Federal match. The proposed rule would reduce this cap from 15 percent to 5 percent of total approved program costs. Using program budget line-item data reflecting 2025 administrative cost allocations at 2026 funding levels, adjusted by 2 percent to express the estimates in constant 2026 dollars, this analysis first calculates the current share of total budgets allocated to administrative costs. These data indicate that administrative costs represent approximately 11.2 percent of total program budgets under the baseline scenario.[15]

In addition to program-specific data, ACF also considered administrative cost limitations applied in other Federal grant programs to assess the reasonableness of the proposed 5 percent cap. Across a range of human services and workforce programs, administrative cost limits commonly fall between 5 and 15 percent. Within Head Start specifically, approximately 3.7 percent of grants currently operate at or below a 5 percent administrative cost threshold, indicating that a small subset of programs are already functioning within this range.

ACF also examined the distribution of grants with administrative cost allocations above 5 percent but below 10 percent to assess how close additional programs are to the proposed threshold. Approximately 7.9 percent of grants currently operate between 5 percent and 7.5 percent administrative costs, and approximately 19.8 percent operate between 7.5 percent and 10 percent. ACF recognizes that relatively few grants currently operate at or below the proposed 5 percent cap. However, these data indicate that additional grants operate above 5 percent but below 10 percent administrative costs, suggesting that some programs may be closer to the proposed threshold than others. The extent to which programs can transition to the proposed cap will depend on current cost structures, program size, service area, administrative arrangements, and the availability of waiver relief where appropriate.

ACF also considered whether grants operating in more urban, metropolitan, or rural areas may face different opportunities to consolidate administrative functions. For this analysis, ACF used 2020 ZIP Code Rural-Urban Commuting Area (RUCA) classifications developed by the U.S. Department of Agriculture's Economic Research Service. ZIP Code RUCA codes are derived from census tract RUCA codes and classify ZIP codes based on urbanization and commuting patterns. ACF used the ZIP Code of the Head

[15] Many of the other provisions proposed in this document would have the potential to reduce spending on direct services, so a ratio estimate (of administrative costs to total program budgets) that accounts for the other provisions might be higher than 11.2 percent. As this percentage increases, so do the effects of the proposed administrative cost cap, including shifts of program funds—estimated to be $754 million if the baseline ratio is 11.2 percent—and transition costs.

Start agency location for this analysis; however, ACF recognizes that the agency location may differ from the locations where services are actually provided, particularly for grants that operate multiple sites or serve broad geographic areas. ACF classified grants with ZIP Code RUCA codes 1 through 3 as metropolitan or urban commuting areas, reflecting metropolitan core areas and areas with high or low commuting flows to a metropolitan urban area. Grants with ZIP Code RUCA codes 4 through 10 were classified as rural or nonmetropolitan areas, including micropolitan, small town, and rural areas.

Based on this analysis, among grants with matched ZIP Code RUCA classifications, approximately 63 percent of Head Start grants are located in metropolitan or urban commuting areas, and approximately 37 percent are located in rural or nonmetropolitan areas. Approximately 3.7 percent of grants in metropolitan or urban commuting areas operate at or below 5 percent administrative costs, compared to approximately 3.6 percent of grants in rural or nonmetropolitan areas. ACF recognizes that programs in areas where Head Start services are geographically clustered may have more opportunities to consolidate administrative functions, while programs serving more remote or dispersed communities may face different implementation considerations.

ACF also examined whether current administrative cost percentages varied by grant funding size or program type. This analysis did not show a meaningful relationship between total grant funding and administrative cost percentage; average and median administrative percentages were generally similar across grant-size categories. Smaller grants were somewhat more likely to report administrative costs at or below 5 percent; however, grant size did not appear to explain differences in administrative cost percentages. Administrative cost percentages also appeared broadly similar across HS Preschool-only, EHS-only, and combined HS Preschool/EHS grants, with only modest differences across program types.

Several HHS programs operate with a 5 percent administrative cost limit, including the Child Care and Development Fund (CCDF), the Substance Use Prevention and Treatment Block Grant (SAPT), the Community Mental Health Services Block Grant (MHBG), and the Community Services Block Grant (CSBG). These programs support decentralized service delivery systems that rely on State, local, and subrecipient entities to administer benefits and oversee program operations.

To quantify the potential fiscal impact of this proposed change on Federal Head Start funding, total Head Start funding is defined as the sum of Head Start Preschool base, Early Head Start base, and Training and Technical Assistance funds in FY 2025 funds planning data, adjusted by 2 percent to express the estimates in constant 2026 dollars, is $12,166,833,883. Applying the baseline 11.2 percent administrative allocation results in approximately $1,362,685,395 in administrative costs across all Head Start programs. If administrative costs are capped at 5 percent, allowable administrative expenditures would be approximately $608,341,694. The difference between these amounts represents the estimated annual change in the distribution of Federal Head Start expenditures under the proposed cap.

Table 16. Estimated Annual Change in Federal Administrative Expenditures from Administrative Cost Cap Revision

Total Federal Head Start Funding	Baseline Admin Costs (11.2%)	Admin Costs at 5%	Estimated Annual Change
$12,166,833,883	$1,362,685,395	$608,341,694	$754,343,701

The estimated annual change in administrative expenditures is approximately $754.3 million. Programs may need to adjust administrative and programmatic cost allocations to comply with the proposed cap, and the extent of these adjustments will vary depending on existing cost structures, program size, and local requirements. Rather than representing a direct reduction in overall program costs, this policy is expected to shift how funds are allocated within programs, including toward direct services that promote the health, safety, and well-being of children and families. Because this policy establishes a fixed cap, no separate low or high behavioral scenarios are modeled as it reflects a regulatory constraint rather than behavioral adjustment.

If programs anticipate undue challenges with complying with this proposed change in the administrative cost cap, they have the option under proposed § 1301.18 to request a waiver of this requirement. It is at ACF's discretion to review and approve such requests, which may provide flexibility for programs facing implementation constraints. ACF invites comment on the proposed waiver process, including circumstances under which programs may seek waivers from the administrative cost limitation and the extent to which such flexibility would support implementation of the proposed cap.

F. Additional Considerations Affecting Administrative Costs

In addition to the quantified changes associated with lowering the administrative cost cap from 15 percent to 5 percent, several other provisions of the final rule may affect administrative expenditures. Many of these provisions were assessed individually as having marginal fiscal impact relative to the larger cost drivers discussed in this RIA and therefore were not separately quantified as administrative cost adjustments. However, when considered collectively, these changes are expected to influence administrative spending patterns and may affect how programs allocate administrative resources and structure operations while continuing to support effective service delivery for children and families.

Several proposed regulatory revisions are expected to affect administrative processes and workload requirements; many are not separately quantified in this analysis because their impacts are considered individually modest.

Proposed changes to recruitment and attendance requirements may also change administrative practices.

Programs may align attendance accountability practices more closely with state licensing standards, resulting in potential changes in administrative time devoted to follow-up procedures. The proposed removal of certain prescriptive supervision requirements, to the extent those requirements differ from state licensing standards, may likewise change associated administrative oversight and documentation requirements.

Certain requirements related to waitlists and enrollment procedures are proposed for removal from the Performance Standards; programs must continue maintaining waitlists, both as a practical necessity for managing enrollment and because it is required by the Act. Similarly, certain Federal training requirements are proposed for removal; programs will likely continue to provide trainings, either because they remain required by the Act or state licensing frameworks, or because programs determine that such training is necessary to support safe and effective operations. In some states, child abuse and neglect reporting training is embedded within broader professional development hour requirements or required at hire or periodically rather than annually; even in these circumstances, ACF assumes that overall changes in administrative costs associated with training will be modest.

Taken together, ACF anticipates that programs may adjust administrative structures and processes by streamlining and consolidating processes, aligning more closely with state licensing and statutory requirements, and exercising increased local discretion. Although many of these individual changes were assessed as marginal relative to the larger quantified fiscal impacts in this RIA, their combined effect may influence administrative expenditures and resource allocation decisions within programs.

Furthermore, the combination of the quantified changes discussed throughout this RIA and the additional proposed streamlining effects described above are expected to provide programs with multiple avenues to restructure administrative functions and move toward compliance with the proposed cap in a manner consistent with ACF's commitment to effective service delivery and responsible stewardship of Federal resources.

Facilities

The proposed rule would remove several regulatory provisions governing applications for the purchase, construction, or renovation of facilities using Head Start grant funds. Under the current regulations, programs seeking such funding must submit extensive documentation as part of the facilities application process.

The proposed regulatory changes would remove certain prescriptive documentation requirements and are expected to reduce administrative burden in the application process for programs that pursue facilities funding by reducing the effort associated with preparing and submitting supporting materials. The extent to which existing facilities applications would be revised to align with the policy changes proposed in this NPRM is yet to be determined and removal of these requirements does not necessarily mean they will be fully removed from the facility application process.

The estimated reduction in administrative burden is calculated by applying existing burden estimates associated with preparation of facilities funding applications and adjusting those estimates to reflect a reduction in effort due to simplified application requirements.

Using PRA estimates associated with the Performance Standards (OMB Control Number 0970–0148, August 2024), the calculation assumes that the number of Head Start programs potentially affected by the regulatory change is 250 grants on an annual basis. Based on burden estimates from the Supporting Statement for the Performance Standards, programs spend an average of 40 hours preparing facilities-related grant application materials annually. The hourly cost of staff time is estimated using the BLS Occupational Employment and Wage Statistics for Education and Childcare Administrators, Preschool and Daycare (SOC 11–9031), which reports a May 2025 mean hourly wage of $31.15, from which this analysis applies a 2 percent inflation adjustment to express the estimate in constant 2026 dollars, resulting in a mean hourly wage of $31.77. When this analysis applies a 24 percent fringe adjustment, the estimated fully loaded hourly cost for staff time is $41.81.

The analysis assumes that simplification of the application process would reduce the number of staff hours required by 20 percent. This assumption reflects a moderate reduction in effort, recognizing that facilities funding applications remain complex and that some documentation will likely continue to be required in practice.

The total reduction in administrative burden is therefore calculated by multiplying the number of programs by the average hours spent preparing application materials, by the hourly wage rate including fringe benefits, and by the expected 20 percent reduction in hours required to complete the application.

Table 17. Estimated Cost Reduction with Facilities Funding Applications

Number of Grants	Hours per Grant per Year	Hourly Wage (with Fringe)	Reduction Factor	Total Cost Reduction
250	40	$41.81	0.20	$83,613

The reduction in administrative burden associated with the facilities application process results in an estimated cost reduction of approximately $83,613 annually.

Summary of Overall Estimated Cost Reductions, Costs, and Program Reinvestments

The proposed rule would remove or streamline a number of regulatory requirements governing program operations, staffing structures, service delivery models, and administrative procedures. This RIA estimates the resulting reductions in regulatory burden and personnel expenditures across several categories, including reductions in staffing, service duration requirements, program oversight activities, and administrative processes. Unless otherwise noted, all cost estimates are presented in constant 2026 dollars; estimates related to funded slots

discussed in the ''Increase in Funded Slots Capacity'' section are presented in nominal dollars to reflect inflation-adjusted program costs.

Across all quantified categories where behavioral scenarios were modeled (excluding behavioral scenarios that are one-time costs), the estimated annual net reduction in program expenditures is approximately $1.5 billion under the primary scenario, with a range of $722 million under the low scenario and $2.2 billion under the high scenario. These estimates reflect the combined effects of reductions in personnel expenditures associated with staffing flexibility, reductions in administrative burden associated with documentation and reporting requirements, and reductions in other operational costs across multiple areas of program operations.

In addition to the scenario-based estimates, certain provisions generate quantified impacts that are estimated as relatively fixed amounts rather than behavioral scenarios. This includes reductions associated with the simplification of facilities application documentation, resulting in a fixed annual reduction of $83,613. Additionally, the estimated annual change associated with the administrative cost cap is $754,343,701. Rather than representing a reduction in overall Head Start spending, this estimate reflects a reallocation of expenditures within the program. Under the proposed cap, these funds would no longer be available for administrative costs and could instead be directed toward direct services, expanded enrollment capacity, or other allowable uses. Accordingly, ACF characterizes this impact as a program reinvestment within Head Start rather than a reduction in overall program funding.

When these fixed reductions, program reinvestments, and scenario-based estimates are considered together, the total estimated annual quantified impact associated with the proposed rule is approximately $2.2 billion under the primary scenario, with a range of approximately $1.5 billion under the low scenario and approximately $3.0 billion under the high scenario.

As a sensitivity analysis, ACF considered an alternative baseline in which the wage and non-wage benefit requirements from the 2024 final rule are fully implemented. Under that rule, compensation levels would increase, affecting both the cost of remaining staff and the value of any reductions in staffing or hours.

Holding behavioral responses constant, higher compensation levels would increase the dollar value of estimated cost reductions, as reductions in staffing or hours would occur at higher wage levels. Based on estimates from the 2024 final rule, this corresponds to an increase of approximately 19 percent. Applying this relationship as a simplifying assumption, the quantified impacts presented in this RIA would be approximately 19 percent higher under this alternative baseline. For example, total estimated cost reductions of $2.2 billion would increase to approximately $2.64 billion under the primary scenario.

This sensitivity analysis is illustrative and does not incorporate the phased implementation schedule of the 2024 rule or potential changes in program behavior, including staffing changes, under a higher-cost baseline. It also does not account for the corresponding increase in costs for remaining staff. Accordingly, the net effect on total program costs could differ from this percentage-based estimate. ACF uses the primary baseline, which excludes the 2024 wage and benefit requirements, for all central estimates to maintain consistency with the proposed regulatory framework.

These estimates represent potential changes in regulatory burden, program expenditures, and resource allocation associated with the proposed removal or modification of Federal regulatory requirements. Actual realized cost reductions may differ depending on program implementation decisions, state licensing requirements, local labor market conditions, and the extent to which programs choose to maintain existing practices even when they are no longer required by Federal regulation.

In addition to the recurring annual net cost reductions described above, the proposed rule is also expected to result in future cost savings associated with provisions of the 2024 final rule that have not yet taken effect and certain one-time implementation costs. These costs are primarily associated with transitioning to English-only instruction in affected classrooms and include both fixed costs, such as the replacement of curriculum and instructional materials, estimated at approximately $46.9 million, and scenario-based costs related to staffing adjustments, including retraining or recruitment. The estimated scenario-based one-time staffing costs are approximately $25.8 million under the low scenario, $51.7 million under the primary scenario, and $77.5 million under the high scenario. These costs occur during the initial implementation period rather than on an ongoing basis. As such, they are presented separately from the recurring cost reductions and do not offset the annualized savings estimates described in this section.

Future cost savings associated with the removal of the staff break requirement and family service worker caseload requirement reflect avoided costs that would otherwise be incurred beginning in 2027 under the 2024 final rule. These savings are presented separately from ongoing annual reductions for clarity. Some quantified impacts presented in this analysis reflect reductions in regulatory compliance costs, while others reflect reallocations of Head Start expenditures. In particular, the estimated impact associated with the proposed administrative cost limitation represents a program reinvestment effect in which expenditures previously allocated to administrative activities may be redirected toward direct services and other programmatic uses. These impacts are presented separately to distinguish changes in expenditure allocation from reductions in regulatory costs.

Table 18. Summary of Estimated Annual Cost Reductions, Program Reinvestments, and One-Time Costs

Category	Low Scenario	Primary Scenario	High Scenario
Scenario-Based Annual Net Reductions	$722,454,598	$1,463,761,599	$2,205,068,600
Fixed Annual Reductions	$83,613	$83,613	$83,613
Administrative Cost Cap Program Reinvestments	$754,343,701	$754,343,701	$754,343,701
Total Annual Net Reductions and Reinvestments	$1,476,881,912	$2,218,188,913	$2,959,495,914
One-Time Costs – Curriculum and Materials	$46,917,500	$46,917,500	$46,917,500
One-Time Costs – Staff Retraining or Recruitment (Scenario-Based)	$25,848,093	$51,696,186	$77,544,279
Transition and Implementation Costs (One-Time)	$1,531,124	$2,551,874	$3,572,623
Future cost savings - Staff breaks	$66,585,600	$66,585,600	$66,585,600
Future cost savings - Family service workers caseload (Scenario-Based)	$59,413,543	$89,120,314	$118,827,085

Additional one-time administrative costs associated with transition and implementation are presented separately in the table above and are estimated at approximately $1.5 million to $3.6 million (primary estimate: $2.6 million). Further detail on these costs is provided in the transition and implementation section that follows.

Time Horizon of Estimated Cost Reductions, Costs, and Program Reinvestments

Consistent with OMB Circular A–4, regulatory impacts are evaluated over a multi-year period to reflect how costs and benefits accrue over time. This requires assumptions regarding the timing of implementation and the pattern of realized effects.

For this analysis, ACF assumes that economic impacts begin in 2027 and that the proposed policy changes are implemented gradually over a five-year period, reaching full implementation in Year 5. This phased approach is consistent with Head Start grant cycles and reflects that programs may require time to adjust staffing models, service delivery structures, and administrative processes in response to the proposed regulatory changes.

Under this assumption, the savings estimates in Table 19 increase incrementally over time, with approximately 20 percent of recurring cost reductions realized in 2027, increasing by 20 percentage points annually until full implementation is reached in 2031.

Table 19 presents the quantified impacts using Circular A–4 accounting categories by distinguishing savings, costs, and transfers over the five-year time horizon. Savings reflect recurring cost reductions expected to accrue over the five-year implementation period. Costs reflect one-time implementation costs associated with the proposed rule. Transfers reflect the estimated administrative cost cap effect, which represents a program reinvestment within Head Start from administrative costs to direct services or other allowable programmatic uses, rather than a reduction in overall program spending.

Table 19 excludes avoided future costs associated with the staff break and family service worker caseload requirements because those requirements have not yet taken effect and would be rescinded before implementation. These avoided costs are presented separately in Table 18 and are not included in the Circular A–4 savings totals below.

Table 19. Savings, Cost and Transfer Accounting, Per Circular A-4 (Five-Year Time Horizon, Constant Dollars)

Year	Low	Primary	High
Savings, 2027	$145 million	$293 million	$441 million
Savings, 2028	$289 million	$586 million	$882 million
Savings, 2029	$434 million	$878 million	$1,323 million
Savings, 2030	$578 million	$1,171 million	$1,764 million
Savings, 2031	$723 million	$1,464 million	$2,205 million
Savings, Annualized	$425 million (3%) $414 million (7%)	$861 million (3%) $839 million (7%)	$1,297 million (3%) $1,264 million (7%)
Costs, 2027 and Annualized	$74 million (2027) $16 million (3%) $18 million (7%)	$101 million (2027) $22 million (3%) $25 million (7%)	$128 million (2027) $28 million (3%) $31 million (7%)
Transfers, 2027	$151 million	$151 million	$151 million
Transfers, 2028	$302 million	$302 million	$302 million
Transfers, 2029	$453 million	$453 million	$453 million
Transfers, 2030	$603 million	$603 million	$603 million
Transfers, 2031	$754 million	$754 million	$754 million
Transfers, Annualized	$444 million (3%) $432 million (7%)	$444 million (3%) $432 million (7%)	$444 million (3%) $432 million (7%)

Regulatory Alternatives

Consistent with OMB Circular A–4, ACF considered alternative regulatory approaches that correspond to subsets of the policies included in this NPRM. These alternatives are intended to illustrate how different combinations of policy changes could affect overall costs and cost reductions.

One alternative considered is a regulatory-only approach, under which only provisions that introduce new or expanded requirements would be adopted. These include requirements related to English-only instruction. Under this approach, programs would incur costs associated with implementation of these requirements, including one-time costs for curriculum and materials replacement and staff retraining or recruitment, as well as any ongoing administrative costs associated with compliance.

A second alternative considered is a deregulatory-only approach, under which only provisions that reduce or eliminate existing regulatory requirements would be adopted. These include changes related to staffing flexibility, removal of prescriptive service requirements, and reductions in administrative burden. Under this approach, programs would realize reductions in personnel expenditures and administrative costs similar to those estimated in the primary analysis, without incurring the additional costs associated with new regulatory requirements.

A third alternative considered was a delayed compliance approach for provisions that may prompt substantial transition costs, including the proposed 5 percent administrative cost cap and the English-language instruction requirement. Under this alternative, compliance with these provisions would be delayed for five years

following publication of the final rule. This alternative is intended to illustrate how a longer implementation period could affect the timing of transition costs and program adjustments while preserving the substantive policy changes reflected in the proposed rule. Under this alternative, affected programs would have additional time to adjust staffing, curriculum, and administrative structures prior to compliance. As a result, both the associated compliance costs and the estimated program reinvestment effects would be deferred until the delayed compliance date. ACF does not quantify this alternative separately because the effect of a delayed compliance date on the magnitude of costs would depend on program-specific implementation decisions and the extent to which programs adjust operations before the compliance date. Accordingly, this alternative is discussed qualitatively as a timing alternative rather than presented as a separate quantified estimate. ACF requests public comment and data on quantification of these costs.

These alternatives are presented for illustrative purposes to demonstrate the relative contributions of regulatory and deregulatory components of the proposed rule. The primary analysis reflects the combined effects of both sets of policy changes.

Table 20. Policy Alternative: Regulatory (Burden-Increasing Provisions Only)

Category	Low Scenario	Primary Scenario	High Scenario
One-Time Costs – Curriculum and Materials (Fixed)	$46,917,500	$46,917,500	$46,917,500
One-Time Costs – Staff Retraining or Recruitment, Implementation (Scenario-Based)	$27,379,217	$54,248,060	$81,116,902

Table 21. Policy Alternative: Deregulatory (Burden-Reducing Provisions Only)

Category	Low Scenario	Primary Scenario	High Scenario
Scenario-Based Annual Reductions	$722,454,598	$1,463,761,599	$2,205,068,600
Fixed Annual Reductions	$83,613	$83,613	$83,613

Table 22. Policy Alternative: Delayed Compliance and Timing of Quantified Effects

Year	Program Reinvestment Effect	One-Time Compliance Costs
Years 1–5	$0	$0
Year 6	$754,343,701	< $98,613,686
Year 7+	$754,343,701	$0

Increase in Funded Slots Capacity

ACF expects that the proposed rule, if finalized, would increase the number of funded slots that Head Start programs are able to support by reducing ongoing program expenditures and avoiding certain future costs. Specifically, reductions in ongoing program expenditures will allow programs to reallocate resources to support additional funded slots. In addition, certain future costs will be avoided through rescission of specific policies that have not yet been implemented (*i.e.* staff breaks, family service worker caseloads), thereby allowing programs to maintain funded slot levels that would have otherwise been reduced in order to implement those policy changes. Because Head Start is a grant-funded program, these cost reductions can be reallocated within the program to support additional funded slots.

Certain provisions of the 2024 final rule, including requirements related to staff breaks and family service worker caseloads, would have increased program costs beginning in 2027 when those policies would have gone into effect. This proposed rule would remove those requirements, resulting in avoided costs that may support retention of existing funded slots as shown in the following table, grouped by scenario.

Table 23. Estimated Funded Slots Retained Due to Removal of Future Requirements

Year	Head Start Preschool Slots Retained - Primary	Early Head Start Slots Retained - Primary	Head Start Preschool Slots Retained - Low	Early Head Start Slots Retained - Low	Head Start Preschool Slots Retained - High	Early Head Start Slots Retained - High
2027	6,281	2,457	5,082	1,988	7,479	2,926

In addition, the proposed rule would generate ongoing reductions in program expenditures. To estimate the number of funded slots that may be supported by these reductions, ACF applies a methodology consistent with prior analyses that translate changes in program expenditures into changes in funded slots, using average cost per slot. This approach is conceptually consistent with prior analyses by the HHS Office of the Assistant Secretary for Planning and Evaluation (ASPE) [16] that examined variation in spending per slot and its implications for funded slots, although the estimates presented in the current analysis reflect more recent FY 2025 funding data. The FY 2025 cost-per-slot input amounts are first adjusted by 2 percent to express them in constant 2026 dollars. The resulting funded slot estimates are then calculated using nominal values over the implementation period.

Under this approach, total cost reductions are allocated between Head Start Preschool and Early Head Start based on their respective shares of funded enrollment and divided by the average cost per slot for each program type. Using this framework, estimated impacts correspond to approximately $1,445,152,798 in reductions attributed to Head Start Preschool and $817,399,893 attributed to Early Head Start (in nominal dollars to reflect inflation), which translate to approximately 116,516 Head Start Preschool funded slots and 45,578 Early Head Start funded slots under the primary scenario at full implementation in 2031.

Because implementation is phased in over time, the potential for increasing funded slots grows gradually as cost reductions are realized. The estimates presented below reflect the number of funded slots that could be supported in each individual year under the phased implementation assumptions and should not be summed across years. Under this framework, net new funded slots reflect ongoing and scalable cost reductions and program reinvestments, including transfers associated with the administrative cost cap, and exclude one-time costs and avoided costs associated with future requirements. The estimates of funded slots presented in this section are based on nominal cost reductions and program reinvestment effects.

Table 24. Estimated Additional Funded Slots Supported in Each Year from Reallocation of Program Resources

Year	**Net New Head Start Preschool Slots - Primary**	**Net New Early Head Start Slots - Primary**	**Net New Head Start Preschool Slots - Low**	**Net New Early Head Start Slots - Low**	**Net New Head Start Preschool Slots - High**	**Net New Early Head Start Slots - High**
2027	19,002	7,433	12,480	4,882	25,705	10,055
2028	40,492	15,839	26,194	10,247	55,651	21,769
2029	63,516	24,846	40,435	15,817	88,815	34,742
2030	88,746	34,715	55,531	21,722	126,509	49,487
2031	116,516	45,578	71,559	27,992	169,730	66,394

The estimates are annual point-in-time estimates and should not be interpreted as cumulative additions to funded slots across years. Actual changes in funded slots will depend on program-level decisions, state and local

[16] Schreier, Rendon, and Benton, (2026)

requirements, workforce availability, and the extent to which programs choose to reallocate resources toward increasing funded slots.

Non-Quantified Impacts (Costs and Benefits)

In addition to the quantified impacts discussed in this RIA, the proposed rule may produce other non-quantified costs and benefits associated with variation in how local programs implement increased flexibility under the proposed regulatory framework. These effects are inherently uncertain because they depend on program behavioral responses, the continued applicability of other Federal, state, Tribal, and local requirements, and the extent to which programs maintain practices that were previously required by regulation. Some programs may continue existing approaches because they view them as effective or because other statutory or regulatory frameworks apply, while others may modify service delivery to better reflect local needs and resource constraints. The discussion below highlights selected non-quantified impacts, but there may be additional effects on program implementation and service delivery that are not captured in the quantified estimates presented in this RIA.

Many of the proposed changes would replace current regulatory provisions with streamlined requirements, remove regulatory text that duplicates requirements in the Act or other applicable Federal, state, Tribal, or local requirements, or provide additional flexibility for programs to determine how to meet program goals and statutory responsibilities. Where a replaced provision is not separately quantified or discussed in detail in this RIA, ACF assumes the economic impact is negligible because the provision is not expected to require material changes in program operations or expenditures, or because any resulting changes are expected to be limited and dependent on program-specific decisions, local conditions, and the continued applicability of other requirements.

ACF requests public comment on the estimated cost and benefits of non-quantified impacts, including any additional costs or challenges that commenters may identify.

A. Estimated Impact of Program Governance Provisions

The proposed rule streamlines regulatory provisions related to program governance by proposing to remove multiple provisions from current Part 1301 because most of these requirements are detailed in the Act. ACF proposes requirements related to parent committees, including establishment of committee bylaws, that would provide much greater flexibility to programs in the implementation and structure of parent committees. ACF does not anticipate that these policy changes would result in significant cost reductions for programs. Current regulations require programs to establish parent committees with defined advisory roles, and changes to program governance provisions in the proposed rule may affect how parents participate in program decision-making. Approaches to parent input into program design through governing bodies would likely vary across programs and therefore are not quantified.

Non-quantified benefits of this proposed rule include the prioritization of parents' role as essential partners in their children's education and greater flexibility for parent involvement in program governance. Increased flexibility in how parent committees operate allows programs the opportunity to adopt alternative approaches to parent involvement and may impact how parents participate in program decision-making based on the program and community's needs. These proposed changes would also grant parents the flexibility to determine which wrap-around and comprehensive services are best suited for a program to provide to children in care.

B. Estimated Impact of Eligibility, Enrollment, and Attendance Provisions

Collectively, this proposed rule would remove current Part 1302 Subpart A in its entirety and replace it with a streamlined set of requirements for programs related to child and family eligibility, enrollment, and attendance in Head Start. These changes in proposed § 1301.02 and § 1301.03 reflect multiple ACF priorities, including restoring flexibility to local Head Start programs; recognizing the importance of parents as primary decision-makers for their children; reducing burden for programs and families; and reducing duplication with relevant statutory requirements.

Impacts of Changes to Eligibility Provisions

The streamlined set of eligibility requirements proposed in § 1301.02 would remove and replace many requirements from current § 1302.12 that are already detailed in statute, including but not limited to: eligibility requirements related to family income, child age, receipt of public assistance, homelessness, and children eligible for IDEA; duration of eligibility; attendance procedures; active waitlists; enrollment reporting; procedures for recruitment, selection, and enrollment; and prohibition on charging fees. While the removal of these requirements reduces duplication across regulation and statute, ACF did not assume significant costs or savings from these changes because programs must still comply with these eligibility requirements in the Act.

The proposed rule would no longer allow family self-attestation to satisfy eligibility requirements. FY 2024 OHS monitoring data indicates that approximately 7.6 percent of child files reviewed through the monitoring process documented ''self-declared income or declaration of zero income, signed by family'' as the type of documentation for eligibility verification purposes. This was out of 23,819 total child files reviewed, a random sample of files from all programs that received a monitoring review in FY 24. However, monitoring data does not indicate what portion of these files are false attestations in which a family or staff member intentionally violated Head Start eligibility requirements. Therefore, under the proposed policy changes, we can extrapolate that approximately eight percent of children may currently be enrolled in Head Start that would otherwise no longer be eligible for enrollment under this proposed policy change, unless their family can submit alternative acceptable documentation to demonstrate they meet an allowable eligibility criterion.

The rule also proposes to require that programs report staff who violate eligibility determination regulations to the appropriate Office of Head Start regional office contact within HHS. ACF does not have readily available data to quantify impact of this change in terms of the number of staff who violate these requirements. FY 2024 OHS monitoring reviews found that 139 of 23,819 (.58%) child files reviewed were considered in error, not reflecting appropriate eligibility for Head Start services. Although some instances may involve staff or family fraud, others may stem from mistakes, such as eligibility miscalculations; for example, unknowingly enrolling children whose family income exceeded allowable thresholds. This data provides a reference point when considering the impacts of this policy change to safeguard against fraud, waste, and abuse.

The rule further proposes to remove a provision that currently allows programs to enroll a child without

documentation on child age if such documentation is unavailable from the family (§ 1302.12(h)). ACF does not have readily available data on children currently enrolled without documentation of child age, so we cannot easily quantify this proposed policy change. However, ACF expects important benefits from this proposed change, namely, to strengthen program integrity and ensure children enrolled in Head Start are of the statutorily required age to receive these services. ACF acknowledges that some families, such as those experiencing homelessness, may have a more challenging time providing such documentation, and programs may have to support such families more closely through the enrollment process.

Under the proposed rule, programs would be required to share eligibility data with HHS upon request. This change is expected to have minimal impact on program operations since programs already share data with HHS upon request through monitoring reviews.

The proposed rule also would remove the option to adjust families' income for housing costs for purposes of eligibility determination, which exceeded statutory authority. Non-quantifiable benefits to programs include less administrative burden associated with verifying housing costs, as well as ensuring limited Head Start services are reserved for those children most in need.

Impacts of Changes to Determining Community Strengths, Needs, and Resources

The rule proposes to remove the requirements in § 1302.11 of the current Performance Standards related to determining community strengths, needs, and resources to avoid duplication with the Act and to reduce burden on programs. Programs would not be required to propose a service area or to meet prescriptive requirements related to frequency of community assessment, what data elements must be included, and the timelines for review and updates. In considering potential impacts, ACF did not assume significant cost reductions associated with these changes because programs still have requirements in the Act related to the community assessment.

In a separate section of the RIA, Removal of Requirements Related to Data Use in Program Management, ACF quantifies savings associated with removing the requirement that programs conduct a community assessment at least once over a five-year grant period, but there are other non-quantifiable benefits to the proposed removal of the requirements in § 1302.11. For instance, programs would have fewer Federal requirements to meet and increased flexibility with how they conduct their community assessment and what data they consider. While this change may result in more variation in the scope and breadth of community assessments, ACF expects programs will continue to use their community assessment in a way that meets statutory requirements and supports service delivery that is responsive to the needs of the community.

Impact of Changes to Recruitment of Children

The NPRM proposes to remove current § 1302.13 related to recruitment to avoid duplication with the Act and to give programs greater flexibility in how they operationalize their recruitment practices. Programs would no longer be required to develop and implement a recruitment process designed to actively inform all families with eligible children within the recruitment area of the availability of program services, use modern technologies, and include efforts to recruit specific populations. While there may be costs to children and families from the removal of the requirement that programs use modern technology to assist families in applying for the program or recruit specific populations, ACF assumes programs will incorporate recruitment strategies tailored to the needs of their communities.

Although the proposed rule would remove duplicative requirements, many of these core requirements are in the Act. ACF does not assume costs or cost savings since programs will continue to comply with the Act.

Non-quantifiable benefits of the removal of the requirements in § 1302.13 include fewer Federal requirements and more discretion for programs in how they meet the recruitment requirements in the Act, including more innovation and tailored approaches to meet the needs of the community.

Impact of Changes to Selection Process

This proposed rule would rescind the requirements in current § 1302.14 associated with the selection process because they are overly prescriptive or duplicative of the Act. Programs would not be required to annually establish selection criteria or abide by prescriptive requirements related to understanding barriers to enrollment. Programs could continue to consider the enrollment of children of staff members as part of their selection criteria, even though this standard is proposed for removal in this NPRM.

Although the proposed rule would remove duplicative requirements, many of these requirements are in the Act, therefore ACF does not assume costs or savings. ACF also does not quantify the benefits associated with greater flexibility for programs in designing and implementing their selection process. Fewer requirements related to the selection process would reduce administrative burden for programs.

Impact of Changes to Enrollment and Attendance

This proposed rule would streamline the ERSEA-related requirements into one newly proposed section, § 1301.03, that would focus specifically on attendance and enrollment. This new section would require programs to track attendance for each child, consistent with § 1302.16(a) of the current Performance Standards, to comply with all applicable Federal and state statutes and state regulations pertaining to attendance procedures when there are child safety concerns due to absence(s), and maintain its funded enrollment level and fill any vacancy as soon as possible, but not to exceed 30 days, aligned with § 1302.15(a) of the current Performance Standards.

One result of streamlining ERSEA-related requirements into § 1301.03 is fewer Federal requirements. With respect to enrollment (current § 1302.14(d) and § 1302.15), programs would no longer be required to pursue continuity in a child's enrollment for the following year, make efforts to maintain enrollment in a different service area for children in specific populations, and regularly examine enrollment processes to streamline the experience for families.

With respect to attendance (current § 1302.16), programs would no longer be required to contact a family within one hour of program start time for unexpected absences, use specific strategies to promote attendance, analyze causes of absenteeism if average monthly attendance falls below 85 percent, or reengage a family when a child ceases to attend.

ACF does not quantify the costs or savings from these changes for several reasons. First, ACF expects variation in the extent to which programs implement these flexibilities. Second, the changes are duplicative of requirements in the Act, therefore ACF assumes they would not generate costs or savings. Third, programs must abide by all applicable Federal and state statutes and state regulations that apply to attendance procedures regarding

child safety concerns due to absence(s). While there may be additional administrative effort initially to ensure alignment with these other policies, ACF anticipates this would be minimal and transitional, as well as offset by less burden in the long term because there are fewer Federal requirements and less duplication.

Non-quantified benefits of these changes include increased program innovation with enrollment and attendance practices and reduced administrative burden associated with prescriptive process-oriented requirements that detract from staff capacity to direct to children and families.

Impact of Changes to Suspension and Expulsion

This NPRM proposes to remove current § 1302.17 regarding suspension and expulsion to restore state and local authority. Programs would no longer be required to follow the process outlined in § 1302.17(a) or (b) regarding suspension and expulsion. The removal of these requirements at the Federal level is not an endorsement of suspension and expulsion as approaches to address persistent and serious behavioral concerns; rather, it is allowing programs to determine their own discipline policies, within the context of state and local licensing requirements, and tailored to each individual child and situation.

ACF does not quantify the costs or savings of this policy change given expected variation across programs in their implementation and whether programs maintain some processes from current regulation. Additionally, many state licensing standards do address suspension and expulsion in varying ways. ACF assumes programs will resort to suspension or expulsion sparingly, in line with current practice, and given requirements to maintain full enrollment and to comply with applicable state licensing requirements.

Non-quantifiable benefits include reduced administrative burden for programs from decreased documentation and fewer Federal requirements; more local control and decision-making; greater program discretion to establish discipline policies that balance support to individual children with the safety of the learning environment; reduced burnout for staff; and more staff capacity for classroom management and instruction.

Impact of Changes to Fees

The NPRM proposes to remove § 1302.18 of the current Performance Standards, which outlines the policy on fees. ACF does not quantify any costs associated with removing this requirement because it remains in the Act. The benefit of its removal from the standards is reduced duplication with the Act.

C. Estimated Impact of Education and the Learning Environment Provisions

The rule includes several proposed policy changes in the design and implementation of education services, intended to reduce prescriptive Federal requirements, increase flexibility for Head Start programs, and improve child and family outcomes. This NPRM proposes to remove policies in current Subpart B—Program Structure and Subpart C—Education and Child Development Program services, including eliminating Federal requirements for center-based and family child care group size and service duration; removing detailed requirements related to home-based program design and implementation (*e.g.,* maximum caseloads, number of home visits, number of group socializations); and removing per-child facility square footage requirements, and removing overly prescriptive requirements related to education services (*e.g.,* teaching practices, organization of the learning environment, and requirements for naptime and daily routines). Additionally, the rule proposes to remove regulatory provisions that are duplicative of statutory requirements in the Head Start Act, including provisions related to program conversion, curriculum, and child screenings and assessments.

The proposed regulations include establishing a minimum duration requirement for physical activity during the program day; adding a new requirement for English-only instruction for children's education services; and requiring programs to provide educational materials and instruction to parents demonstrating the value of healthy marriage.

ACF does not quantify the costs or cost savings associated with many of these changes due to significant variation in how programs may choose to implement flexibilities and the absence of consistent data on current practices at the level of detail required for quantitative analysis. Programs may experience modest administrative cost savings from reduced recordkeeping, reporting, and compliance activities associated with the removal of detailed regulatory requirements. However, the magnitude of these savings is uncertain and likely varies across grant recipients depending on program structure, state requirements, and existing practices.

For center-based program structure in current § 1302.21, while ACF quantifies above the estimated cost savings associated with the removal of ratio requirements, we do not quantify all of the costs or savings associated with other proposed changes under current § 1302.21, including the removal of requirements for group size, square footage, and licensing. Group size and square footage requirements for center-based settings are interconnected with ratios; therefore, to avoid double-counting possible cost savings in this RIA, we do not quantify savings associated with the proposed removal of these policies. Further, many states have requirements in place for square footage and group size as part of licensing. Regarding licensing, the proposed rule would require programs to be licensed (see proposed § 1301.09(a)), whereas the current standards require center-based programs to meet licensing requirements. We do not anticipate a difference in cost associated with this policy change that we can quantify in this RIA. However, ACF acknowledges that there may be a larger role for states to play in monitoring programs per their own licensing standards, as previously some states may have relied on OHS to ensure programs met licensing requirements as part of Federal monitoring. More detail on licensing requirements is discussed in Estimated Impact of Safety and Transportation Provisions.

The proposed changes to current § 1302.21 reflected in proposed § 1301.05 are expected to provide non-quantifiable benefits such as increased flexibility and local control. For example, eliminating Federal group size and ratio requirements will allow programs to align with applicable state and local licensing standards, which will reduce duplication and give programs more autonomy to design classroom structures that better reflect community needs and available resources. It can allow programs to increase ratios and group sizes to serve more eligible children in classrooms, as long as they remain compliant with state and local requirements and ensure children's safety. Similarly, reducing service duration requirements may provide programs with greater discretion to determine schedules that align with families' preferences and workforce availability. Removing per-child facility square footage requirements may further increase flexibility in facility design and space utilization and facilitate the ability to serve more children in a classroom, so

long as programs are compliant with state requirements for square footage.

The proposed changes to center-based program structure requirements may also result in non-quantifiable costs for some families. To the extent that programs choose to reduce duration—annual hours or days of service—families may need to secure alternative child care arrangements, which could impose additional financial costs or lost work time for families. However, programs remain responsible for understanding the needs of their community and fully enrolling their programs; ACF encourages programs to consider decisions on duration within the context of family and community need to minimize the impact on families.

Additionally, the removal of prescribed group size and ratio requirements could result in children receiving less individualized attention from teaching staff. Ultimately, the impact of these changes will vary and depend on program-level decisions, and local regulatory contexts and are therefore not separately quantified.

Next, cost reductions associated with the removal of prescriptive requirements for home-based program structure in current § 1302.22, including home visitor caseloads, service duration, and group socializations, are quantified earlier in the RIA. The proposed rule may result in changes to how programs structure and deliver home visiting services. The estimated reductions in personnel expenditures associated with these changes may reflect, in part, adjustments in the frequency, duration, or intensity of home visiting services. In light of these changes, programs may achieve efficiencies by adjusting service delivery models without proportionate reductions in service quality or effectiveness. However, to the extent that these services provide value to participating families, such changes may represent a reduction in program benefits to families. As a result, ACF considers the potential for a cost associated with reduced service intensity, which may partially offset estimated cost savings described above. Because these effects depend on program-level implementation decisions and family responses, the net impact on benefits is uncertain and is not separately quantified in this analysis.

Next, ACF does not quantify all of the costs or cost savings associated with eliminating or revising requirements for family child care (FCC) program structure in current § 1302.23, including group size, ratios, and service duration. In particular, we do not quantify the removal of service duration requirements, as the FCC program option represents a very small share of all Head Start programs (approximately 1.3% of enrollment). Regarding group size and ratios, FCC programs will be required to comply with relevant state and local laws. It is feasible that an FCC program could yield reductions in annual operating costs if they choose to increase ratios or group sizes to meet state allowed thresholds, or if a program chooses to reduce operating hours (service duration) per the flexibility allowed under this proposed rule. However, a reduction in operating hours could have costs for families who may need to find alternative care or miss out on work to care for children. Under both the current and proposed regulations, FCC providers are required to be licensed. Given the continued applicability of state and local licensing requirements, and the limited scale of FCC slots, ACF expects any costs associated with this change to be minimal.

Additionally, ACF expects that removing certain FCC program structure requirements would also result in non-quantifiable benefits such as increased flexibility in program design and expanded service capacity in some communities. For instance, if Head Start-funded FCC homes in a given state are allowed to have higher group sizes or ratios per state licensing requirements than current Head Start regulations allow, these FCC homes could choose to enroll more children. At the same time, FCC homes also have the option to maintain their current group size and ratios. Programs will continue to be subject to applicable state and local licensing requirements for group size and ratio in FCC homes, which provide ongoing safeguards for health and safety. ACF acknowledges that the proposed removal of the child development specialist role as quantified in analyses above may result in added burden on some FCC homes that depend on the support of those staff.

Choices that programs make regarding structural program features may also influence service delivery. Current standards establish requirements related to staff-child ratios, group size, home visitor caseload limits, minimum home visit frequency, and periodic oversight of family child care providers. The proposed rule would defer more of these operational decisions to local programs or state licensing frameworks. This flexibility may allow programs to adjust staffing patterns, service duration and intensity, or delivery models in ways that better reflect individual family needs, local conditions, or resource constraints.

ACF also does not quantify the costs associated with the requirement to provide a minimum duration of daily physical activity. Based on available information and program expectations, ACF anticipates that most Head Start programs already incorporate substantial opportunities for physical activity into daily schedules consistent with current best practices and the long-standing emphasis of Head Start on children's physical health and development. As a result, this proposed provision is not expected to represent a significant change for most programs and is therefore anticipated to be cost neutral or involve negligible costs. Instead, the proposed requirement establishes a clear and consistent minimum baseline across programs, ensuring greater uniformity in implementation and aligning with broader Federal priorities related to child health and wellness, including the MAHA agenda. The requirement to provide a minimum duration of daily physical activity may result in non-quantifiable benefits for enrolled children, as it would promote improved health and development outcomes for children, including enhanced physical fitness, motor skill development, and overall well-being. While many programs may already meet or exceed this threshold, establishing a consistent baseline ensures that all children have access to regular movement as part of their daily Head Start experience.

ACF does not quantify a cost for proposed § 1301.04(b) which requires snack and meal times to be structured and used as learning opportunities that support teaching staff-child interactions and foster communication and conversations that contribute to a child's learning, development, and socialization. While the inclusion of this regulation in the streamlined proposed regulations reflects the administration's commitment to Make America Healthy Again and ensure healthy eating is a core component of Head Start classrooms, the proposed requirements align closely enough to previous Head Start requirements that ACF expects they would have negligible costs or savings for programs.

The proposed removal of prescriptive requirements in current § 1302.31 related to teaching practices, including the organization of the learning environment, and the structure of daily routines, including naptime, may result in non-quantifiable benefits. These changes may provide programs with greater flexibility to tailor instructional approaches, classroom environments,

and daily schedules to local needs, and the developmental needs of enrolled children. Programs may adopt varied approaches to implement teaching practices, structuring learning environments, and organizing routines, including naptime, which may better reflect community preferences and program models. This flexibility may also reduce administrative burden and allow staff to focus more on direct interactions with children. A potential non-quantifiable cost is that removing these requirements may lead to increased variability in teaching practices, learning environments, and daily routines, including naptime, across programs. As the standards proposed for removal are more about how a program structures and organizes the educational day and teaching practices, ACF anticipates negligible changes in program costs. And over half of states require a rest opportunity or have other requirements related to naptime in licensed child care settings.[17] Further, the Act still clearly requires programs to support educational development of children and implement research-based curricula so we anticipate programs will continue many of these practices, but with more flexibility in implementation.

Notably, this rule also proposes a new requirement to conduct all education to children in English. Proposed provision 1301.04(a)(1) specifies that if a child's native language is not English, and the child does not speak English, a program must prioritize teaching English to the child. Under the proposed regulations in § 1301.17(d), an Indian Head Start agency would not be subject to § 1301.04(a) so long as the language being spoken in the tribal program relates to the furtherance of tribal heritage. This proposed policy change aligns with E.O. 14224 and reflects Secretarial and ACF priorities.

Non-quantifiable benefits of this proposed policy may include increases in children's English language acquisition, particularly for children who are non-native speakers of English, which may facilitate enhanced participation in English-language classrooms in kindergarten and beyond. Earlier English proficiency may also support communication with broader community systems and may contribute to longer-term educational and economic opportunities. In addition, a uniform English-language approach may simplify curriculum implementation, staff training, and classroom practices, and may reduce the need for additional instructional materials or specialized language supports in some settings.

ACF quantifies costs associated with this proposed requirement above. ACF recognizes that English-only instruction may result in additional costs or burden for programs serving a greater share of dual language learners or operating in predominantly non-English-speaking communities, such as Puerto Rico and certain communities in Migrant and Seasonal Head Start programs. While the proposed change may promote English language acquisition and consistency in service delivery, it may also involve tradeoffs related to access to services.

As referenced in the preamble, the proposed regulations for § 1301.06(a) would require center-based and family child care programs to structure education and child development services to recognize parents' roles as children's primary teachers and nurturers. This change aligns with current regulations (§ 1302.34(a)) so there are no anticipated changes in impact. The proposed regulations for § 1301.06(b) require programs to implement strategies to engage parents and family members in their children's learning and development and support parent-child relationships, including specific strategies for father engagement, and provide educational material and instruction that demonstrates healthy marriage as a positive good. While the proposed regulations add a specific emphasis on engaging fathers and on providing educational material and instruction that demonstrates the value of healthy marriage, overall, the proposed regulations would greatly reduce the specificity in requirements for parent and family engagement, which may allow programs to adopt more individualized and locally responsive approaches to engaging families. ACF does not anticipate that the specific requirement to develop strategies to engage fathers or to provide educational material and instruction on healthy marriage will result in significant additional costs for programs, given the strong emphasis programs already have on engaging with and supporting parents and families, including through the use of parenting curricula.

Non-quantified benefits of the proposed changes to family engagement standards might also include increased local autonomy and the ability for programs to tailor services to the specific needs of their communities and families. Reduced administrative burden may allow staff to dedicate more time to direct services for children and families, including more flexible and responsive approaches to partnering with families in their child's education. ACF anticipates that the proposed requirement to provide educational materials and instruction demonstrating the value of healthy marriage would be well received by many programs and families, offering another source of information and support for families. This proposed requirement may introduce implementation challenges for some programs if certain families are less receptive to the content.

Finally, the proposed removal of regulatory provisions that duplicate statutory requirements is intended to clarify expectations and reduce redundancy for programs without altering underlying obligations. For example, the rule proposes to remove regulatory provisions related to the conversion of Head Start Preschool slots to Early Head Start slots because these requirements are duplicative of those already specified in the Act (Sec. 645(a)(5)(A)). As such, ACF does not anticipate any substantive changes to program operations or decision-making processes related to conversion of slots.

The rule also proposes to remove detailed regulatory requirements related to child screenings and assessments, while retaining the core statutory requirements in the Act, including requirements related to the referral and support of children who may be or are eligible for services under IDEA (see sections in this rule on Services for Children with Disabilities for more details). Reducing prescriptive Federal requirements would provide programs with greater flexibility to conduct screening and assessment on the timeline that accounts for families' readiness. This may also reduce administrative burden on staff and allow staff to focus more on instruction, as well as using assessment data to support children's development. At the same time, removing detailed requirements may lead to increased variability in how and when children are screened and assessed. Notably, programs still have the flexibility to conduct screenings early in the program year if desired, as well as to determine the frequency with which to conduct assessments of children's developmental progress. Overall, while these changes may introduce variability in implementation, ACF anticipates that the flexibility for programs in the proposed regulations would yield important benefits for programs, staff, children, and families.

Overall, ACF expects the proposed changes related to the teaching and

[17] National Association for Regulatory Administration. (2013). *2011–2013 Child Care Licensing Study. https://www.naralicensing.org/assets/docs/ChildCareLicensingStudies/2011-2013_child%20care%20licensing%20study.pdf.*

learning environment to reduce administrative burden, enhance program flexibility, and support more locally responsive service delivery. Program enrollees would benefit from programs having much more flexibility to design their services in a way that best meets individual needs and supports strong outcomes for children and families. Finally, ACF expects that programs may be able to serve additional enrollees in Head Start with cost savings garnered in other areas (*e.g.,* higher ratios or group sizes; reduced duration).

D. Estimated Impact of Health and Nutrition Provisions

This NPRM proposes several policy changes related to health and nutrition services. The impact of removing Federal requirements to conduct health determinations, assist families in navigating health systems, facilitate access to health care and insurance, conduct tooth brushing activities, and provide monthly mental health consultation have been quantified earlier in this RIA. However, several other requirements in current 1302 Subpart D, including the requirement to maintain a Health and Mental Health Services Advisory Committee, obtain advance authorization for health, mental health, and developmental procedures, and requirements related to family support services for health and mental health are proposed for removal because they are overly prescriptive. These changes have not been quantified in this RIA because ACF assumes many programs may continue aligning with current practice and therefore the rescission of these policies would not bear a significant cost to programs.

Many of the nutrition service requirements in existing § 1302.44 are proposed for removal because they are overly prescriptive or duplicative with requirements in the Act and therefore assumed to be cost negligible. The proposed rule introduces a new requirement for programs to serve children nutrient dense, whole foods that are compatible with a healthy and nutritious diet or, where applicable, provide an opportunity for infants to be served breastmilk during the day. This proposed change aligns with the administration's MAHA agenda by emphasizing the critical role of health and nutrition in early childhood development. Given Head Start's longstanding emphasis on supporting children's health and nutrition as a core component of program services, ACF expects that many programs already align with this proposed requirement and therefore we do not anticipate this policy change would result in significant additional costs for programs.

Lastly, the proposed rule clarifies that programs must collaborate with parents to promote children's health and well-being by addressing discussion topics, including the importance of physical activity and healthy eating and the negative health consequences of sugar-sweetened beverages and grain-based desserts—a clarification on parent collaboration that we assume to be cost negligible for programs.

Collectively, these changes would reduce administrative burden and provide programs greater flexibility in designing and implementing health and nutrition services that best meet their communities' needs, while still underscoring these services as a core component of Head Start programs. Although the proposed rule would remove several prescriptive regulatory requirements related to health, oral health, and mental health service delivery, programs would retain discretion regarding how these services are structured, subject to statutory requirements and other applicable Federal or state laws. In communities where Head Start has historically played a substantial role in facilitating health care access, reductions in program-facilitated services could have implications for families, depending on the availability of alternative health services. Importantly, non-quantified benefits of requiring programs to serve nutrient dense, whole foods include improved nutrition for children, which can enhance dietary quality, support healthy growth, and reduce the risk of obesity and diet-related conditions.[18] Improved nutrition is also associated with better attention, behavior, and school readiness.[19] Additionally, early exposure to whole foods may promote healthier long-term eating patterns.[20]

[18] Larruy-García, A., Mahmood, L., Miguel-Berges, M.L., Masip, G., Seral-Cortés, M., De Miguel-Etayo, P., & Moreno, L.A. (2024). Diet quality scores, obesity and metabolic syndrome in children and adolescents: A systematic review and meta-analysis. *Current Obesity Reports, 13*(4), 755–788. *https://doi.org/10.1007/s13679-024-00589-6.*

[19] Brkić, D., Concetti, C., Rémond-Derbez, N., & Hauser, J. (2026). Relationship between nutrition, brain, cognition, learning, and behavior in school-age children: Systematic evidence and future opportunities. *Nutrition Reviews.* Advance online publication. *https://doi.org/10.1093/nutrit/nuaf280.*

[20] Nansel, T.R., Channell-Doig, A., Lipsky, L.M., Burger, K., Shearrer, G., Siega-Riz, A.M., & Ma, Y. (2024). Prospective associations of infant food exposures and appetitive traits with early childhood diet quality. *The International Journal of Behavioral Nutrition and Physical Activity, 21*(1), 143. *https://doi.org/10.1186/s12966-024-01686-4.*

E. Estimated Impact of Safety and Transportation Provisions

The proposed rule streamlines safety and transportation requirements by removing duplicative Federal requirements found in current § 1302.47 (safety practices) and §§ 1303.70–1303.75 (transportation). This includes the proposed removal of safety requirements related to facilities, equipment and materials, background checks, safety training, hygiene practices, administrative safety procedures, and disaster preparedness. Similarly, transportation requirements related to vehicles, vehicle operation, trip routing, safety procedures, and transportation of children with disabilities are proposed for removal. Instead, the proposed rule would require that programs be licensed by their state, tribal, or local entity and comply with all relevant Federal and State statutes. If exempt from licensing, programs must meet CCDF basic health and safety requirements. Based on available data on licensing status, ACF estimates that approximately 26 percent of Head Start service locations are not licensed under state child care licensing requirements. These locations commonly include programs that are license-exempt, operating under public school or local education agency authority; home-based, home visiting, or other non-center-based service models; and sites licensed, permitted, or overseen through another authority or partner rather than through the standard state child care licensing process. Smaller shares reflect Tribal programs, alternative oversight structures, sites that are closed or not yet operational, and locations in the process of obtaining or renewing licensure. ACF assumes that state licensing requirements and CCDF basic health and safety requirements are largely duplicative of existing safety and transportation requirements and therefore we do not quantify a cost associated with this policy change. Further, these proposed changes do not represent a reduced emphasis on ensuring the safety of children in Head Start programs; rather, these changes would reduce burden on programs that are currently required to meet multiple sets of overlapping statutory and regulatory requirements related to child safety. By requiring programs to be licensed and to comply with all applicable Federal, state, and local laws and regulations, the proposed regulatory framework would still ensure the safety of children.

Although the proposed rule would remove duplicative Federal requirements related to safety and

transportation, many of these requirements will continue to be required by state or local regulation and programs will retain discretion to implement safety practices that exceed these requirements. Non-quantifiable benefits of streamlining the current safety and transportation requirements include making requirements less burdensome and complicated for programs to implement and ensuring programs can easily identify the set of safety and transportation requirements they should adhere to. Although the proposed provisions reduce the level of specificity currently required, programs would continue to bear the responsibility and obligation to ensure children's health and safety.

F. Estimated Impact of Services for Children With Disabilities Provisions

The proposed rule maintains protections for services for children with disabilities by requiring programs to comply with all applicable Federal and state statutes and regulations regarding providing services for children with disabilities. Although the requirements in current 1302 Subpart F, including requirements related to additional services for children with disabilities and their parents, are proposed for removal, ACF assumes this change would not generate significant cost or cost savings for programs because the core requirements that pertain to services for children with disabilities remain in the Act and will still apply to programs.

The proposal to replace current 1302 Subpart F with a requirement to comply with all applicable Federal and state statutes and regulations regarding providing services for children with disabilities is intended to reduce duplication of regulations while still maintaining the protections required for children with disabilities. The proposed changes would provide programs with additional flexibility to carry out these requirements in a way that best meets the needs of enrolled families as long as they are compliant with all other state and Federal laws and regulations. This flexibility may also enable programs to allocate resources more efficiently while maintaining compliance with applicable laws and regulations.

G. Estimated Impact of Services for Pregnant Women Provisions

This NPRM proposes to streamline requirements for providing services to pregnant women, while still ensuring programs provide important support to pregnant and postpartum women. Many of the requirements in current §§ 1302.80–82 are proposed for removal, including the requirement to conduct health care determinations and facilitate access to health insurance for pregnant women, which have already been quantified earlier in this RIA (see Health and Mental Health Services). Other regulations proposed for removal include the requirement to provide services that help reduce barriers to healthy maternal and birthing outcomes; ACF assumes this has nominal cost savings and would decrease administrative burden for programs. In addition, the proposed rule removes detailed requirements on family partnership services for enrolled pregnant women because these requirements are duplicative of the Act and therefore do not represent a substantive change that would result in associated costs.

The NPRM also proposes to remove the requirement for programs to track all services provided to enrolled pregnant women. Removal of this requirement would result in nominal cost savings to programs as overarching requirements to track services are retained through the Act. Programs would benefit from reduced administrative burden and prescriptive regulations. While this change may result in less formal documentation, ACF expects programs would continue to provide responsive and comprehensive services to enrolled pregnant and postpartum women.

Newborn visits will remain required, however, the NPRM proposes to remove the requirement that visits occur within two weeks of birth. ACF assumes the additional flexibility in scheduling the newborn visit would be cost neutral for programs and therefore we do not quantify its impacts in this RIA. Non-quantifiable benefits associated with removing the specified timeframe for newborn visits include increased flexibility for programs and families to schedule visits at a time convenient for them. ACF acknowledges that this flexibility may result in increased variability in when programs schedule newborn visits. ACF encourages programs to schedule visits as early as possible while leveraging the additional flexibility provided by this policy change to meet the needs of the families served.

H. Estimated Impact of Family Engagement and Program Transition Provisions

The proposed rule includes requirements related to family engagement in education and child development services and family support services for health and nutrition, which are discussed in further detail in the education and health and nutrition sections. Additionally, this proposed rule rescinds provisions under current 1302 Subpart E—Family and Community Engagement Program Services and 1302 Subpart G—Transition Services to reduce duplication with the Act. Because requirements for family and community engagement and transition services remain under the Act, this change is not quantified as ACF does not anticipate behavior change that would result in substantial costs or cost reductions.

Non-quantified benefits of rescinding provisions under current 1302 Subpart E—Family and Community Engagement Program Services include increased flexibility for programs in conducting family needs assessments. Since specific requirements under the current regulations would no longer apply, this proposed rule provides programs with the flexibility to implement services such as family needs assessments based on the needs of the community the program serves and differentiate based on the strengths and needs of individual families. Without the caseload requirements, programs will have the flexibility to distribute caseloads to family service workers in ways that align to the needs of families being served and the program's capacity. For example, a family service worker could take on a higher caseload of families with fewer identified needs, and another family service worker could take on a lower caseload of families with more identified needs. This proposed revision may also benefit programs that have workforce challenges such as recruiting and training family service workers.

Additionally, programs would have flexibility in how they operationalize their community engagement efforts, such as coordination with public and private entities as long as they meet the requirements outlined in the Act. Programs would continue to have flexibility in participating in state or local QRIS and data sharing agreements, these optional regulations have been removed to reduce regulatory burden. Non-quantified benefits of rescinding provisions under current 1302 Subpart G—Transition Services include increased flexibility for programs in supporting children and families in their educational transitions. Programs would be able to identify ways to structure their transition practices that best suit the needs of the children, families, and community. Additionally, fewer requirements around transition services would reduce administrative burden for programs.

I. Estimated Impact of Management Systems and Administrative Cost Provisions

The proposed changes in this NPRM related to management systems would rescind current requirements in 1302 Subpart I-Human Resources Management, 1302 Subpart J-Program Management and Quality Improvement, and 1303 Subpart A-Financial Requirements. These would be replaced with proposed § 1301.12 (Personnel and records policies), proposed § 1301.13 (Program goals, continuous improvement, and reporting), and proposed § 1301.14 (Limitations on administrative costs).

With the exception of the proposed administrative cost cap, the proposed regulations largely align with existing requirements and represent a continuation of current practice. As such, they are not expected to result in significant new costs or benefits.

In addition to previously identified cost reductions- such as those associated with the proposed removal of staff qualification requirements, coaching requirements, staff break requirements, and certain data use requirements in program management, as well as reducing allowable administrative costs—the policies proposed for removal are expected to provide overall benefits by increasing flexibility for programs. Many core requirements are retained either in the proposed regulations or in statute.

The proposed removal of requirements related to written personnel policies, background checks, and standards of conduct is expected to reduce administrative burden and improve efficiency. These requirements often overlap with existing Federal, state, local, and Tribal requirements. For instance, under state licensing requirements and the Act, programs would still be required to have background checks for staff. Eliminating duplicative Federal requirements allows programs to align more directly with applicable local and state policies. While this increased flexibility provides clear, though unquantifiable, benefits, ACF recognizes that it may also create some uncertainty about applicable requirements. ACF intends to issue additional guidance in the future to maintain clarity for grant recipients.

Eliminating dual language learner communication requirements has staffing cost implications that intersect with the costs described in the section on One-Time Costs with Requirement for English-Only Instruction. At the same time, this change introduces additional staffing flexibility that is not easily quantifiable. Given ongoing workforce shortages, programs may benefit from being able to hire staff who do not speak specific languages, increasing their ability to fully staff classrooms and serve more children and families. However, ACF acknowledges that reduced language capacity may negatively affect communication with non-English speaking families and weaken family engagement. Technology-based translation tools may help mitigate some of these impacts.

The removal of staff health, mental wellness, and break requirements is expected to reduce scheduling complexity and short-term staffing costs by allowing programs greater flexibility in staffing patterns. ACF recognizes that these provisions can support staff retention and improve workplace conditions, and programs may choose to continue such practices where feasible. At the same time, such requirements are overly prescriptive and unnecessary at the Federal level. Removing the Federal requirements would allow programs to prioritize service delivery with greater flexibility, particularly in the context of broader changes to staff qualification requirements.

Removing Federal requirements related to initial health examinations and communicable disease screening reduces administrative burden for programs. Though many state and local regulations already require staff health screenings and programs retain responsibilities for ensuring the health and safety of children enrolled in their program, ACF expects that programs are likely to continue some of these practices.

Proposed changes to volunteer requirements provide programs with greater flexibility in how volunteers are used. Programs must still comply with applicable state, Tribal, and local laws regarding communicable disease screening, and in most cases, criminal background checks will still be required for individuals involved in the care or supervision of children through licensing requirements. These changes may allow programs to more effectively use volunteers during high-need times, such as transitions or peak supervision periods. ACF recognizes that programs not subject to licensing requirements may have greater flexibility, which could introduce some risk. However, all programs remain responsible for ensuring child safety, and ACF encourages programs to maintain appropriate safeguards when utilizing volunteers.

Current requirements related to management systems, monitoring, coordinated approaches, goal-setting, continuous improvement, and reporting can be resource-intensive for programs. These often require dedicated administrative staff, data systems, and compliance processes, and are sometimes experienced by programs as duplicative or burdensome—particularly with respect to data collection, monitoring, and reporting. Streamlining these requirements, while retaining key elements in statute and regulation, is expected to reduce administrative burden and allow programs to operate more flexibly and responsively to community needs. However, ACF recognizes that reduced specificity in Federal requirements may lead to greater variability across programs.

Finally, the proposed removal of 1303 Subpart A-Financial Requirements would primarily eliminate provisions that duplicate statutory and other Federal requirements. As such, this change is not expected to result in meaningful costs or benefits for program implementation. Impacts related to administrative cost limitations are discussed separately in Sections E (Reduction of Allowable Administrative Costs from 15 Percent to 5 Percent) and F (Additional Considerations Affecting Administrative Costs).

J. Estimated Impact of Changes to Designation Renewal, Monitoring, Suspension, and Appeals

To provide context for the potential impacts of the proposed changes for DRS conditions, ACF reviewed recent DRS cohort data on agencies subject to open competition or Tribal consultation. Based on available OHS data from the fiscal year 2024 and 2025 DRS cohorts of grant recipients, approximately 13 percent of Head Start grants in those cohorts (132 of 1,038 grants) were designated for competition or Tribal consultation. Of those agencies, approximately 74 percent (97 of 132 grants) were designated for competition based on two or more deficiencies only, approximately 12 percent (16 of 132 grants) based on CLASS only, and approximately 5 percent (6 of 132 grants) based on both deficiencies and CLASS. The remaining 10 percent (13 of 132 grants) were identified for competition based on fiscal findings, including nine with two or more audit findings, one with questioned costs, and three with a going concern. Of those 13 grants, three also met the deficiency condition. No grants were required to compete due to debarment from receiving Federal or State funds or disqualification from the CACFP. These data provide context on the baseline frequency with which agencies meet

one or more designation renewal conditions under the current regulatory framework.

ACF notes important limitations in the availability and comparability of audit-related information used for designation renewal purposes. In particular, data on the ''two or more audit findings'' condition are limited due to the timing of DRS implementation in 2020, audit submission timelines, and temporary extensions related to the prior COVID–19 public health emergency. As a result, fiscal year 2025 represents the first year in which OHS was able to review more than one audit for most grants, limiting the ability to fully assess baseline conditions related to this DRS criterion.

To provide additional context on classroom quality measures, approximately 93 percent of Head Start grants that received a CLASS review during fiscal years 2024 or 2025 met or exceeded applicable CLASS: Pre-K thresholds, while approximately 7 percent fell below one or more threshold levels and were therefore designated for competition due to this criterion. The proposed rule would remove the requirement to use CLASS: Pre-K as the sole measure of classroom quality and eliminate the associated thresholds, while maintaining the statutory requirement to assess classroom quality using a valid and reliable observational instrument. Although ACF anticipates continuing to use CLASS: Pre-K for the foreseeable future, this change provides flexibility to incorporate additional or alternative measures over time. ACF does not quantify the possible effect of this change on future designation renewal outcomes, as it will depend on future policy decisions regarding measurement approaches and thresholds, as well as program performance.

Under the current regulatory framework, fiscal conditions related to going concern risk and audit findings are combined into a single designation renewal condition. The proposed regulation would separate these into two independent conditions, such that an agency meeting both criteria would now meet two distinct DRS conditions rather than one. This change is structural in nature and is not expected to independently affect the number of agencies subject to competition, as designation renewal outcomes depend on the interaction of multiple conditions and future program performance.

More broadly, the proposed rule maintains ACF's statutory monitoring responsibilities under section 641A(c) of the Act, including the requirement to conduct monitoring reviews and identify deficiencies where applicable. However, ACF anticipates that implementation of the proposed regulatory framework may require updates to monitoring protocols, tools, and guidance to align with the proposed structure of regulatory requirements. While these updates may influence how designation renewal conditions are assessed in practice, ACF cannot predict or quantify how competition outcomes may change until monitoring protocols are aligned with a final rule. Accordingly, ACF does not quantify costs associated with these updates, as they reflect internal process adjustments and variation in implementation.

With respect to enforcement actions, available data indicate that program suspensions and terminations (and thus appeals) are a relatively rare outcome and reflect a high threshold for intervention. For example, ACF understands approximately two agencies over the past two years have been subject to suspension actions. The proposed rule would not alter ACF's statutory authority to issue suspensions or terminations; rather, it would remove duplicative regulatory language while preserving all underlying statutory requirements and enforcement mechanisms. As a result, ACF does not quantify changes in suspension outcomes or appeals procedures in this RIA, as these actions are driven by serious or systemic program concerns and are expected to remain infrequent under the proposed regulatory framework.

K. Estimated Impact of Tribal Program Provisions

The proposed rule would reorganize and streamline requirements specific to Tribal Head Start programs into § 1301.17, aligning regulatory text more closely with statutory provisions in the Head Start Act. The proposed section reiterates existing statutory requirements related to designation, eligibility, and the DRS, and clarifies processes for Tribal program governance, including the designation of alternative agencies in cases of relinquishment, termination, or denial of refunding. The rule also introduces a new provision proposing to exempt Tribal programs from the English-only requirement in proposed § 1301.04(a) when language use is in the Tribal program is related to the furtherance of Tribal heritage. In addition, several regulatory provisions specific to Tribal flexibilities are proposed for removal because they are either duplicative of statute or no longer necessary due to broader flexibilities that would be extended to all programs under this NPRM.

ACF does not quantify the costs or cost savings associated with these changes in this RIA. The proposed rule primarily reorganizes, clarifies, or removes duplicative regulatory text rather than introducing new substantive requirements. As such, ACF does not anticipate significant additional costs for Tribal programs specific to the proposed regulations in § 1301.17. To the extent that programs experience administrative efficiencies from streamlined regulations or reduced duplication, any associated cost savings are expected to vary and are not readily quantifiable. Non-quantified benefits of these proposed changes may also include improved clarity and accessibility of requirements specific to Tribal programs. Consolidating Tribal provisions into a single section may reduce administrative complexity and support more consistent understanding of applicable requirements among Tribal grant recipients. Aligning regulations more closely with statutory language may also reduce confusion and support more efficient program administration. Additionally, the removal of Tribal-specific regulatory flexibilities that are no longer necessary—because similar flexibilities are extended to all programs—may promote greater access across Head Start grant recipients while maintaining longstanding statutory flexibilities unique to Tribal programs. Tribal programs will continue to benefit from statutory provisions that support self-determination, including flexibility in eligibility criteria, service delivery, and resource allocation.

However, Tribal programs may incur minor, short-term administrative costs to update policies, procedures, and training materials to reflect the reorganized regulatory structure. The removal of certain Tribal-specific regulatory provisions may reduce regulatory specificity, which could create some initial uncertainty or require additional technical assistance as programs interpret how flexibilities apply under the proposed framework. To the extent that the rule provides less detailed procedural guidance, programs may also rely more on statutory language or Federal guidance, which could require additional administrative effort in certain circumstances. ACF anticipates that these costs are expected to be minimal and transitional in nature.

Overall, while the benefits of these proposed provisions are not readily quantifiable, ACF expects the proposed changes to improve regulatory clarity, reduce administrative burden, and support Tribal sovereignty and

culturally responsive service delivery, while maintaining all applicable statutory protections and flexibilities for Tribal Head Start programs.

L. Estimated Impact of Program Flexibility Provisions

The proposed rule introduces increased program flexibility through a broad waiver provision. ACF acknowledges that increased program flexibility in the proposed rule may produce unquantified costs or cost reductions associated with variation in program implementation across local programs. In 2025, ACF issued approximately 1,000 waivers—some to the same programs—on a variety of topics where waivers are allowable under statute or current regulations. Common waivers include Head Start Preschool teacher qualification requirements, the 10% disability requirement, transportation, and non-Federal share. Each waiver is carefully reviewed by ACF staff to determine if the program meets the requirements. Waiver rates vary based on leadership priorities and changes in communities served by Head Start. ACF anticipates that, in the future, waiver requests and approval rates would continue to fluctuate based on these factors under the proposed regulations. ACF invites public comment on which proposed regulations programs may be most likely to request a waiver for, while understanding that waivers are not allowable for the proposed requirements related to nutrition, physical activity, and eligibility and that ACF would ultimately determine which waivers to approve based on the specific circumstances and evidence presented in a program's individual request.

Non-quantified benefits of the proposed waiver provision in § 1301.18 include reduced burden on programs, if a particular proposed regulation presents undue burden for a program to comply with. The proposed waiver provision can also allow programs to modify service delivery with increased flexibility to meet local community needs or maximize resources for direct service delivery. As a result, the proposed rule could generate potential benefits such as innovation in service delivery, improved alignment with local needs, or reduced administrative costs.

Transition and Implementation Considerations

In addition to the ongoing cost changes described above, programs may incur one-time administrative costs associated with adjusting, transitioning to, and implementing the proposed regulatory framework. These transition activities may include reviewing and understanding the final rule and applicable statutory requirements, determining how requirements continue to apply under the proposed framework, updating written program policies, revising internal guidance documents, modifying eligibility verification procedures, and providing staff orientation or training on the updated requirements. Programs may also review and update governance procedures, service delivery protocols, and administrative documentation to align with the proposed regulatory changes.

To account for these impacts, we adopt an assumption that each Head Start agency would spend a total of 24 to 56 hours per agency (with a primary estimate of 40 hours), spread across directors, education managers, disability managers, health managers, and other management staff to review and understand the final rule, align requirements across statute and regulation, update program policies and procedures, and provide staff orientation as needed. The primary estimate of 40 hours per agency is intended to capture not only policy and procedural updates, but also the administrative burden associated with interpreting and implementing the proposed framework, including understanding requirements that continue to apply through statute. This analysis assumes 8 hours of time spent per management staff member, with the primary estimate assuming 5 management staff members, the low estimate assuming 3 management staff members, and the high estimate assuming 7 management staff. To value the time spent on these activities, we adopt a fully loaded hourly wage of $41.81 per hour, reflecting a mix of wages across several roles. The hourly compensation rate applied in this analysis is based on the BLS Occupational Employment and Wage Statistics for Education and Childcare Administrators, Preschool and Daycare (SOC 11–9031), May 2025 mean hourly wage of $31.15, from which this analysis applies a 2 percent inflation adjustment to express the estimate in constant 2026 dollars, resulting in a mean hourly wage of $31.77. We then apply a 24 percent adjustment to account for fringe benefits, resulting in $41.81 per hour. We assume that this impact will primarily occur in the first year of the time horizon of our analysis, and thus we do not adjust these upwards to account for other provisions of the proposed rule. For each Head Start agency, this results in an estimated cost of $1,003.36 to $2,341.17 (primary estimate: $1,672.26).

Across nearly 1,526 Head Start agencies, we estimate the total one-time transition impact to range from $1.5 million to $3.6 million (primary estimate: $2.6 million), all occurring in 2027. These estimates reflect limited administrative adjustments rather than the development of new systems or program structures. In addition, ACF intends to issue sub-regulatory guidance to clarify the relationship between statutory requirements and the proposed regulatory framework, which is expected to reduce uncertainty and minimize the level of effort required by grantees to understand and interpret the policy changes. After the first year of implementation, ACF estimates there may be future cost savings over time as programs have fewer Federal requirements to understand, interpret, and implement.

Table 25. Estimated One-Time Administrative Costs Associated with Adjusting Internal Policies and Procedures

Scenario	Agencies	Hours	Hourly Rate (incl. fringe)	Estimated One-Time Costs
Primary	1,526	40	$41.81	$2,551,874
Low	1,526	24	$41.81	$1,531,124
High	1,526	56	$41.81	$3,572,623

Distributional Effects

Consistent with Office of Management and Budget Circular A–4, this section evaluates how the proposed regulatory changes may differentially affect subpopulations of children, families, staff, and communities. The proposed rule would primarily modify regulatory requirements governing program operations and increase local program flexibility while introducing certain new eligibility and instructional provisions.

Workforce and Geographic Effects

Several provisions of the proposed rule may influence workforce demand within Head Start programs. First, the proposed removal of Federal staffing ratio requirements, family service worker caseload limits, the child development specialist role, and certain service frequency requirements may reduce demand for specific staff roles depending on program implementation decisions.

Workforce effects are expected to vary by location and program type depending on local implementation choices, labor markets, and state regulatory requirements. Programs that maintain current staffing structures may experience minimal workforce changes, while others may adjust staffing models to align with proposed operational flexibility.

The projected cost savings in prior sections of the RIA reflect lower expenditures to serve the same number of children with fewer staff. For example, under the removal of the ratio requirement, the primary scenario reflects a 50 percent realization of the estimated reduction, corresponding to approximately $668 million in reduced costs. (This estimate preliminarily omits transition costs to workers who experience employment disruption.[21] ACF invites comment that would facilitate estimation of the number of workers experiencing these costs.)

Without a family service worker caseload requirement, we anticipate that many programs would revert toward staffing patterns that were in place prior to implementation of this requirement. However, the effects are expected to vary at the local level because programs currently have a wide range of family service worker caseloads relative to funded enrollment. Even when looking only at quartile ranges, programs range from approximately 25 to 50 funded slots per family service worker, which reflects a narrower measure yet still demonstrates substantial variation across programs.

Second, the proposed changes to administrative cost limits may have workforce implications depending on programs' organizational structure. Smaller or single-site programs may have fewer opportunities to distribute fixed administrative costs across multiple sites or funding streams, while larger multi-site agencies may have greater capacity to centralize administrative functions and realize economies of scale. States with the largest number of entities that have fewer than 200 funded slots include New York, Texas, California, Pennsylvania, and North Carolina. Approximately 14 percent of grants report only one service location, spanning 42 states, the District of Columbia, and Puerto Rico. States with the largest share of single-site grants relative to total service locations include Wyoming, New Mexico, Alaska, Connecticut, Montana, Nebraska, and Kansas, where single-site grants represent approximately 5 to 10 percent of all service locations.

There are also geographic factors that could contribute to distributional effects. Because the proposed rule would defer more extensively to state licensing and policy frameworks in areas such as staff-child ratios, group size, and health and safety requirements, distributional effects may vary across states. In states where licensing requirements permit higher ratios or larger group sizes than current Federal standards (proposed for removal), programs may modify staffing patterns consistent with state requirements. In states with licensing requirements that are comparable to, or more stringent than, current Federal standards, program operations may change little. In particular, in states where licensing allows higher ratios there may be relatively larger reductions in staff expenses, while in states with lower ratios, the effect on staffing levels is expected to be more limited.

Federal Effects on Children and Families

Eligibility and Enrollment Requirements

Changes to recruitment procedures, wait list management, and reserved slot provisions may also affect enrollment patterns. Programs will retain discretion in how they prioritize recruitment and enrollment within statutory eligibility requirements. As a result, participation patterns may vary across communities depending on local implementation decisions.

Suspension and Expulsion Policies

The removal of Federal regulatory prohibitions on expulsion and limitations on suspension increases local program discretion in responding to behavioral concerns. Programs may adopt different behavioral management approaches under the proposed framework.

Program Duration and Intensity

The reduction of Federal minimum service duration requirements for Head Start Preschool and the removal of prescriptive home-based service requirements will allow programs to modify program schedules or service delivery intensity if desired. Effects may vary across communities depending on local labor market conditions, parental employment patterns, and the availability of alternative early childhood programs in communities where Head Start programs choose to reduce hours of operation. The additional flexibility from these proposed policy changes may also allow programs to reallocate staff time or resources toward locally prioritized activities, potentially improving service alignment with community needs.

Health and Mental Health Services

The proposed rule would remove several prescriptive regulatory requirements related to health, oral health, and mental health service delivery. Programs will retain discretion regarding how these services are structured, subject to statutory requirements and other applicable Federal or state laws.

Overall Distributional Considerations

Taken together, the proposed regulatory changes would increase local flexibility and reduce Federal prescriptiveness. These changes are expected to result in shifts in the composition of children and families accessing Head Start services across demographic, linguistic, and geographic lines. Some subpopulations may experience changes in program access or service delivery depending on local implementation decisions.

At the same time, reductions in certain prescriptive requirements may allow programs to reallocate resources, strengthen emphasis on core health, nutrition, and physical activity priorities, and expand overall enrollment capacity. To the extent resources are redirected toward

[21] Bartik, T.J. (2015), The social value of job loss and its effect on the costs of U.S. environmental regulations, *Review of Environmental Economics and Policy,* 9(2): 179–197. Kuminoff, N.V., Schoellman, T., & Timmins, C. (2015), Environmental regulations and the welfare effects of job layoffs in the United States: A spatial approach, *Review of Environmental Economics and Policy,* 9(2): 198–218.

additional slots, broader access to services may offset some localized shifts in program composition. The net distributional effects would depend on program-level decisions made under the proposed regulatory framework and the interaction of Federal flexibility with state and local policies.

VIII. Tribal Consultation Statement

Tribal Consultation refers to the government-to-government engagement between the Federal government and Federally recognized American Indian and Alaska Native Tribes. It is designed to give Tribes meaningful, timely input on policies, programs, and actions that may affect them. Consultation helps agencies identify unintended impacts on Tribes early, improve policy outcomes by incorporating Tribal expertise, and reduce the risk of litigation, delays, or policy reversals.

All Federal agencies are required to conduct consultation in accordance with executive orders and Federal policy, consistent with the Federal trust responsibility and the United States' unique government-to-government relationship with Federally recognized Indian Tribes. The requirement to conduct Tribal consultation is a core legal and policy obligation of the Federal government. Tribes are sovereign governments, and consultation is the primary mechanism through which Federal agencies seek Tribal input on policies, programs, and actions that have Tribal implications.

Even when consultation is not written in a program's statute, agencies are still required to consult under:

- Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), which directs all Federal agencies to consult with Tribes on policies that have Tribal implications.
- OMB and departmental policies (including HHS policy) that operationalize Consultation expectations across the Federal government.

These policies make Consultation a government-wide requirement, rather than optional or program-specific. Additionally, in some cases, such as Head Start, Tribal Consultation is also mandated by program-specific authorizing statutes, which impose additional legal requirements beyond government-wide Consultation obligations. Section 640(l)(4)(A–D) of the Head Start Act states that the Secretary shall conduct an annual Tribal Consultation in each affected Head Start region, with Tribal governments operating Head Start including Early Head Start programs.

Consultations are often held in conjunction with other Tribal meetings or conferences, to ensure the opportunity for most of the 151 Tribes that operate Head Start and Early Head Start programs to attend and voice their concerns regarding service delivery. In accordance with ACF Tribal Consultation Policy, OHS must provide written summaries after Tribal Consultation that capture: issues raised by Tribes, recommendations offered, and OHS responses and decisions. OHS submit the report to the Secretary of Health and Human Services (the Secretary) at the end of the year.

As noted previously, the publication of this NPRM initiates a public comment period during which ACF invites comments from all interested parties, including Tribal governments. Through this open comment process, ACF ensures that a broad range of voices are heard, including Tribal Leaders, and consistent with the statute's emphasis on consultation.

List of Subjects

45 CFR Part 1301

Administrative practice and procedure, Education of disadvantaged.

45 CFR Part 1302

Dental health, Diseases, Education of disadvantaged, Grant programs—social programs, Health care, Homeless, Immunization, Indians, Individuals with disabilities, Maternal and child health, Mental health programs, Migrant labor, Nutrition, Quarantine, Reporting and recordkeeping requirements, Safety, Volunteers.

45 CFR Part 1303

Administrative practice and procedure, Education of disadvantaged, Grant programs—social programs, Individuals with disabilities, Motor vehicles, Privacy, Real property acquisition, Reporting and recordkeeping requirements, Transportation, Reporting and recordkeeping requirements.

45 CFR Part 1304

Diseases, Early learning and development, Education of disadvantaged, Grant programs—health, Grant programs—social programs, Indians, Scholarships and fellowships.

45 CFR Part 1305

Administrative practice and procedure.

For the reasons stated in the preamble, ACF proposes to revise 45 CFR, chapter XIII, subchapter B to read as follows.

CHAPTER XIII—ADMINISTRATION FOR CHILDREN AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBCHAPTER B—THE ADMINISTRATION FOR CHILDREN AND FAMILIES, HEAD START PROGRAM

PART 1301—Head Start Performance Standards

Sec.

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Authority: 42 U.S.C. 9801 *et seq.*

§ 1301.01 Committees.

(a) *Parent committees.* A program may establish a parent committee comprised exclusively of parents of currently enrolled children. The parent committee's role is to advise staff in developing and implementing local program policies, activities, and services to ensure they meet the needs of children and families.

(b) *Committee guidelines.* Programs can determine the bylaws of any committee including but not limited to length of a committee member's term and election procedures.

§ 1301.02 Determining eligibility.

(a) *Eligibility requirements.* A pregnant woman or a child is eligible if they meet the eligibility requirements detailed in Sec. 645(a)(1).

(b*) Foster Children.* Children in foster care qualify for program eligibility.

(c) *Verifying eligibility.* The following must be verified to determine program eligibility:

(1) Income. Program staff must use tax forms, pay stubs, or other proof of income to determine the family income

meets statutory requirements for the relevant time period.

(2) To verify whether a family is eligible for, or in the absence of child care, would be eligible for public assistance, the program must have documentation from either the state, local, or tribal public assistance agency that shows the family either receives public assistance, or that shows the family is eligible to receive public assistance.

(3) To verify whether a child is in foster care, program staff must accept either a court order or other legal or government-issued document, a written statement from a government child welfare official that demonstrates the child is in foster care, or proof of a foster care payment.

(4) Self attestation does not satisfy the eligibility requirements.

(d) *Transition from Early Head Start.* If a child moves from an Early Head Start program to a Head Start Preschool program, program staff must verify the family's eligibility again.

(e) *Records.* A program must keep eligibility determination records for each participant for those currently enrolled, as long as they are enrolled, and, for one year after they have either stopped receiving services; or are no longer enrolled and must be made available to HHS upon request. Records include copies of any documents or official statements that are deemed necessary to verify eligibility.

(*f*) *Program policies and procedures on violating eligibility determination regulations.* A program must report staff who violate eligibility determination regulations to the responsible HHS official.

(g) *Homelessness.* Children experiencing homelessness qualify for program eligibility and must be treated in accordance with the Head Start Act.

§ 1301.03 Attendance and enrollment.

(a) *Promoting regular attendance.* A program must track attendance for each child.

(b) *Applicable regulations and statutes.* All applicable Federal and state statutes and state regulations apply to attendance procedures regarding child safety concerns due to absence(s).

(c) *Funded enrollment.* A program must maintain its funded enrollment level and fill any vacancy as soon as possible, but not to exceed 30 days.

§ 1301.04 Teaching and learning environment.

(a) *Language.* Except as provided in 1301.17(d), a program must conduct all education to children in English.

(1) If a child's native language is not English, and does not speak English, a program must prioritize teaching English to the child.

(b) *Nutrition.* Snack and meal times must be structured and used as learning opportunities that support teaching staff-child interactions and foster communication and conversations that contribute to a child's learning, development, and socialization. Programs are encouraged to meet this requirement with family style meals when developmentally appropriate.

(c) *Physical activity.* A program must recognize physical activity as important to learning and integrate intentional movement and physical activity into curricular activities and daily routines in ways that support health and learning. A program must provide a minimum of 30 minutes of physical activity for every three and a half hours that the child participates in the program. Weather permitting, the activity should take place outside.

§ 1301.05 Group size and ratio.

A Head Start program must establish and publish both a maximum group size and a ratio of children to staff that is consistent with applicable state and local laws and Child Care and Development Fund regulations. The published group size and ratio must be in a location and format visible to parents.

§ 1301.06 Parent and family engagement in education and child development services.

(a) *Importance of parents.* Center-based and family child care programs must structure education and child development services to recognize parents' roles as children's primary teachers and nurturers.

(b) *Engaging parents and family members.* A program must implement strategies to engage parents and family members in their children's learning and development and support parent-child relationships, including specific strategies for father engagement, and provide educational material and instruction that demonstrate healthy marriage as a positive good.

§ 1301.07 Child nutrition.

(a) *Payment sources.* A program must use funds from USDA Food, Nutrition, and Consumer Services Child Nutrition programs as the primary source of payment for meal services. Head Start funds may be used to cover those allowable costs not covered by the USDA.

(b) A program must use staff or consultants to support nutrition services in ways that support development and learning. For bottle-fed infants, this approach must include holding infants during feeding to support socialization. Staff and consultants must serve nutrient dense, whole foods that are compatible with a healthy and nutritious diet that conforms to USDA requirements in 7 CFR part 226. Or, where applicable, properly store breastmilk and provide an opportunity for infants to be served breastmilk during the day.

§ 1301.08 Family support services for health and nutrition.

(a) *Parent collaboration.* Programs must collaborate with parents to promote children's health and well-being by providing nutrition and physical education support services.

(b) *Opportunities.* Collaboration with parents must include discussing their child's nutritional status with staff, including the importance of physical activity and healthy eating, and the negative health consequences of sugar-sweetened beverages and grain-based desserts, as well as how to select and prepare nutritious foods that meet the family's nutrition and food budget needs.

§ 1301.09 Safety and transportation practices.

(a) Programs must be licensed by their state, tribal, or local entity and comply with all Federal and State statutes, and regulations regarding safety and transportation practices for children. If exempt from licensing, programs must meet CCDF basic health and safety requirements.

(b) Programs must prevent children from being exposed to lead in water and paint in Head Start facilities.

§ 1301.10 Services for children with disabilities.

A program must comply with all applicable Federal and state statutes and regulations regarding providing services for children with disabilities.

§ 1301.11 Enrolled pregnant and postpartum women and families.

(a) *Newborn visits.* A program must provide a newborn visit with each mother and baby and offer support including providing comprehensive services through referrals that, at a minimum include nutritional counseling and food assistance.

(b) *Educational information.* A program must provide enrolled pregnant women, mothers, fathers, or other family members the prenatal and postpartum information, education, and services that address, as appropriate, fetal development, the importance of nutrition in the prenatal and postpartum stage including breastfeeding, the risk of alcohol, drugs, and smoking, and the

benefits of substance use treatment, labor and delivery, postpartum recovery, and infant care and safe sleep practices.

§ 1301.12 Personnel and records policies.

(a) *Personnel.* A program must comply with all applicable Federal and state statutes and regulations regarding staff, contractor, and volunteer background checks, including work authorization verification, staff standards of conduct, and other affiliated human resource requirements.

(b) Records. A program must establish policies, protections, and rights equivalent to those in FERPA, 20 U.S.C. 1232g, for the confidentiality of any personally identifiable information (PII) in child records.

(c) Hiring considerations. Programs shall not require or incentivize the attainment of postsecondary education credits, hours, or credentials unless the program demonstrates that such educational attainment is necessary for the position based on specified skills required for the position that can only be attained through a specific postsecondary education pathway. Programs shall provide explicit alternatives to postsecondary education for demonstrating required skills, such as through assessments, industry-recognized credentials, or relevant work experience.

§ 1301.13 Program goals, continuous improvement, and reporting.

(a) *Establishing program goals.* A program must establish goals and measurable outcomes including provisions of evidence-based educational practices, health, nutritional, and family engagement to further promote the school readiness of enrolled children.

(b) *Ongoing assessment of program goals.* A program must conduct a self-assessment of the program's progress towards meeting goals established under paragraph (a) of this section and submit the findings to HHS.

(c) *Reporting.* A program must submit to HHS:

(i) any incident regarding circumstances affecting the financial viability of the program; breaches of personally identifiable information, or program involvement in legal proceedings; any matter for which notification or a report to State, Tribal, or local authorities is required by applicable law, and

(ii) any significant incident that affects the health and safety of a child that occurs in the setting where Head Start services are provided immediately, but no later than, seven calendar days following the incident.

§ 1301.14 Limitations on administrative costs.

Allowable costs to develop and administer a Head Start program cannot exceed 5 percent of the total approved program costs, which includes both Federal costs and non-Federal match.

§ 1301.15 Application and eligibility to purchase, construct, and renovate facilities.

(a) *Application.* An application must be submitted to apply for funds to purchase, construct, or renovate a facility.

(b) *Cost-effective.* Before a grant recipient can apply for funds to purchase, construct, or renovate a facility it must establish that the proposed construction of a facility is more cost-effective than the purchase of available facilities or renovation.

§ 1301.16 Basis for determining if an agency is subject to open competition.

A Head start agency will be required to compete for its next five years of funding whenever it is determined that one or more of the following conditions existed during the award period of the current grant:

(a) *Deficiencies.* An agency has had two or more deficiencies across reviews conducted under section 641A(c)(1)(A), (B), (C), or (D) of the Act.

(b) *Goals.* An agency has not, based on a review conducted under section 641A(c)(1)(A), (C), or (D) of the Act, produced suitable results towards achieving program goals for improving the school readiness of children participating in its program in accordance with requirements of section 641A(g)(2) of the Act.

(c) *Classroom quality:* An agency has been determined not to be delivering classroom quality as measured under section 641A(c)(2)(F) of the Act. Educational attainment of providers and staff beyond the requirements stated in the Act does not constitute a basis for determining if an agency is subject to open competition.

(d) *Revocation of license.* An agency has had a revocation of its license to operate a Head Start center or program by a State or a local licensing agency.

(e) *Suspension:* An agency has been suspended from the Head Start program and the suspension has not been overturned or withdrawn after the initial opportunity to show cause.

(f) *Debarred.* An agency has been debarred from receiving Federal or state funds from any Federal or state department or agency or has been disqualified from the CACFP any time during the relevant time period covered.

(g) *Failure.* An agency is at risk of failing to continue functioning as a going concern within the current project period.

(h) *Audit findings.* An agency has two or more audit findings of material weakness or questioned costs associated with its Head Start funds in audit reports submitted to the Federal Audit Clearinghouse.

(i) *Other measures.* Any other measure as specified in the Head Start Act.

§ 1301.17 Tribes.

(a) *Consultation.* In the case of an Indian Head Start agency determined not to be achieving suitable outcomes, HHS will recognize unique government-to-government relationships and engage in consultation with the tribe to develop a plan to improve the outcomes of the Head Start Program.

(1) The plan must be implemented within six months of HHS's determination, and must be followed by a reevaluation of the plan's implementation not more than six months following implementation.

(2) If the Indian Head Start agency is still not delivering suitable outcomes, HHS will conduct an open competition to select a grant recipient to provide services for the community currently being served by the Indian Head Start agency.

(b) *Non-Indian Head Start eligibility.* A non-Indian Head Start agency will not be eligible to receive a grant to carry out an Indian Head Start program, unless there is no Indian Head Start agency available for designation to carry out an Indian Head Start program. If an Indian Head Start agency becomes available, then a non-Indian Head Start agency is no longer eligible to carry out an Indian Head Start program.

(c) *Alternate agency.* An Indian tribe whose Head Start grant has been terminated, relinquished, designated for competition or which has been denied refunding as a Head Start agency, may identify an alternative agency, and request HHS to designate such agency as an alternative agency to provide Head Start services to members of the tribe if:

(1) The tribe was the only agency that was receiving Federal financial assistance to provide Head Start services to members of the tribe; and,

(2) The tribe would be otherwise precluded from providing such services to its members because of the termination or denial of refunding.

(3) If the tribe does not identify an agency and request that the agency be appointed as the alternative agency, HHS will seek a permanent replacement grant recipient.

(4) The alternative agency must meet all requirements established in the Head Start Act and cannot be prohibited from designation as detailed in section 646(e)(2).

(d) *Language.* An Indian Head Start agency is not subject to 45 CFR part 1301.04(a) so long as the language being spoken relates to the furtherance of tribal heritage.

§ 1301.18 Program Flexibility.

(a) *Waivers.* A program may request to waive any specific requirement in this chapter except those detailed in (b) of this section, so long as the waiver is submitted in writing to HHS, states how a reprieve from the regulation will not negatively impact the health or safety of children in care, and does not request to violate any Federal or State statutes.

(b) *Unallowable waivers.* A program may not receive a waiver from HHS from any requirement relating to nutrition, physical activity, or eligibility.

(c) *Locally-designed program option variations.* Programs may request to operate a locally-designed program option, including a combination of program options, to better meet the unique needs of their communities or to demonstrate or test alternative approaches for providing program services.

(1) A program's request to operate a locally-designed variation may be approved by HHS through the end of a program's current grant or, if the request is submitted through a grant application for an upcoming project period, for the project period of the new award.

§ 1301.19 Appeals.

(a) *Agency appeals.* An agency has the right to an appeal following a final decision by HHS to terminate financial assistance or deny refunding of an application and shall follow procedures as outlined in 45 CFR part 16 as well as Sec. 646 of the Head Start Act.

(b) *Prospective delegate agency appeals.* If a Head Start Agency denies, or fails to act on, a prospective agency's funding application, the prospective delegate agency may appeal within 30 days of the agency's decision or 120 days after the agency's inaction on the prospective delegate's application. Once the appeal is filed, the Head Start agency must respond to HHS and the prospective delegate agency within 30 days. The decision that is then rendered is final and not subject to additional appeals.

§ 1301.20 Definitions.

For the purposes of this subchapter, the following definitions apply:

Agency means the body that receives the Head Start grant.

Construction means new buildings, and excludes renovations, alterations, additions, or work of any kind to existing buildings.

Denial of Refunding means the refusal of a funding agency to fund an application for a continuation of a Head Start program for a subsequent program year when the decision is based on a determination that the grant recipient has improperly conducted its program, or is incapable of doing so properly in the future, or otherwise is in violation of applicable law, regulations, or other policies.

Development and Administrative Costs means costs incurred in accordance with approved Head Start budget which do not directly relate to the provision of program component services, including services to children with disabilities.

Early Head Start means a program that serves pregnant women and children from birth to age three, pursuant to section 645A(e) of the Head Start Act. This includes Tribal and migrant or seasonal programs.

Enrolled (or any variation of) means a child has been accepted and attended at least one class for center-based or family child care option or at least one home visit for the home-based option.

Facility means a structure, appropriate for use in carrying out a Head Start program and used primarily to provide Head Start services, including services to children and their families, or for administrative purposes or other activities necessary to carry out a Head Start program.

Family means all persons living in the same household who are supported by the child's parent(s)' or guardian(s)' income; and are related to the child's parent(s) or guardian(s) by blood, marriage, or adoption; or are the child's authorized caregiver or legally responsible party.

Financial viability means that an organization is able to meet its financial obligations, balance funding and expenses and maintain sufficient funding to achieve organizational goals and objectives.

Foster care means the same as defined in 45 CFR part 1355.20(a).

Funded enrollment means the number of participants which the Head Start grant recipient is to serve as indicated on the grant award.

Going concern means an organization that operates without the threat of liquidation for the foreseeable future, a period of at least 12 months.

Grant recipient means the local public or private non-profit agency or for-profit agency which has been designated as a Head Start agency under 42 U.S.C. 9836 and which has been granted financial assistance by HHS to operate a Head Start program.

Head Start means any program authorized under the Head Start Act.

Head Start agency means a local public or private non-profit or for-profit entity designated by HHS to operate a Head Start Preschool program, an Early Head Start program, or Migrant or Seasonal Head Start program pursuant to the Head Start Act.

Head Start Preschool means a program that serves children aged three to compulsory school age, pursuant to section 641(b) and (d) of the Head Start Act. This includes Tribal and migratory or seasonal programs.

Income means gross income and only includes wages, business income, unemployment compensation, pension or annuity payments, gifts that exceed the threshold for taxable income, and military income (excluding special pay for a member subject to hostile fire or imminent danger under 37 U.S.C. 310 or any basic allowance for housing under 37 U.S.C. 403 including housing acquired under the alternative authority under 10 U.S.C. 169 or any related provision of law). Gross income only includes sources of income provided in this definition; it does not include refundable tax credits nor any forms of public assistance.

Indian Head Start agency means a program operated by an Indian tribe (as defined by the Act) or designated by an Indian tribe to operate on its behalf.

Parent means a Head Start child's mother or father, other family member who is a primary caregiver, foster parent or authorized caregiver, guardian, or the person with whom the child has been placed for purposed of adoption pending a final adoption decree.

Participant means a pregnant woman or child who is enrolled in and received services from a Head Start Preschool, an Early Head Start, a Migrant or Seasonal Head Start, or an American Indian and Alaska Native Head Start program.

Personally identifiable information (PII) means the same as defined in 34 CFR part 300.32.

Program means a Head Start Preschool, Early Head Start, Migrant or Seasonal Head Start, Tribal or program authorized under the Act and carried out by an agency or delegate agency, to provide ongoing comprehensive child development services.

Program costs mean costs incurred in accordance with an approved Head Start budget which directly relate to the provision of program component

services including services to children with disabilities.

Purchase means to buy an existing facility, including outright purchase, down payment or through payments made in satisfaction of a mortgage or other loan agreement, whether principal, interest, or an allocated portion principal and/or interest. The use of grant funds to make a payment under a finance lease agreement, as defined in the cost principles, is a purchase subject to these provisions. Purchase also refers to an approved use of Head Start funds to continue paying the cost of purchasing facilities or refinance an existing loan or mortgage beginning after 1986.

Relevant time period means:

(1) The 12 months preceding the month in which the application is submitted; or

(2) During the calendar year preceding the calendar year in which the application is submitted, whichever more accurately reflects the needs of the family at the time of the application.

School readiness goals means the expectations of children's status and progress across domains of language and literacy development, cognition and general knowledge, approaches to learning, physical well-being and motor development, and social and emotional development that will improve their readiness for kindergarten.

Staff means paid adults who have responsibilities related to children and their families who are enrolled in programs.

Total approved costs mean the sum of all costs of the Head Start program approved for a given budget period by HHS, as indicated on the Financial Assistance Award. Total approved costs consist of the Federal share plus any approved non-Federal match, including non-Federal match above the statutory minimum.

Robert F. Kennedy, Jr,

Secretary, Department of Health and Human Services.

[FR Doc. 2026–16134 Filed 8–6–26; 8:45 am]

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Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Ohio Regulatory Program; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[SATS No. OH–252–FOR; Docket No. OSM–2011–0003; SATS No. OH–262–FOR; Docket No. OSM–2019–0006; S1D1S SS08011000 SX064A000 261S180110;S2D2S SS08011000 SX064A000 26XS501520]

Ohio Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; partial approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM), is approving, in part, two amendments to the Ohio regulatory program (the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). As proposed by Ohio, the amendment involves statutory and regulatory changes to its bonding program (*i.e.,* revising Ohio's alternative bonding system and providing the option for an applicant to post full-cost performance securities) and also includes statutory and regulatory changes pertaining to other subjects, such as abandoned mine land program funding, permitting standards, valid existing rights, remining, blasting, and topsoil handling. Ohio submitted this amendment, in part, to satisfy a program condition related to bonding inadequacies. We are removing this program condition.

DATES: The effective date is September 8, 2026.

FOR FURTHER INFORMATION CONTACT: Thomas J. Koptchak, Field Office Director, Pittsburgh Field Office, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA 15220; Telephone: (412) 937–2827; Fax: (412) 937–2177; Email: *tkoptchak@OSM.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program
II. Submission of the Amendment
III. OSM's Findings
IV. Summary and Disposition of Comments
V. OSM's Decision
VI. Statutory and Executive Order Reviews

I. Background on the Ohio Program

A. General

Section 503(a) of SMCRA permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its approved State program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and that are consistent with the Federal regulations. *See* 30 U.S.C. 1253(a)(1) and (7). Based on these criteria, the Secretary of the Interior conditionally approved the Ohio program effective August 16, 1982. You can find background information on the Ohio program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Ohio program in the August 10, 1982 **Federal Register** (47 FR 34688). You can also find later actions concerning Ohio's regulatory program and program amendments at 30 CFR 935.11, 935.12, 935.15, and 935.16.

B. Ohio Bonding Program

We announced conditional approval of Ohio's bonding provisions (bonding program) in the August 10, 1982, **Federal Register** (47 FR 34688) (Finding 18). In lieu of approving a bonding program requiring permittees to submit permit-specific performance bonds covering the full cost of reclamation for coal mining operations, we approved Ohio's request to employ an alternative bonding system (ABS), as provided by section 509(c) of SMCRA and 30 CFR 800.11(e). According to section 800.11(e), an ABS may be authorized if the following two conditions are met: (1) it would assure that sufficient money is available for the regulatory authority to complete the reclamation plan for any areas that may be in default at any time; and (2) it would provide a substantial economic incentive for the permittee to comply with all reclamation provisions.

Ohio's ABS involves a flat-rate, per-acre performance bond in addition to monies deposited into a bond pool (Reclamation Forfeiture Fund), which is funded primarily by a cash severance tax collected from the permittees who elect to participate in the program. Permittees participating in the bond pool are required to post a flat rate performance bond of $2,500/acre for surface mining reclamation. We conditionally approved the bonding provisions but required changes to be made to Ohio's regulatory program, as codified at 30 CFR 935.11(h)(1), *Conditions of State regulatory program approval.*

C. OSM's Conditional Approval of Ohio's Bonding Program

The program condition that can be found at 30 CFR 935.11(h)(1) required Ohio to submit a program amendment that demonstrates how the ABS will ensure timely reclamation at mining sites for which a bond has been forfeited. On May 4, 2005, in accordance with 30 CFR 733.12(b), we sent Ohio's Department of Natural Resources (ODNR) a letter (referred to as a 733 letter) (Administrative Record No. OH–2185–00) referencing the program condition. The 733 letter required Ohio to submit the program amendment required by 30 CFR 935.11(h)(1) or potentially have the Secretary withdraw approval of the State program in whole or in part.

II. Submission of the Amendment

A. Submissions

We communicated with Ohio from 2007–2011 through workgroups, meetings, and letters to discuss concerns and the steps being taken to address the issues identified in the 1982 conditional approval and the 733 letter we sent in 2005. After those communications, Ohio enacted legislation adding and revising statutory provisions and added related regulatory provisions to address the issues identified in our conditional approval and the 733 letter. Ohio submitted these changes as program amendments on five separate occasions as described below. Further description and discussion of the submitted provisions are in the Findings section of this document.

1. March 6, 2007 Submission: By letter dated March 6, 2007 (Administrative Record No. OH–2185–28), Ohio sent us an amendment to its program, known by Ohio as Program Amendment 82 (PA 82). PA 82 was primarily intended to satisfy the program condition that is found at 30 CFR 935.11(h)(1), which is related to Ohio's ABS and was supported by changes that were included in Ohio House Bill 443 (HB 443) (approved January 4, 2007), 2006 Ohio Laws 189. The submission includes statutory changes to Chapter 1513, *Coal Surface Mining,* and Chapter 5749, *Severance Tax,* of the Ohio Revised Code (ORC). The submission also includes statutory provisions involving other matters, such as regulatory and Abandoned Mine Land (AML) program funding and permitting procedures for determining the potential for acid mine drainage.

2. July 27, 2009 Submission: By letter dated July 27, 2009 (Administrative Record No. OH–2185–49), Ohio sent us an amendment to its program, referring to it as an update of their March 6, 2007, submission of PA 82. The submission includes: (1) statutory changes to ORC Chapter 1513 that resulted from three legislative actions, including portions of House Bill 119 (HB 119) (approved June 30, 2007), 2007 Ohio Laws 15; Senate Bill 386 (SB 386) (approved January 6,

2009), 2008 Ohio Laws 139; and Senate Bill 73 (SB 73) (approved June 15, 2009), 2009 Ohio Laws 2; (2) regulatory changes to Chapter 1501, *Department of Natural Resources, Administration and Director,* of the Ohio Administrative Code (OAC); (3) an opinion from the chief legal counsel for Ohio's Division of Mineral Resources Management (DMRM) regarding the cap on liability of Ohio's alternative bonding system; and (4) a 2009 actuarial report analysis of Ohio's bond pool. Because additional changes were forthcoming and at the State's request, we did not process this submission as a separate program amendment.

3. April 1, 2011 Submission: By letter dated April 1, 2011 (Administrative Record No. OH–2185–54), Ohio sent us an amendment to its program, referring to it as an update of their previous submittals dated March 6, 2007, and July 27, 2009. This submission includes changes to statutory and regulatory provisions regarding performance bonds on coal mining operations as effected by HB 443. In addition to these changes, Ohio added or changed statutory and regulatory provisions pertaining to topics such as valid existing rights, remining, abandoned mine lands, blasting, and topsoil handling, among others. The submission includes: (1) statutory changes to ORC Chapters 1513 and 5749 that were affected by HB 119 and SB 73, as well as Senate Bill 181 (SB 181) (approved June 13, 2010), 2010 Ohio Laws 47; and House Bill 163 (HB 163) (approved June 30, 2011), 2011 Ohio Laws 36; (2) regulatory changes to OAC Chapter 1501; and (3) and an actuarial report analysis of Ohio's Reclamation Forfeiture Fund submitted in July 2009. Ohio also provided agency guidance documents with their submission for the purposes of adding clarity and support and are not considered part of this amendment.

4. July 26, 2011 Submission: By letter dated July 26, 2011 (Administrative Record No. OH–2185–61), Ohio sent us an amendment to its program, referring to it as an update to their previous submittals of March 6, 2007, July 27, 2009, and April 1, 2011. The amendment includes: (1) statutory changes to ORC Chapter 1513 as effected by House Bill 163; and (2) a 2011 actuarial report on the Reclamation Forfeiture Fund.

5. April 11, 2019 Submission: By letter dated April 11, 2019 (Administrative Record No. OH–2198), Ohio sent us an amendment to its program, known by Ohio as Program Amendment 87 (PA 87). This amendment includes a regulatory definition of ''*transfer, assignment, or sale of permit rights*'' at OAC Chapter 1501:13–1, *Division of Mineral Resources Management-Coal, Administrative Procedures,* that is related to a bonding provision that was submitted for approval under the April 1, 2011 submission. Because the amendments are interrelated, we are incorporating the April 2019 submission into this notice, as summarized below.

With this notice, we are issuing decisions on the provisions of all five submissions. In the Findings section that follows, we describe the substantive changes to the Ohio program as a result of these submissions. Please note, as further described in Section III.C, some provisions have been rescinded/reversed or are being addressed in other State program amendment submittals. In addition to these substantive changes, editorial changes to the Ohio program were also included in the submissions. Editorial changes include: changes of address; inclusion of website addresses; changes in division names and titles; correction of typographical errors; chapter titles; paragraph references; citations; use of the phrase ''performance security'' rather than the term ''bond;'' inclusion of reference to the National Register of Historic Places; a name change to ''reclamation commission;'' use of the terms ''applicant'' and ''permittee'' rather than ''operator'' to clarify obligations and responsibilities; and the incorporation by reference to dates of Federal regulations and Federal laws. We do not make specific findings regarding all of these editorial changes, such as those included in ORC 1513.071, ORC 1513.17, and ORC 1513.37, which are not otherwise referenced in this notice, but we state here that those changes do not impact the compliance of the approved program with SMCRA.

B. Public Notice

We announced receipt, opened the public comment period, and provided an opportunity for a public hearing or meeting on the adequacy of the five submissions on three occasions:

1. April 30, 2007: We announced receipt of the March 6, 2007, program amendment submission in the April 30, 2007, **Federal Register** (72 FR 21176) (Administrative Record No. OH–2185–32). We reference this document as SATS No. OH–252.

2. February 14, 2012: We reopened the comment period to announce receipt and incorporate the three program amendment submission updates (July 27, 2009, April 1, 2011, and July 26, 2011) that Ohio made to its initial 2007 program amendment submission in the February 14, 2012, **Federal Register** (77 FR 8185) (Administrative Record No. OH–2185–65). We referenced this document as Docket No. OSM–2011–0003, SATS No. OH–252.

3. September 5, 2019: We announced receipt of the April 11, 2019, program amendment submission in the September 5, 2019, **Federal Register** (84 FR 46703) Administrative Record No. OH–2198–05). We reference this document as SATS No. OH–262.

All public comments received from these proposed rule notices are addressed in the Public Comments section of this notice. No public hearing or meeting was requested.

C. Actuarial Analysis Reports

Ohio included actuarial analysis reports as part of two program amendment submissions (2009 and 2011). Ohio also provided us with copies of subsequent actuarial analysis reports for 2015, 2017, 2019, 2021, 2023, and 2025. The actuarial reports provide information, analysis of Ohio's bond pool, and recommendations about the fiscal condition of Ohio's bond pool for the previous two-year time period as prepared by Pinnacle Actuarial Resources (2009, 2011, 2015, 2017, and 2019, and 2025 reports) and Taylor & Mulder (2021 and 2023 reports). These reports were used by Ohio and the Reclamation Forfeiture Fund Advisory Board (RFFAB or Board) to make recommendations to the Governor about the solvency of the Reclamation Forfeiture Fund. We discuss the actuarial reports in section III.D of this notice.

III. OSM's Findings

A. Legislative Actions Resulting in Statutory and Regulatory Changes

As mentioned above, we announced changes to statutory provisions resulting from the passage of six legislative actions (HB 443 of 2006, HB 119 of 2007, SB 386 of 2008, SB 73 of 2009, SB 181 of 2010, and HB 163 of 2011). As legislative activity progressed from 2007 to 2011, some of the provisions of the more recent bills modified previously enacted bills and prompted Ohio to revise its regulations under the Ohio Administrative Code accordingly. Several provisions have been rescinded or amended by other legislative actions and others have been included in other Ohio Program Amendment packages (see Section V. OSM's Decision under the header ''No Findings Issued'' in addition to the discussion below). We summarize the statutory and regulatory changes affected by the bills in a comprehensive manner, presenting the

provisions in final form after all legislative actions have occurred.

These statutory and regulatory provisions involve bond and non-bond related provisions and address, among other things, the alternative bonding system, full-cost bond requirements, regulatory and abandoned mine land program funding, permitting procedures for determining the potential for acid mine drainage, valid existing rights, remining, abandoned mine lands, blasting, and topsoil handling. The statutory provisions are codified at ORC Chapter 1513, *Coal Surface Mining,* and Chapter 5749, *Severance Tax.* The regulatory provisions are codified at OAC Chapter 1501, *Department of Natural Resources,* as summarized below.

B. Bond Related Statutory Provisions

The following statutory changes affected the financial system by which operators and the State assure that lands and resources adversely affected by coal mining are reclaimed, including the funding sources of Ohio's Reclamation Forfeiture Fund (bond pool). These statutory changes include, among other things, adding trust funds as an acceptable form of performance security (financial assurance), allowing operators the option to post a full-cost performance security, and adjusting tax rates.

1. ORC 1513.01: Coal Surface Mining Definitions (Performance Security) (Revised by HB 443 and SB 73)

Ohio revised ORC 1513.01 to add the term *performance security* at subsection (W). ORC 1513.01(W) defines *performance security* as a form of financial assurance, including, without limitation, a surety bond issued by a surety licensed to do business in the State; cash; a negotiable certificate of deposit; an irrevocable letter of credit that automatically renews; a negotiable bond of the United States or Ohio or a municipal corporation in Ohio; trust fund of which the State is the primary beneficiary, or other form of financial guarantee that is acceptable to the State. Through SB 73, Ohio then revised the definition to delete annuities from the list of acceptable performance security and to clarify that the State is the primary beneficiary, rather than the conditional beneficiary, of any trust fund.

Correspondingly, Ohio has amended or deleted terms throughout ORC chapter 1513, in which the word *bond* appears, such as in the terms *performance bond* and *bond coverage,* and replaced those terms with the term *performance security,* or used both. Ohio also made some corresponding revisions to the definitions of *performance security, collateral bond,* and *trust fund* in its regulations at OAC 1501:13–1–02. For ease of discussion, we include these regulatory revisions here rather than in Part C, below.

2. OAC 1501:13–1–02: Definitions (Performance Security, Collateral Bond, Trust Fund, Incremental Area, and Incremental Mining Unit)

In response to the addition of ORC 1513.01(W), Ohio modified the term *performance bond* in its regulations to use the term *performance security* instead, currently at OAC 1501:13–1–02(LLLL), defining it as a form of financial assurance that includes surety bonds (which is further defined at subsection (LLLLLL)), collateral bonds (which is further defined at subsection (DD)), a trust fund (which is further defined at subsection (WWWWWW) and described in more detail below), self-bond, or a combination thereof, by which the permittee assures faithful performance of all the requirements of ORC Chapter 1513, OAC Division 1501:13, and the requirements of the permit and the reclamation plan. Ohio also revised the definition of *collateral bond,* currently at subsection (DD), to clarify that the sum certain identified in the indemnity agreement is payable *only* to the State. The term retained the list of acceptable collateral as: cash deposits in one or more Federally insured accounts, negotiable United States or Ohio bonds, negotiable certificates of deposit, or an irrevocable letter of credit. Ohio also added and defined the term *trust fund,* currently at subsection (WWWWWW), to read: money, securities or other property held by a trustee for the benefit of the State that is devoted to the purpose of providing assurance that funds will be available when needed to comply with Chapter 1513 of the Revised Code and rules adopted thereunder and that irrevocably establishes the State as the primary beneficiary. In 2016, Ohio removed ''self-bond'' from the list of acceptable performance security under subsection (LLLL), and in 2018, moved trust funds from that list into the list of acceptable collateral bonds under subsection (DD), along with language requiring that trust funds must name the state as primary beneficiary in an amount sufficient to complete the reclamation plan for any and all areas that may default at any time and provided solely for meeting the performance security requirements of the OAC.

Finally, Ohio revised the term *incremental area,* currently at subsection (PPP), to apply the term exclusively to those permits for which an operator has elected to participate in the bond pool, and created the term *incremental mining unit,* currently at subsection (QQQ), to apply exclusively to those permits for which an operator has elected to conventionally bond. Ohio defines *incremental area* as that area within the permit area that the permittee affects by its operations in the particular permit year, and *incremental mining unit* means an area within a permit of sufficient size and configuration to provide for efficient mining and reclamation operations, subject to approval by DMRM, where mining and reclamation activities are authorized and for which a site-specific, full-cost performance security has been determined.

OSM Finding (ORC 1513.01(W) and OAC 1501:13–1–02): The term *performance security,* defined at ORC 1513.01(W) and OAC 1501:13–1–02(LLLL), has no exact counterpart in SMCRA or the Federal regulations. However, the Federal regulations at 30 CFR 800.5, *Definitions,* define the terms *surety bond* and *collateral bond.* Both surety bond and collateral bond, as defined at 30 CFR 800.5(a) and (b), respectively, are considered authorized forms of performance bond under 30 CFR 800.12, *Form of the performance bond.* We approved Ohio's definition of *surety bond,* currently at OAC 1501:13–1–02(LLLLLL), as no less effective than the Federal term at 30 CFR 800.5(a) when we conditionally approved Ohio's program in 1982. Nothing in this amendment changes that finding, and therefore the surety bond component of Ohio's definitions of *performance security* in both statute and regulation are likewise approved.

Next, Ohio's statutory and regulatory definitions differ only in that the regulation uses the term *collateral bonds,* which Ohio further defines at OAC 1501:13–1–02(DD), while the statute avoids the term collateral bonds, instead specifically naming the same types of collateral listed in OAC 1501:13–1–02(DD), along with a proviso allowing other forms of financial assurance acceptable to DMRM. The regulatory definition also specifies that these instruments assure faithful performance of all the requirements of the Ohio regulatory program, the permit, and the reclamation plan. As with the term *performance security,* we approved Ohio's regulatory definition for the term *collateral bond* when we conditionally approved Ohio's program in 1982 because it was consistent with the Federal definition at 30 CFR 800.5(b).

Regarding Ohio's revision to the term *collateral bond* specifying that the sum

certain is payable only to the State, we find that this revision is consistent with existing descriptions of each form of collateral listed in subsection (DD) and the corollary Federal descriptions at 30 CFR 800.5(b) and distinct from the requirement on Federal lands pursuant to the State-Federal Cooperative Agreement between Ohio and the Secretary of the Interior whereby the sum certain is payable to both Ohio and the United States. Regarding Ohio's addition of trust funds as an acceptable form of collateral and its definition of the term ''trust fund,'' we note that while the Federal regulations do not specifically list trust funds under 30 CFR 800.5(b), or define the term, we have approved trust funds as acceptable forms of collateral on the basis that, subject to certain limitations and safeguards included in the State's regulations, trust funds present no greater risks than the other forms of collateral bond included in 30 CFR 800.5(b) (subject to the limitations in 30 CFR 800.21). *See, e.g.,* 70 FR 25472, 25474 (May 13, 2005) (approving similar addition to Pennsylvania's regulatory program). Ohio lists most of these limitations under OAC 1501:13–07–03(B)(10), which we address below. However, nothing in the general requirements found in the definition of trust fund at subsection (WWWWWW), nor in the description provided under the definition of collateral bond at subsection (DD)(5), renders the Ohio program less effective than 30 CFR 800.5(b). These provisions are also consistent with our prior approval in Pennsylvania, in which we stress that the trust fund irrevocably names the State as the beneficiary, and its purpose must ensure compliance with the approved State program. Therefore, we approve the definition of trust fund at subsection (WWWWWW) and the inclusion of trust funds as acceptable collateral under subsection (DD). We also find that Ohio's choice to move trust funds from the definition of *performance security* to the list of approved collateral at subsection (DD) makes no practical difference to the program. Therefore, even though Ohio had not submitted, and we had not published, notice of this particular revision before we make our finding here, we believe that notice and public comment under section 553 of the Administrative Procedure Act (APA) for this single immaterial revision is impracticable, unnecessary, and contrary to public interest. See 5 U.S.C. 553(b)(B).

Turning back then to the definition of *performance security,* we note that removal of self-bond from the definition at OAC 1501:13–1–02(LLLL) is part of a separate program amendment docketed at SATS No. OH–258–FOR, so we will address it in that amendment. Otherwise, having approved the terms *surety bond* and *collateral bond,* Ohio's definition of *performance security* at subsection (LLLL) is no less effective than 30 CFR 800.5(a) and (b), and we approve it. We also approve Ohio's statutory definition of *performance security* at ORC 1513.01(W) to the extent it lists surety bonds and specifically names the types of acceptable collateral for collateral bonds subject to additional limitation by Ohio's regulations at OAC 1501:13–1–02(DD) and 1501:13–7–03. We note that the term defined at ORC 1513.01(W) has no independent operative effect but is subject to its use within the provisions of Chapter 1513 of the Ohio Revised Code that used to reference *performance bond* and similar phrasing.

Regarding Ohio's inclusion of ''other forms'' of financial assurance acceptable to DMRM, we note that while the Federal regulations do not contain such an open-ended catchall, 30 CFR 800.5(b) does contain two additional forms of collateral bond: a perfected, first-lien security interest in real property in favor of the regulatory authority, and other investment-grade rated securities that meet certain requirements. To the extent that other forms of financial security ''acceptable to DMRM'' are limited to those listed under the Federal regulations or are otherwise approved by us as part of the approved program, we approve Ohio's provision contemplating other forms of financial security acceptable to DMRM. Having addressed and approved each component of the term *performance security* at ORC 1513.01(W) and OAC 1501:13–1–02(LLLL) of OAC and finding them to be no less effective than the Federal regulations, we approve these provisions.

Finally, while the term *incremental mining unit* is not defined in the Federal regulations, Ohio's definition is nearly identical to, and therefore no less effective than, the Federal regulation at 30 CFR 800.11(b)(4), which dictates that independently bonded increments of a mining permit must be of a sufficient size and configuration to provide for efficient reclamation by the regulatory authority should the bond become forfeited. The Federal regulations also do not define the term *incremental area,* which Ohio exclusively uses here to describe how an applicant or permittee relying on the Reclamation Forfeiture Fund reconciles their $2500/acre fee to participate in Ohio's ABS under OAC 1501:13–7–01(C)(2) and –7–02(A)(1). Importantly, the concern about the increment size and configuration is absent because the increments under a bond pool are not ''independent'' in the sense that there is not a fixed financial instrument supporting the particular increment. While the Federal program does not establish any specific ABS, Ohio's definition of *incremental area* for this purpose is not inconsistent with the Federal regulations. For these reasons, we approve the definitions of both *incremental mining area* and *incremental mining unit* at OAC 1501:13–1–02(PPP) and (QQQ), respectively.

3. ORC 1513.02: Chief of Division of Mineral Resources Management—Powers and Duties (Civil Penalties) (Revised by HB 443)

In addition to minor editorial corrections, Ohio revised subsection (E)(3) to direct the deposit of all funds collected from civil penalties for violations of ORC Chapter 1513 into the Reclamation Forfeiture Fund created under ORC 1513.18, discussed below. Before this revision, civil penalty funds were directed to Ohio's coal mining administration and reclamation reserve fund created under ORC 1513.181 (repealed).

OSM Finding: The deposit of civil penalties to the bond pool will contribute to the Reclamation Forfeiture Fund's solvency as required at 30 CFR 800.11(e) and promote fulfillment of the program condition described at 30 CFR 935.11. Further, 30 CFR 845.21 authorizes the Director of OSM to use civil penalties for reclamation, with which Ohio's revision is consistent. As we note below in more detail, the coal mining administration and reclamation reserve fund has been terminated, and its functions have been consolidated with those of other funds into the Mining Regulation and Safety Fund. One of the functions of this consolidated fund includes the general administration and enforcement of Ohio's approved coal mining regulatory program. States are required under 30 CFR 732.15(d) to ensure that they have sufficient funding to implement, administer, and enforce their approved programs. In lieu of civil penalties and permit fees (discussed below), Ohio has decided to fund administration and enforcement of its approved program through an increase of the severance tax on coal production at ORC 5749.02. We have seen no indication that diverting the civil penalties away from general administration and enforcement has jeopardized Ohio's compliance with 30 CFR 732.15(d), but we will continue to

monitor through our regular oversight function. Therefore, we approve the revision to ORC 1513.02(E)(3).

4. ORC 1513.07: Coal Mining and Reclamation Permit—Application or Renewal—Reclamation Plan (Permit Application and Renewal Fee, and Estimated Cost of Reclamation) (Revised by HB 443 and SB 73)

In 2007, Ohio revised subsection (B)(1) to delete the permit application and renewal fee of seventy-five dollars per acre that was credited to the coal mining administration and reclamation reserve fund under ORC 1513.181 (repealed) and used to assist funding DMRM's operational costs (with the possibility of transfers to the Reclamation Forfeiture Fund at ORC 1513.18 to support the bond pool). In 2009, Ohio further revised this section by amending the reclamation plan requirement at subsection (C) to clarify that the applicant is responsible for providing adequate information in the application in the detail necessary for DMRM to determine the estimated site reclamation cost in the event of forfeiture. Ohio consequently eliminated the requirement at subsection (C)(5) that the permittee provides the estimated cost of reclamation per acre in the permit application.

OSM Finding: Similar to the civil penalties discussed above, Ohio chose to eliminate its permit and renewal fees in favor of generating additional revenue to fund the administration and enforcement of its approved program through an increase of its severance tax on coal production at ORC 5749.02. As with civil penalties, we approve the removal of the permit and renewal fee provision from ORC 1513.07(B)(1) and will continue to monitor Ohio's funding of its program through our regular oversight function to ensure it remains sufficient.

Concerning Ohio's addition of a requirement that permit applicants provide information in detail necessary for DMRM to determine estimated reclamation costs, and Ohio's corresponding elimination of the applicant-provided cost estimate, we find that the revisions render Ohio's program no less effective than 30 CFR 780.18, *Reclamation Plan; General requirements,* and 30 CFR 800.14, *Determination of bond amount,* at meeting the requirements of SMCRA. Section 780.18(b)(2) of the Federal regulations requires that each reclamation plan includes a detailed estimate of the cost of reclamation, with supporting calculations, of the operations required to be covered by a performance bond under 30 CFR part 800. However, § 800.14(a) specifies that the amount of the bond must ultimately be determined by the regulatory authority and based on, but not limited to, the estimate submitted by the permit applicant. 30 CFR 800.14(a)(1), (4). While Ohio's elimination of the requirement that the applicant submit an estimate seemingly contradicts the Federal requirement at 30 CFR 780.18(b)(2), we find that Ohio's approach overall should achieve greater accuracy and consistency at meeting the requirement of 30 CFR 800.14(a)(1) by requiring necessary detail in the reclamation plan for DMRM to determine cost in the first instance. Therefore, we approve the revisions to ORC 1513.07(C) and (C)(5).

5. ORC 1513.08: Filing Performance Bond or Deposit of Cash or Securities (Revised by HB 443, HB 119, SB 73)

a. Subsection (A) (General Requirements)

In addition to revising the word *bond* to *performance security,* Ohio revised this section to remove the words ''*but before the permit is issued*'' that described when an applicant must file performance security after the permit application is approved. Ohio also initially removed, but then replaced, language requiring that the performance security be payable to the State and conditioned on the faithful performance of all the requirements of Ohio's coal mining statutes and regulations (Ohio's approved program) and the terms and conditions of the permit.

OSM Finding: Although the phrase ''*but before the permit is issued*'' has been deleted from ORC 1513.08(A), Ohio provides clarity in other provisions about when performance security must be filed. Ohio's regulations at OAC 1501:13–7–01(A)(2) generally prohibit surface acreage disturbance before performance security is filed with DMRM. Moreover, subsections (A)(6)(a)(ii) and (A)(6)(b)(ii) of this rule specify that applicants must file the performance security before the permit is issued for the particular area or increment to be affected. Relying on this regulation, we find that Ohio's requirement to file a performance security after permit approval remains no less effective than the Federal regulations at 30 CFR 800.11(a), *Requirement to file a bond,* and approve ORC 1513.08(A). If we determine in the future that Ohio is issuing permits before receiving the bond, we may require Ohio to submit a program amendment to revise its program to reflect our understanding.

b. Subsection (B) (Full-Cost Performance Security Amount and Performance Security Election)

Ohio split up subsection (A) into subsections (B) and (C) and significantly revised the existing language to create two options for providing performance security. In subsection (B), Ohio authorizes DMRM to determine the estimated cost of reclamation if the reclamation would need to be performed by the State in the event of forfeiture (*i.e.,* site-specific, conventional, full-cost bond). Subsection (B) provides that DMRM will use the information included in the permit application, requirements of the approved permit, and other enumerated considerations to determine the amount of the performance security. It further provides that Ohio will notify the applicant via certified mail of the estimated cost, and the applicant must provide written notice indicating the method by which it is providing the performance security. In 2023, Ohio amended this subsection, as well as subsections (E) and (F), to accommodate electronic notice. Because these revisions were not part of this submittal, we do not address those changes in this decision. Rather, we have contacted DMRM to coordinate Ohio's submission of this, and other intervening revisions not already accounted for, as a separate state program amendment.

OSM Finding: We have determined that the revised language in this subsection is nearly identical to the Federal requirements at 30 CFR 800.14(a), *Determination of bond amount* and, therefore, is no less effective than the Federal regulations. We do note, however, that subsection (B) does not list an estimate provided by the applicant as a factor DMRM considers when arriving at its estimate. We address the issue above in our analysis of ORC 1513.07 and incorporate those findings here. We also note that in its redrafting of these subsections, Ohio moved the requirement that the total bond posted for the entire area under one permit not be less than $10,000, which was derived from section 509(a) of SMCRA, 30 U.S.C 1259(a), and 30 CFR 800.14(b), to subsection (C) discussed below. The $10,000 minimum total bond is still required for the performance security posted according to subsection (B). Accordingly, we approve the changes to ORC 1513.08(B).

c. Subsection (C) (Performance Security Options)

Ohio created subsection (C) to contain some general performance security

requirements and to permit an alternative method for the applicant to provide performance security distinct from the conventional approach described in the section above regarding subsection (B). Subsection (C) contains a modified version of Ohio's previous system, which had required all applicants to participate in a bond pool, a form of an ABS. The bond pool is comprised of funds collected from permittees and other sources, placed in the bond pool, and, if necessary, available to Ohio to reclaim sites in the pool, with certain conditions described below. Paragraph (1) provides that if an operator elects to provide performance security without reliance on the bond pool, it must do so in compliance with subsection (B) for the increments of land on which it will conduct coal mining and reclamation operations under the initial term of the permit. Paragraph (2) provides that the applicant may elect to participate in the bond pool, which requires the applicant to provide a performance security in an amount equal to $2500/acre (flat rate) and pay an additional severance tax levied under ORC 5749.02(A)(8) on each ton of coal produced. Paragraph (2) also provides that in order for an applicant to be eligible to participate in the bond pool, the applicant, an owner or controller of the applicant, or an affiliate of the applicant shall have held a permit issued under ORC Chapter 1513 for any coal mining and reclamation operation for a period of not less than five years.

The remaining provisions are not separately numbered but are contained within subsection (C) generally. Subsection (C) provides that in the event of forfeiture of the flat rate performance security, the difference between the flat-rate performance security and the estimated cost of reclamation determined by DMRM according to subsection (B) will come from the Reclamation Forfeiture Fund as needed to complete reclamation (discussed more at ORC 1513.16). The requirement that no performance security (applying now to both conventional and flat rate) for the entire area to be mined under one permit will not be less than $10,000 is retained. Subsection (C) also retains the provision describing the area of land required to be covered by the performance security and conditions that trigger the requirement to file additional performance security for succeeding increments of the approved permit area, and adds that if a permittee intends to mine areas outside of the approved permit area, it must file additional performance security for those areas.

d. Coal Preparation Plant and Coal Refuse Disposal Areas

In 2007, Ohio added a provision requiring applicants to file full-cost bond for coal preparation plants and coal refuse disposal areas not located within the permitted area of a mine. In 2009, Ohio revised this provision to allow permittees to include these operations in the bond pool under paragraph (2), subject to the same conditions, and allowed those that had initially posted full-cost bond to convert to the bond pool. In 2021, through House Bill 110, 2021 Ohio Laws 30, Ohio added a proviso that if a permit is transferred, assigned or sold, the transferee is not eligible for the bond pool if they cannot meet the five-year requirement under paragraph (2), even if the name of the permittee otherwise remains the same after the transfer, assignment or sale.

OSM Finding: We have determined that the changes to this subsection are no less effective than the Federal regulations at 30 CFR 800.11(e), 800.14(b), and 800.17.

First, Ohio's additional option for applicants to provide full-cost performance security, discussed in more detail above for subsection (B), is as effective as 30 CFR 800.11(a) and 800.14 and is, in fact, the only option currently provided under the Federal program. Accordingly, we approve ORC 1513.08(C)(1). Next, the Federal regulations at 30 CFR 800.11(e) allow for alternative bonding systems if those systems both assure that the regulatory authority has sufficient funds to conduct reclamation for any areas that may be in default at any time and provide a substantial economic incentive for permittees to comply with reclamation requirements. Ohio's alternative bonding system described at 1513.08(C)(2) is no less effective than 30 CFR 800.11(e). The Reclamation Forfeiture Fund that Ohio will use to pay for reclamation work for areas in default has sufficient funds to cover possible reclamation work, as we analyze in our discussion of the program condition and actuarial reports on the bond pool below. We find that the $2,500 per acre performance security that applicants will provide under the alternative bonding system provides a substantial economic incentive to comply with reclamation requirements, and the severance tax levied on coal production is currently generating sufficient revenue for the bond pool. As with the alternative bonding systems in all States that elect to use them, we will continue to monitor its sufficiency through our regular oversight function. Regarding the provision that the Reclamation Forfeiture Fund provides the difference between flat rate performance security and the estimated cost of reclamation, we address this in more detail below regarding ORC 1513.18 and incorporate those findings here.

The provision requiring an applicant or its owners, controllers, or affiliates, to have held a permit for at least five years to be eligible for the bond pool has no direct Federal counterpart but is not inconsistent with the Federal requirement at 30 CFR 800.11(e)(1), that alternative bonding systems carry sufficient funds for the regulatory authority to conduct reclamation for areas in default. Restricting bond pool participation to more experienced and established operators will reduce the chances of bond default occurring, thereby reducing expenditures from the bond pool funds. Ohio has the discretion to limit its bond pool participants in such manner. Further, we find that the same discretion supports Ohio's revision in 2021 that restricts a transferee that does not meet the five-year requirement from participating in the bond pool even if the named permittee remains the same. Even though Ohio had not submitted, and we had not published, notice of this proviso before making this finding, we find that notice and public procedure under section 553 of the APA for removal of these references in ORC 1513.18 are impracticable, unnecessary, and contrary to public interest. See 5 U.S.C. 553(b)(B). Notification is unnecessary because we interpret this revision to be a clarification of Ohio's existing requirement, not a new restriction, and that even if it were new, it is more restrictive, which is always within the State's discretion.

Ohio's retention of the $10,000 minimum bond amount is identical to the Federal requirements at 30 CFR 800.14(b), and we approve its application to both methods of providing financial security. Similarly, we find that Ohio's provision requiring that permittees who intend to mine areas outside the approved permit area must file additional performance security is merely an additional statement of what Ohio's program already required.

The requirement for applicants to post bonds for coal preparation plants and coal refuse disposal areas is no less effective than the Federal regulations at 30 CFR 800.17(a) and (b), which requires applicants to post bonds long term surface facilities, including coal preparation plants and refuse disposal areas. Ohio providing the option to

bond coal preparation plants and coal refuse disposal areas with full-cost bonds or under the bond pool program is no less effective than the Federal regulations at 30 CFR 800.11 and 800.14 for the same reasons described earlier in this finding.

For these reasons, we have determined that the changes to this subsection are no less effective than the Federal regulations. Accordingly, we approve the changes to ORC 1513.08(C).

e. Subsection (D) (Performance Security Liability)

Ohio revised subsection (D) to add that a permittee's liability under the performance security is limited to the obligation established under the permit, including completion of the reclamation plan to return the land to a condition capable of supporting the postmining land use that was approved in the permit.

OSM Finding: We have determined that, when read in conjunction with subsection (A), above, and ORC 1513.07, this provision is no less effective than 30 CFR 800.16(c), which requires that performance bond be conditioned on the faithful performance of all the requirements of the coal mining laws and regulations and the approved permit and reclamation plan. Subsection (A) conditions performance security on the faithful performance of all the requirements of Ohio's approved coal mining statutes and regulations and the terms and conditions of the permit, and ORC 1513.07 requires that the permit and reclamation plan must meet the requirements of Ohio's approved coal mining statutes and regulations. Therefore, we approve the change to ORC 1513.08(D).

f. Subsection (E) (Bond Adjustments—Agency Initiated)

Subsection (E) is new and prescribes the requirements for full-cost performance security adjustments. When the land that is affected by mining increases or decreases or if the cost of reclamation increases or decreases, the State will adjust the reclamation estimate and corresponding amount of performance security. If the performance security was provided under the bond pool and a cessation order was issued for failure to abate a violation of the contemporaneous reclamation requirement, the State may require the permittee to increase the amount of performance security from $2,500 per permitted acre to $5,000 per permitted acre.

The provisions also require the State to notify the permittee, each surety, and any person who has a property interest in the performance security and who has requested to be notified of any proposed performance security adjustment. The permittee may request an informal conference to discuss the proposed adjustment, and the State will provide such an informal conference. If the State requires an increase in the performance security amount, the permittee must provide the additional performance security. If the State determines a decrease in performance security is warranted, the State will send written notice of the amount of reduction to the permittee, and the permittee may reduce the amount of performance security in the amount determined by the State.

OSM Finding: We have determined that the provisions in this section are no less effective than the Federal regulations at 30 CFR 800.15(a) and (b). The conditions under which bond adjustment occurs and the process for adjusting the bond are identical to the Federal regulations. Regarding the increase of the flat-rate performance security, we find that it is a prudent measure to help ensure the bond pool's compliance with 30 CFR 800.11(e)(1) by transferring additional liability away from the Reclamation Forfeiture Fund and onto operators at high risk of default. Therefore, we approve the addition of ORC 1513.08(E).

Subsection (F) (Bond Adjustment—Permittee Initiated)

Subsection (F) is new and provides that a permittee may request a reduction in the amount of full-cost performance security. The request must include documentation proving that the amount of performance security provided by the permittee exceeds the estimated cost of reclamation. The State will respond to each request and, after review of the documentation, determine whether the performance security exceeds the reclamation cost estimate. Following the determination, the State will determine the amount of the reduction of the performance security and send written notice of the amount to the permittee. The permittee may reduce the amount of performance security in the amount determined by the State. Adjustments in the amount of performance security are not considered release of performance security and, therefore, not subject to the bond release provisions of ORC 1513.16.

OSM Finding: We have determined that the provisions in this section are no less effective than the Federal regulations at 30 CFR 800.15(c). The procedures and parameters of permittee bond reduction requests are identical in this section and the Federal regulations. Therefore, we approve the addition of ORC 1513.08(F).

Subsection (G) (Provider Requirements)

Ohio revised subsection (G) to add that, if the performance security is a cash deposit or a certificate of deposit of a bank or Savings and Loan association, that business must be licensed and operating in Ohio. The revision further adds that DMRM must review the performance security documents, approve of their use, and then notify the applicant of the determination.

OSM Finding: We have determined that the provisions in this section are no less effective than the Federal regulations at 30 CFR 800.16(e), which requires all bonds to provide a mechanism for the bank or surety company to notify the regulatory authority of suspension or revocation of its license. We also note that 30 CFR 800.5(b) and 800.21(a) and (d) require the financial institution (or account) holding these performance security instruments to be Federally insured, which we understand is a requirement for its State license. The provisions in this section of the Ohio amendment likewise require businesses facilitating bond instruments to be licensed in Ohio. Therefore, we approve the revisions to ORC 1513.08(G).

Subsection (I) (Trust Fund)

Ohio added subsection (I), which authorizes the use of trust funds as performance security, requiring that the State must be the primary beneficiary of the trust and the custodian must be a bank, trust company, or other financial institution licensed and operating in Ohio. Subsection (I) also specifies that DMRM will review the trust document, approve or disapprove it, and notify the applicant of the determination.

OSM Finding: We have determined that the provisions in this section do not have direct Federal counterparts but are not inconsistent with the Federal regulations at 30 CFR part 800. As we note in our finding on the definition of the term *performance security,* above, and in more detail below for ORC 1513.16, we acknowledge that trust funds are not explicitly authorized as a bonding instrument pursuant to 30 CFR 800.12. We incorporate our findings for those provisions, which include significantly more detail, and simply note here that we approve Ohio's addition of trust funds as a form of performance security consistent with our approval in Pennsylvania; we also note that Ohio's program is similar to our approval of trust funds as a form of ABS to fund water treatment in the

Federal program in Tennessee. Therefore, we approve the addition of ORC 1513.08(I).

Subsection (J) (Provider Insolvency)

Ohio added subsection (J) to require the operator to submit a plan for replacement of performance security if a surety, bank, savings and loan association, trust company, or other financial institution that holds the performance security becomes insolvent. These requirements include the permittee notifying the State of the insolvency and the State ordering the permittee to submit a plan for replacement performance security within 30 days after receipt of notice from the State. If the permittee provided full-cost performance security, the permittee has 90 days after receipt of notice to replace the performance security. If the permittee participated in the bond pool, the permittee has one year after receipt of notice to replace the performance security. For the one-year period following the permittee's receipt of notice, or until the permittee provides the replacement security, whichever comes first, money in the bond pool will be the permittee's replacement performance security in an amount not to exceed the State's reclamation cost estimate.

OSM Finding: We have determined that the provisions in this section are less effective than the Federal regulations at 30 CFR 800.16(e)(2). The procedures for replacing full-cost performance security in the event of insolvency conflict with the Federal regulations that require replacement bonds to be replaced within 90 days with no exception for alternative bonding systems. Although Ohio seeks to revise their program to allow the operators who rely on the bond pool to partially replace the bond within 90 days and the balance of the remaining bond being provided by the bond pool within one year, we must require a complete replacement of the bond within 90 days. If Ohio implements its program allowing the bond pool to supplement the replacement bond this action would place an undue risk on the solvency of their bond pool. Therefore, we do not approve that provision of ORC 1513.08(J) related to permittees who have provided performance security in accordance with ORC 1513.08(C)(2).

Subsection (K) (Liability Insurance for Water Treatment and Water Replacement)

In 2007, Ohio added subsection (K), which at that time provided that the permittee's responsibility for repairing material damage and replacement of water supply resulting from subsidence may be satisfied by liability insurance in lieu of the permittee's performance security if the liability insurance policy included the terms and conditions that specifically provide coverage for repairing material damage and replacement of water supply resulting from subsidence. In 2009, coinciding with the removal of a prohibition against using the bond pool fund to address material damage from subsidence, Ohio reorganized and revised this provision to only apply to permittees who have provided full-cost performance security. The revisions clarified that the permittee must select this option before mining and that it be a non-cancelable premium-paid liability insurance policy. Ohio also added subsection (2), which offers permittees the option to provide additional performance security to meet the permittee's obligation to repair material damage and replacement of water supply resulting from subsidence. Subsection (2) provides that a permittee may post additional performance security in the amount of the State's reclamation cost estimate to repair material damage and replace water supplies resulting from subsidence until the repair or replacement is completed. The provision also provides that if repair or replacement is completed or if compensation for structures that have been damaged by subsidence is provided by the permittee within 90 days of the occurrence of the subsidence, additional performance security is not required. The State may extend the 90-day period for a period not to exceed one year if the State determines that the permittee has demonstrated in writing that subsidence is not complete and that probable subsidence-related damage will occur, and, as a result, the completion of repairs of subsidence-related material damage to lands or protected structures or the replacement of water supply within 90 days of the occurrence of the subsidence would be unreasonable.

OSM Finding: We have determined that the provisions in this section are no less effective than the Federal regulations at 30 CFR 800.14(c), 800.60, and 817.121(c). Section 817.121 requires operators to adjust the bond amount for subsidence damage unless the operator repairs the subsidence damage within 90 days. This section also allows for an extension of the 90-day period up to a year if the operator demonstrates that not all reasonably anticipated damages have occurred yet. Sections 800.14 and 800.60 allow for liability insurance for subsidence damage so long as it meets certain requirements, like that it is maintained in full force during the life of the permit, any renewal period, and through the liability period necessary to complete all reclamation. Ohio's requirements are consistent with these Federal regulations. Therefore, we approve ORC 1513.08(K).

Subsection (L) (Excess Performance Security)

Ohio added this subsection to allow DMRM to authorize payment to the permittee of the amount of performance security that exceeds the estimated cost of reclamation, together with any interest or other earnings on the performance security.

OSM Finding: We have determined that the provision authorizing DMRM to refund, with interest, excess amounts of performance security is no less effective than the Federal regulations at 30 CFR 800.15, *Adjustment of amount.* Ohio is clarifying DMRM's ability to make these adjustments as allowed by the Federal regulations. Therefore, we approve ORC 1513.08(L).

Subsection (M) (Transition Provisions)

Immediately after Ohio passed HB 443, Ohio passed HB 119 to add subsection (M) to establish that permittees that held valid permits immediately prior to the effective date of HB 443 (*i.e.,* April 6, 2007) must update their performance securities in conformance with the new law.

OSM Finding: We have determined that this section does not have direct Federal counterparts but is not inconsistent with the Federal regulations. This section provided a reasonable length of time for existing operations to comply with the new requirements. We understand that no permittees currently operate under the prior version of Ohio's law, and therefore we approve ORC 1513.08(M) as a matter of course.

Subsection (N) (Applicant Relationships Defined)

Subsection (N) is a new section that defines certain terms related to ORC 1513.08. The term ''*affiliate of the applicant*'' means an entity that has a parent entity in common with the applicant. The term ''*owner and controller of the applicant*'' means a person that has any relationship with the applicant that gives the person authority to determine directly or indirectly the manner in which the applicant conducts coal mining operations.

OSM Finding: In ORC 1513.08, Ohio uses these terms only to refer to entities

that may have held a permit within the previous five years such that the applicant may elect to participate in the bond pool. We have determined that the bond pool provisions in this section have no direct Federal counterparts, but Ohio's use and definition of these terms here are not inconsistent with the Federal definitions of owner or controller at 30 CFR 701.5, or our use of the term *affiliate* at 30 CFR 778.14(a). Therefore, we approve the addition of ORC 1513.08(N).

ORC 1513.081: Financial Assurance Operator Insolvency (Revised by HB 443, HB 163)

This is a new section that provides the lien provisions and conditions when an operator becomes insolvent. It includes a provision that the State must have a priority lien superior to all interested creditors against the assets of that operator for the amount of any reclamation that is required, including the cost of long-term water treatment and replacement of alternative water supplies, as a result of the operator's mining activities. This section describes the procedures DMRM will use in such cases. It also describes the conditions under which DMRM will issue a certificate of release, modify the amount of the lien, and authorize a closing agent to hold a certificate of release in escrow for a period not to exceed 180 days for the purpose of facilitating the transfer of unreclaimed mine land. This section also adds the provision that all money from the collection of liens will be deposited in the State treasury to the credit of the Reclamation Forfeiture Fund. In 2011, Ohio revised this provision to replace the word ''operator'' with ''permittee'' and added language in several places to account for costs related to long-term water treatment and long-term alternative water supplies.

OSM Finding: The Federal regulations at 30 CFR 800.50(d) explain that if the estimated amount of bond forfeited by an operator is insufficient to pay for the full cost of reclamation, then the operator is liable for the remaining costs, and the regulatory authority may authorize the reclamation and recover those costs from the operator. Therefore, we have determined that the priority lien provision is consistent with the Federal regulations at 30 CFR 800.50(d) because it provides the State with the authority to recover authorized reclamation costs by placing liens against an operator who becomes insolvent. This prioritization will ensure that assets are available to the State to complete reclamation of the site as established in the approved permit, and so we approve ORC 1513.081.

ORC 1513.10: Reclamation Fee Fund (Permit Fee Refunds) (Repealed by HB 443)

Ohio repealed this section, which created the Reclamation Fee Fund and provided conditions under which the operator would be entitled to a permit fee refund.

OSM Finding: We have determined that the repeal of this provision does not render the Ohio approved program inconsistent with SMCRA or the Federal regulations, neither of which includes a counterpart to the repealed provision. ORC 1513.10 has become unnecessary because Ohio eliminated acreage permit fees entirely, which we approved above in our discussion of revisions to ORC 1513.07(B)(1). Acreage fees were removed in favor of changes to the severance tax on coal production. Therefore, we approve the repeal of ORC 1513.10.

ORC 1513.16: Performance Standards (Treatment Trust Provisions and Bond Release) (Revised by HB 443, HB 163) and OAC 1501:13–1–02: Definitions (Alternative Financial Security)

Ohio revised this provision, which relates to general performance standards that apply to all coal mining and reclamation operations, to replace the term *bond* with the term *performance security* consistent with the revision to ORC 1513.01(W), discussed above. Ohio also added subsection (F)(8) to authorize DMRM, in certain circumstances, to accept an *alternative financial security* sufficient to fund the treatment of mine drainage or provide alternative water supplies for which DMRM determines the permittee is responsible after reclamation is completed under the terms of the permit. Subsection (F)(8) requires that the amount must be determined by DMRM before the release of the remaining performance security under ORC 1513.16(F)(3)(c) and must be equal to or greater than the present value of the estimated cost over time to develop and implement mine drainage plans and provide water treatment, or necessary to provide and maintain an alternative water supply, as applicable. The provision specifies that the alternative financial security must include a contract, trust, or other agreement or mechanism legally enforceable specifically for those purposes. Through HB 163, Ohio further revised this provision to allow operators the option of funding an alternative financial security over time, up to five years, with reliance for the balance on guarantees or other collateral until the alternative financial security is fully funded. If permittee is bonded under the bond pool, the permittee may rely on the Reclamation Forfeiture Fund until the alternative financial security is fully funded, but the permittee must pay a fee of 7.5 percent of the average balance of the alternative financial security that is being provided by reliance on the Reclamation Forfeiture Fund over the previous six months. That fee is credited to the bond pool. Ohio also included a provision requiring DMRM to adopt regulations necessary for the administration of this subsection. Ohio also added subsection (F)(9) to add that the final release of the performance security terminates the jurisdiction of DMRM over the reclaimed site of a surface coal mining and reclamation operation or applicable portion of an operation. It specifies that DMRM will reassert jurisdiction over such a site if the release was based on fraud, collusion, or misrepresentation, and that adversely affected persons may appeal such a determination to the Reclamation Commission. Ohio has made subsequent revisions, adding subsection (A)(25) in 2015 (which is part of a separate state program amendment docketed at SATS No. OH–256–FOR), and eliminating the requirement for a stenographic record in 2023. We do not address those revisions here.

In 2018, Ohio revised its regulations to add the term *alternative financial security* to its list of definitions at OAC 1501:13–1–02(G), which it defined as a trust fund, standby trust fund, or other similar agreement or mechanism for the benefit of the state, enforceable under law and approved by DMRM that assures sufficient funds are available and devoted solely to the purpose of providing and maintaining long-term water treatment or a long-term water supply, as DMRM requires under ORC 1513.16(F)(8).

OSM Finding: Section 509(a) of SMCRA, 30 U.S.C. 1259(a), and its implementing regulations at 30 CFR 800.11 and 800.14, require that a permittee provide bonds ensuring the faithful performance of all the requirements of SMCRA, the regulatory program, the permit and the reclamation plan, which includes the long-term treatment of mine drainage or provision of alternative water supplies made necessary by the operation. Ohio's addition here requires an operator found responsible for water treatment or an alternative water supply after reclamation is completed to provide an *alternative financial security.* ORC 1513.16(F)(8) does not define *alternative financial security,* but it does describe it, as above, specifying that it include ''a

contract, trust, or other agreement or mechanism'' enforceable under the law for that purpose. Ohio then defined *alternative financial security* in its regulations in similar terms. Ohio's regulations also define the term *trust fund* at OAC 1501:13–1–02(WWWWWW), and, as explained above, place conditions on trust funds under OAC 1501:13–7–03(B)(10). As we note in our finding on the definition of performance security above, trust funds are not explicitly authorized as a bonding instrument pursuant to 30 CFR 800.12. However, we have previously found that trust funds and equivalent financial arrangements are a prudent approach to providing financial assurance for long-term treatment of pollutional discharges and providing alternative water supply, and have approved trust funds as a form of collateral bond in Pennsylvania, see 70 FR 25472 (May 13, 2005) and 75 FR 48526 (August 10, 2010), and as an alternative bonding system under section 509(c) of SMCRA and 30 CFR 800.11(e) in Pennsylvania, see id., West Virginia, see 89 FR 19262 (March 18, 2024), and under the Federal program in Tennessee, see 30 CFR 942.800(c); 72 FR 9616 (March 2, 2007).

In those three States, trust funds are conditioned as Ohio has conditioned them under OAC 1501:13–7–03, ensuring, for instance that the trust agreement be in a form approved by the regulatory authority and contain all terms and conditions the regulatory authority requires. We address the remaining conditions in our discussion of OAC 1501:13–7–03 below, but we note it here because, while we approve Ohio's *alternative financial security* as it appears in ORC 1513.16(F)(8) and defined at OAC 1501:13–1–02(G), we do so only to the extent it includes trust funds as defined at OAC 1501:13–1–02(WWWWWW) and conditioned by OAC 1501:13–7–03. If Ohio decides to pursue additional ''agreements or mechanisms'' (such as annuities so authorized in the three States mentioned), it will need to pursue an additional program amendment for us to evaluate the conditions proposed for those agreements or mechanisms. We also approve Ohio's provision authorizing the permittee to fund the alternative financial security within five years, which is consistent with our prior approvals acknowledging that they may be funded over a reasonable time. Regarding the amount of the alternative financial security, we note that our program in Tennessee and our recent approval in West Virginia stress that the amount of a trust for long-term water treatment include funding for reclamation of the treatment facility and supporting areas when they are no longer necessary in order to restore the area to the approved postmining land use. While Pennsylvania's program is not as explicit, it generally provides that the amount is determined as necessary to meet the bonding requirements established by the regulatory authority for a permittee and that it guarantees money for water treatment or reclamation or both. See 25 Pa. Code 86.158(f)(1) and (3). Accordingly, we approve ORC 1513.16(F)(8) and OAC 1501:13–1–02(G) with the understanding that, although they refer to amounts for providing and maintaining long-term water treatment, they are subject to the condition in the definition of *trust fund* at OAC 1501:13–1–02(WWWWWW) that funds are available to comply with Ohio's approved program and would necessarily include reclamation of the treatment facility after all pollutional discharges are eliminated or otherwise cease to exist.

We also find that, even though Ohio had not submitted, and we had not published, notice of Ohio's definition of *alternative financial security* at OAC 1501:13–1–02(G) before making this finding, notice and public procedure under section 553 of the APA for removal of these references in ORC 1513.18 are impracticable, unnecessary, and contrary to public interest. See 5 U.S.C. 553(b)(B). Notification is unnecessary because Ohio's definition is not substantively different than its description of alternative financial security in the text of ORC 1513.16(F)(8), and we limit our approval to alternative financial security in the form of trust funds, which Ohio had submitted and we approved above. Finally, we also find that the amendment at ORC 1513.16(F)(9), pertaining to termination and reassertion of jurisdiction, is effectively the same as the Federal regulations at 30 CFR 700.11(d), which authorizes the regulatory authority to terminate jurisdiction following a final decision to fully release the relevant performance bond and to reassert jurisdiction in cases of fraud, collusion, or misrepresentation of materials facts. Further, it is our understanding that Ohio does not interpret this provision as terminating jurisdiction at sites relying on alternative financial security under subsection (F)(8), for which the original performance security has been released pursuant to subsection (F)(3)(c). We find this interpretation is supported by Ohio's definitions of *alternative financial security* at OAC 1501:13–1–02(G), and *trust fund* at OAC 1501:13–1–02(WWWWWW), and the conditions for trust funds under OAC 1501:13–7–03(B)(10), which together establish that *alternative financial security* still means a form of collateral bond that constitutes performance security, only the proper release of which would terminate jurisdiction under ORC 1513.16(F)(9). Therefore, Ohio's provision is no less effective than the Federal regulation, and we approve it.

ORC 1513.171: Severance Tax Credit Certificate (HB 443)

This is a new section that provides procedures for a permittee to apply to perform reclamation on land or water resources not within their own permit area that had been affected by past coal mining for which the performance security was forfeited. Following approval of the application and successful reclamation, DMRM issues to the permittee a reclamation tax credit certificate that the permittee may claim under ORC 5749.11 against the severance tax imposed under ORC 5749.02. This provision also provides that DMRM will adopt rules to establish procedures for determining the amount; when DMRM may obtain consent of the owners of land or water resources to allow reclamation work; and delivery of notice to the owners of land or water resources on which the reclamation work is to be performed.

OSM Finding: We have determined that a tax credit for reclamation of areas adversely affected by coal mining, for which the permittee conducting the reclamation and applying for the credit is not responsible, has no Federal counterpart but is not inconsistent with SMCRA or its Federal regulations. Ohio has added this provision to its regulatory program as an incentive for permittees to perform reclamation work that would otherwise be conducted, at greater expense, by the State through the or through the bond pool or other relevant State funding. The cost-savings from private reclamation of these sites benefits the overall solvency of the bond pool. Therefore, we approve ORC 1513.171.

ORC 1513.18: Reclamation Forfeiture Fund (Revised by HB 443, HB 119, SB 73, HB 163)

Ohio made numerous revisions to this section, which establishes the Reclamation Forfeiture Fund to hold the money derived from the forfeiture of performance security and hold additional funds derived from other sources to support Ohio's bond pool. Ohio revised subsection (B), which

establishes the sources of funds, to eliminate transfers from the unreclaimed lands fund (2007) and the coal mining and reclamation reserve fund (2017); and to add all funds collected from liens under ORC 1513.081 (2007), the fee levied pursuant to ORC 1513.16(F)(8)(c) collected for sites for which the permittee elects to incrementally fund alternative financial security with reliance on the bond pool for the balance (2011), and fines collected for violations of Ohio's coal mining laws and obstructing official duties (2007). Ohio also revised the proviso in subsection (B) relating to disbursements, clarifying that disbursements must occur in accordance with subsection (D), eliminating the statement that the bond pool's priority was ensuring sufficient money for coal reclamation (2007), and later, due to drafting error, eliminating the corresponding provision authorizing the funding of reclamation of non-coal sites (2009). Ohio also added a provision that authorizes use of the bond pool to pay necessary administrative costs of the RFFAB.

Ohio revised subsection (C), which relates to contracts by DMRM to perform reclamation work, to add that, without advertising for bids, DMRM may contract with a contractor hired by a trustee if the performance security is held in trust. In 2011, Ohio further revised this list to include a contractor hired by the trust administrator of an alternative financial security provided under ORC 1513.16(F)(8) to provide long-term water treatment or a long-term alternative water supply at areas for which the permittee defaulted or has not fully funded an alternative financial security.

Ohio redrafted subsection (D), related to expenditures from the bond pool for reclamation, clarifying in paragraph (1) that the money from forfeited performance security applicable to an area of land and credited to the Reclamation Forfeiture Fund will pay for the cost of completing reclamation of that land to the standards established by Ohio's coal mining statute and regulations. Ohio created paragraphs (2) and (3) to distinguish between sites with conventional (full-cost) performance security and those that rely on the bond pool, and paragraph (4) to enumerate prohibition on uses of the bond pool. Ohio revised each of these paragraphs in 2011 to recognize alternative financial security created under ORC 1513.16, discussed above. Paragraph (2) specifies that any forfeited conventional performance security provided under ORC 1513.08(C)(1) or alternative financial security will be used to complete reclamation that the operator failed to perform under their permit. Paragraph (3) provides that, for permits covered by the bond pool, DMRM will first use forfeited performance security provided under ORC 1513.08(C)(2) (the $2500/acre amount) or alternative financial security, then, if that amount is insufficient, DMRM must notify the Board. Ohio also specifies that DMRM may expend money from the bond pool derived from the severance tax under ORC 5749.02 or the fee levied by ORC 1513.16(F)(8)(c), but not in an amount that exceeds the difference between the performance security and the estimated cost of reclamation determined under ORC 1513.08. Ohio also added paragraph (5) to limit expenditure for funding alternative financial security to the remaining balance not yet funded by the operator by increment. Following several revisions between 2007 and 2011, paragraph (4) generally prohibits use of the bond pool for long-term water treatment, making a limited exception for water treatment funded by alternative financial security pursuant to paragraph (5), and categorically prohibits use of the bond pool to supplement insufficient conventional performance security. Ohio made no other revisions to subsection (E) other than those to account for water treatment and alternative financial security. In 2007, Ohio added subsection (H), which requires that all investment earnings of the Reclamation Forfeiture Fund shall be credited to the bond pool and shall be used only for the reclamation of land for which the performance security was provided.

OSM Finding: We have determined that the provisions of this section do not have any direct counterparts in SMCRA or the Federal regulations. The revisions to the sources of funding for the bond pool are not inconsistent with section 509 of SMCRA or 30 CFR 800.11(e)(1), which require that an ABS assures that the regulatory authority have available sufficient money to complete the reclamation plan for any areas which may be in default at any time. Ohio has not indicated in any of its actuarial reports that it has ever relied on or even used transfers from the unreclaimed lands fund or the coal mining administration and reclamation reserve fund (repealed 2017) since the creation of the severance tax at ORC 5749.02 in 2007. We also find that even though Ohio had not submitted, and we had not published notice of, the repeal of ORC 1513.181 before making this finding, notice and public procedure under section 553 of the APA for removal of these references in ORC 1513.18 are impracticable, unnecessary, and contrary to public interest. *See* 5 U.S.C. 553(b)(B). Notification is unnecessary because the change occurred now over eight years ago, and there has neither been any identifiable change to the Reclamation Forfeiture Fund nor public interest in the change, and notification of this repeal now would further delay Ohio's remaining provisions, which have been pending resolution in their current form since 2012, including those that directly support the bond pool. Additionally, Ohio's revisions to the severance tax at ORC 5749.02, discussed more below, and the elimination of the authorization to use funds for the reclamation of non-coal sites contributes to the solvency of the bond pool. Ohio's authorization to use the bond pool for necessary administrative costs of the RFFAB is also a reasonable use of the Reclamation Forfeiture Fund considering the RFFAB's role in maintaining bond pool solvency. Next, Ohio's revisions to subsection (C) to authorize sole-source contracts for the reclamation with contractors hired by trustees is consistent with the existing list that includes contractors hired by sureties. Most of Ohio's revisions to subsection (D) simply delineate between use of funds for sites with conventional performance security and those that rely on the bond pool, which we approve as integral to maintaining the solvency of the bond pool. We further approve revisions to account for Ohio's creation of alternative financial security, as those instruments are as accountable for uncompleted work to meet the requirements of the Ohio program as conventional performance security and their function in forfeiture is the same. Regarding Ohio's proviso at subsection (D)(3) that DMRM cannot expend money in the bond pool that exceeds the difference between the $2,500/acre performance security and the estimated cost of reclamation determine by DMRM under ORC 1513.08(B) and (E), we note that this provision relies on Ohio's regulations at OAC 1501:13–7–02(E)(3) (allowing DMRM to revise the estimated cost of reclamation at any time) and OAC 1501:13–7–06(F)(2) (allowing DMRM to revise a reclamation plan after forfeiture) and OAC 1501:13–4–06(E)(7) (allowing DMRM to revise the cost of reclamation upon any permit revision). We will monitor through our regular oversight function to ensure Ohio is appropriately revising the estimated cost of reclamation accordingly so that the bond pool is obligated to all relevant reclamation liabilities. Regarding Ohio's prohibition on using the bond pool for the long-term treatment of water after

reclamation is completed, we note that this prohibition would be problematic given the requirement at 30 CFR 800.11(e) but for Ohio's new requirement to provide alternative financial security under ORC 1513.16. As we have noted before, the requirement to have available sufficient money to complete the reclamation plan includes the funding for long-term water treatment should it be necessary. Therefore, we approve this provision so long as Ohio maintains the requirement that an operator provide alternative financial security as approved above. Similarly, we approve Ohio's proposal to allow reliance on the bond pool for the remaining balance of an incrementally funded alternative financial security in compliance with subsection (D)(5). Finally, crediting the investment earnings back into the bond pool, as directed by subsection (H), is a prudent measure to help ensure bond pool solvency. Overall, as evidenced through the actuarial reports we discuss below, Ohio's revisions to the mechanics of the Reclamation Forfeiture Fund are consistent with 30 CFR 800.11(e)(1), and we approve ORC 1513.18 in its existing form.

ORC 1513.181: Coal Mining Administration and Reclamation Reserve Fund (Transferred Funds) (Revised by HB 443, Later Repealed)

Subsequent to Ohio's submission of this amendment, Ohio repealed this section through House Bill 49 (approved June 30, 2017), 2017 Ohio Laws 14, to consolidate various funds that DMRM used to support the administration and enforcement of various laws under its purview, including the coal mining administration and reclamation reserve fund which had been used for the administration and enforcement of ORC Chapter 1513. *See* Ohio Legislative Service Commission, Final Analysis of Am. Sub. H.B. 49, pp. 479–480 (corrected version). In addition to funding administration and enforcement, ORC 1513.181 also allowed the transfer of up to one million dollars annually to the Reclamation Forfeiture Fund created in ORC 1513.18, in support of the solvency of Ohio's bond pool. Before its repeal in 2017, the 2007 revisions from HB 443 had already redirected various fines formerly deposited in the coal mining administration and reclamation reserve fund to the Reclamation Forfeiture Fund. The additional revisions from HB 443, eliminating certain transfers out of the coal mining administration and reclamation reserve fund for noncoal and abandoned coal land reclamation, are discussed generally below in our analysis of ORC 1513.30.

OSM Finding: The Federal regulations at 30 CFR 732.17(b)(6) require that a State notify us of any ''[s]ignificant changes in funding or budgeting relative to the approved program.'' We do not consider a State's consolidation or rearrangement of statutorily created funds or accounts to, by itself, constitute a significant change in funding or budgeting absent a significant change in the amount of funds allocated to the State program relative to its costs. Here, the Ohio's funds that were held in the coal mining administration and reclamation reserve fund and used to support the Ohio's bond pool are now held in the Reclamation Forfeiture Fund created under ORC 1513.18, and those used to support the administration and enforcement of Ohio's coal regulatory program are held in the Mining Regulation and Safety Fund under ORC 1513.30. Since the repeal of ORC 1513.181 is offset by related revisions to ORC 1513.18 and ORC 1513.30, we find that it does not affect the implementation, administration or enforcement of the approved State program and we approve it. We find that even though Ohio had not submitted, and we had not published, notice of this repeal before making this finding, notice and public procedure under section 553 of the APA for this provision is impracticable, unnecessary, and contrary to public interest. See 5 U.S.C. 553(b)(B). Notification is unnecessary because the change occurred now over eight years ago, with no identifiable change in program funding or public interest in the change, and notification of this repeal now would further delay Ohio's remaining provisions which have been pending resolution in their current form since 2012.

ORC 1513.182: Reclamation Forfeiture Fund Advisory Board (Created by HB 443)

This is a new section that provides for the creation of the Reclamation Forfeiture Fund Advisory Board (RFFAB or Board). It includes provisions for the composition of the Board, term limits for Board members, compensation of Board members, election of officers, meeting frequency, establishment of Board procedures, and responsibilities of the Board. The responsibilities of the Board include: reviewing deposits into and expenditures from the Reclamation Forfeiture Fund; procuring periodic actuarial studies; adopting rules to adjust the rate of tax levied; providing a forum for discussion of issues related to the Reclamation Forfeiture Fund and the performance security that is required; submitting a biennial report to the Governor that describes the financial status of the Reclamation Forfeiture Fund and the adequacy of the amount of money in the bond pool to accomplish its purposes; and, recommending to the Governor, if necessary, alternative methods of providing money for or using money in the Reclamation Forfeiture Fund. The Board will also evaluate any rules, procedures, and methods for estimating the cost of reclamation for purposes of determining the amount of performance security that is required; the collection of forfeited performance security; payments to the Reclamation Forfeiture Fund; reclamation of sites for which operators have forfeited the performance security; and the compliance of operators with their reclamation plans.

OSM Finding: The Federal regulations at 30 CFR 800.11(e)(1) require that an ABS assures that the regulatory authority has sufficient money to complete the reclamation plan for any areas which may be in default at any time. By establishing this advisory board, Ohio is creating a mechanism to continuously review the status of Ohio's bond pool and provide ongoing recommendations to the Governor and the legislature on what adjustments need to be made to the bond pool to ensure its solvency, which should help Ohio comply with 30 CFR 800.11(e). However, we cannot approve subsection (E)(3), which authorizes the RFFAB to adopt rules to adjust the rate of the tax levied under ORC 5749.02. Section 517(g) of SMCRA, 30 U.S.C. 1267, and its implementing regulations at 30 CFR part 705, generally prohibit State employees performing any function or duty under SMCRA from having a direct or indirect financial interest in any coal mining operation. The definition of *employee* at 30 CFR 705.5 excludes members of advisory boards established in accordance with State law to represent multiple interests, which allows them to have and maintain an otherwise prohibited financial interest in any coal mining operation. However, those members must still file a statement of financial interests pursuant to 30 CFR 705.11(a) and recuse themselves from proceedings that may affect their direct or indirect financial interests pursuant to 30 CFR 705.4(d). We adopted that balance for multi-interest boards to recognize the delicate political judgments and compromises made by States in creating these boards, many before the enactment of SMCRA. *See* 51 FR 37118, 37121 (Oct. 17, 1986). In that same notice, we acknowledged

that a State board's rulemaking functions may have a widespread effect on the financial interest of coal companies and found that 30 CFR 704.5(d) was sufficiently descriptive to enable all affected persons to evaluate whether recusal is required by a particular member of a rulemaking board. *Id.* at 37119. We find here that the authority to adjust the bond pool tax on coal operators may affect a RFFAB member's direct or indirect financial interest, and that Ohio does not require recusal for RFFAB members under OAC 1501:13–1–03 (Restrictions on financial interest of employees). Therefore, we do not approve that rulemaking power under subsection (E)(3). Because the other powers of the RFFAB are only either advisory or ministerial in nature, the RFFAB members would then be purely advisory and not considered decisionmakers subject to the prohibition under section 517(g) of SMCRA. *See id.* at 37121; *see also* 66 FR 67446 (Dec. 28, 2001) (approving similar bond pool advisory board in West Virginia). Therefore, we approve the remainder of ORC 1513.182.

ORC 5749.02: Imposing Tax on Severance of Natural Resources (Revised by HB 443, HB 119, SB 73)

Ohio revised subsection (A)(1) to increase the coal severance tax for providing revenue to administer the state's coal mining and reclamation regulatory program from seven cents to ten cents per ton. Ohio then recently reduced this amount down to eight cents per ton. *See* Ohio House Bill 96 (approved June 30, 2025), 2025 Ohio Laws 14. This action does not affect the severance tax rates paid by operators in support of the bond pool. The 2009 amendment from HB 443 also added a provision at subsection (A)(8) imposing an additional severance tax to ensure funding for the bond pool, stating that if the operator uses the bond pool for performance security, then the operator must pay an additional 14 cents per ton into the Reclamation Forfeiture Fund, in addition to the $2,500/acre flat rate bond required by ORC 1513.18(C)(2). The new provision also establishes the conditions and applicable dates for adjustment of this tax, between 12 cents per ton and 16 cents per ton, that is directly related to the bond pool balance. In addition, it provides the conditions that must exist for determining that forfeiture liability no longer exists, and the severance tax can be discontinued for a period if the bond pool is solvent. It further provides that an additional 1.2 cents per ton is required for coal mined by surface mining methods and credited to the Mining Regulation and Safety Fund under ORC 1513.30. Ohio made additional revisions in 2013 and 2017 to add introductory language, make technical revisions like renumbering, and account for the 2017 replacement of the Coal Mining Administration and Reclamation Reserve Fund with the Mining Regulation and Safety Fund. See Ohio House Bill 59 (approved June 30, 2013), 2013 Ohio Laws 25; and Ohio House Bill 49 (approved June 30, 2017), 2017 Ohio Laws 14.

OSM Finding: We have determined that the provisions in this section have no direct Federal counterparts, but the revisions to subsection (A)(1), which generally helps fund Ohio's regulatory program and does not constitute ''significant changes in funding or budgeting relative to the approved program'' that would require notification under 30 CFR 732.17(b)(6), as we discuss in further detail in our analysis of ORC 1513.30, below, and are not inconsistent with SMCRA or the Federal regulations at 30 CFR 732.15(d), requiring sufficient funding for administration and enforcement of the regulatory program. Regarding the creation of the bond pool tax at subsection (A)(8) and subsequent minor revisions, we find that it is no less effective than 30 CFR 800.11(e)(1), which requires that an alternative bonding system assure that the regulatory authority has available sufficient money to complete the reclamation plan for any areas which may be in default at any time. However, for the reasons explained in our analysis of ORC 1513.182, above, we cannot approve the language in subsection (A)(8) that allows the RFFAB to adjust the rate by rulemaking. Adding a tax for bond pool participants will improve Ohio's ability to continue meeting these requirements, particularly strengthening the solvency of the Reclamation Forfeiture Fund. Additionally, we continually monitor Ohio's compliance with these requirements through our regular oversight evaluations. Therefore, we approve the changes to ORC 5749.02.

ORC 5749.11: Nonrefundable Severance Tax Credit (HB 443)

This is a new section that provides for a nonrefundable credit against the severance taxes imposed on coal production under ORC 5749.02 in the amount listed on a reclamation tax credit certificate issued by DMRM under ORC 1513.171 for reclaiming land that is not within the applicant's permit area and that has been adversely affected by previous coal mining for which the performance security was forfeited. This provision also describes how a permittee claims the credit against its taxes and requires the permittee to retain the certificate for a certain length of time and make it available for inspection by the tax commissioner.

OSM Finding: Consistent with our approval of ORC 1513.171, we find that this provision has no direct Federal counterpart but is not inconsistent with SMCRA or its Federal regulations. ORC 5749.11 itself relates only to how the tax credit certificate gets applied within Ohio's tax code and does not affect Ohio's coal regulatory program. Therefore, we approve this provision and incorporate our discussion above regarding the tax credit certificate under ORC 1513.171.

C. Bond-Related Regulatory Provisions

Ohio made regulatory changes necessitated by the statutory changes described above that affected permit requirements involving financial assurance and the bond pool funding sources. These regulatory changes include, among other things, adding trust funds as an acceptable form of performance security (financial assurance), allowing an option for an operator to post a full-cost performance security and adjusting severance tax rates. We describe these statutory changes at OAC Chapter 1501:13, *Division of Mineral Resources Management, Coal.*

OAC 1501:13–1–02: Definitions (Transfer, Assignment, or Sale of Permit Rights)

In 2019, Ohio expanded the definition of *transfer, assignment, or sale of permit rights* at subsection (VVVVVV) to also include a change in the ownership and operational control of a permittee to a person who has not held a permit issued under Chapter 1513 of the Ohio Revised Code for a period of not less than five years where the existence and name of the permittee remain the same.

In its submission, Ohio explained its rationale for making the change to this definition, stating that the change is intended to prevent a person who is not eligible to participate in the bond pool (by not having held a coal mining permit in the last five years) from gaining access to the bond pool through a change of ownership or control that does not change the existence and name of the permittee.

OSM Finding: We find this revision to be consistent with our analysis and approval of ORC 1513.08(C). We incorporate those findings here and approve this revision to the term *transfer, assignment, or sale of permit rights* at OAC 1501:13–1–02(VVVVVV).

OAC 1501:13–4–01: General Contents Requirements for Permit Applications

Ohio revised subsection (A)(2) of this rule to delete the word ''significant'' from before the word ''revision'' to clarify that DMRM will review, and approve or disapprove, applications for all revisions, not merely significant revisions. Ohio also deleted the provision formerly at subsection (E) that required each applicant to submit a permit application fee in the amount of seventy-five dollars per acre estimated in the application. Ohio has replaced the permit fee with an additional severance tax on coal as noted in our finding for ORC 1513.07.

OSM Finding: Ohio's deletion of the word ''significant'' from subsection (A)(2) makes this provision consistent with 30 CFR 774.13, *Permit revisions,* which requires review of all permit revisions, noting specific additional requirements and guidelines for significant revisions. Ohio deleted the permit application and renewal fees in this rule consistent with the statutory revision at ORC 1513.07(B)(1), which we discuss above and approve. Therefore, we approve these revisions to OAC 1501:13–4–01.

OAC 1501:13–4–06: Permit Applications, Revisions, and Renewals, and Transfers, Assignments, and Sales of Permit Rights

In 2009, Ohio revised subsection (E) to add the requirement that DMRM reviews all permit revisions to determine if an adjustment of the estimated cost of reclamation will be required. This rule was also revised regarding transfer, assignment, or sale of permit rights by indicating that any person seeking to succeed by transfer, assignment, or sale must obtain the appropriate performance security coverage for the permitted operation. The successor can fulfill this requirement by either obtaining transfer of the original performance security coverage of the original permittee, provided that the successor meets the eligibility requirements for obtaining performance security together with reliance on the bond pool, or by providing sufficient performance security under the full-cost option.

OSM Finding: We have determined the provision requiring DMRM to review permit revisions for potential adjustments to the reclamation cost is no less effective than the Federal regulations at 30 CFR 800.15(d). Ohio's revision clarifies that this determination is DMRM's responsibility. We have determined the provision about permit succession and performance security is no less effective than the Federal regulations at 30 CFR 774.17(d). Ohio includes the requirement that exists under the Federal regulations and includes a proviso to account for the eligibility requirements that control participation in its bond pool. Therefore, we approve the revisions to OAC 1501:13–4–06(E)(7) and 1501:13–4–06(H).

OAC 1501:13–4–12: Requirements for Permits for Special Categories of Mining

For coal preparation plants or support facilities not located within the permit area of a specified mine, Ohio revised subsection (I)(2) to add the requirement that each application for a permit must include the information required for the proposed permit area in sufficient detail to determine the estimated cost of reclamation in case the reclamation must be performed by the State due to forfeiture of the performance security by the permittee. It adds that the operational detail must be sufficient to determine the greatest potential reclamation cost liability to the State and that the applicant must include any other operational detail required that may affect the cost of reclamation.

OSM Finding: We have determined that this revision is no less effective than the Federal regulations at 30 CFR 785.21(b), which requires an operation and reclamation plan with descriptions, maps, cross sections of the construction, operation, maintenance, and removal of the preparation and support facilities, and 30 CFR 827.11, which requires these facilities be bonded consistent with 30 CFR subchapter J. The revision is also consistent with Ohio's revision to ORC 1513.07(C), discussed above, and we incorporate those findings about the estimated cost of reclamation here. Therefore, we approve the revisions to OAC 1501:13–4–12.

OAC 1501:13–7–01: General Requirements for Providing Performance Security for Coal Mining and Reclamation Operations

Ohio revised this section to conform to the revisions in its statute at ORC 1513.08, clarifying provisions for those permittees opting to provide a bond that relies on the Reclamation Forfeiture Fund and provide new rules for those permittees opting to provide performance security without reliance on the bond pool (conventional full-cost performance security). Ohio revised subsection (A)(1) to bifurcate the general requirements for each option and allow applicants filing full-cost performance security to do so for each incremental mining area, a term introduced and discussed above at ORC 1501:13–1–02(QQQ) and incorporated throughout these revisions. Ohio also added subsection (A)(1)(c) to prohibit permittees who have elected to provide full-cost performance security from changing to the bond pool after coal extraction has begun. Ohio bifurcated subsection (A)(6), relating to providing performance security for approved increments, which now requires applicants who provide full-cost performance security to submit maps at permit application showing the boundaries of each incremental mining unit within the proposed permit area, instead of the estimate number of acres to affected in the first permit year, required of permits relying on the bond pool.

Ohio also revised subsections (B), *Estimated cost of reclamation,* (C), *Method of providing performance security,* and (D), *Release of excess security,* to reflect the statutory revisions at ORC 1513.08(B), (C), and (F). Provisions of this regulation not specifically appearing in the statute include subsection (B)(2), which requires DMRM to provide the applicant with a copy of the estimated cost along with the unit costs used to support the estimate, and a clause in subsection (C) specifying that the method of providing performance security shall apply to the entire permit. Finally, Ohio revised subsection (E), *Responsibilities of the chief,* to add DMRM's new obligation to estimate cost, and revise its responsibility to adjust the amount to incorporate the conditions from OAC 1501:13–7–02(E) rather than simply occurring as land acreages in the permit area change.

OSM Finding: First, we incorporate here our findings about Ohio's creation of a conventional, full-cost performance security and revisions to its alternative bonding system at ORC 1513.08, discussed above. Concerning the provisions specific to incremental mining units, we find that Ohio has included all the relevant requirements from the Federal regulations at 30 CFR 800.11(b)–(d), including the requirement to file appropriate maps under subsection (b)(3). The provision prohibiting permittees who choose full-cost performance securities from changing to reliance on the bond pool does not have a direct counterpart in the Federal regulations but is consistent with the requirement at 30 CFR 800.11(e)(1) that the ABS ensures that the regulatory authority will have sufficient money available to complete the reclamation. Because the solvency of Ohio's bond pool depends in part on its tax on coal production, excluding operators who have already begun to

produce their coal without paying the tax ensures that all operators participating in the pool contribute to its solvency for the life of their operation (and ensures fairness among those participants). We find that Ohio's provisions at subsections (B), (C), and (D) mirror, with some minor reorganizing and revised cross-references, the statutory revisions at ORC 1513.08(B), (C), and (F), that we approve. Concerning the requirement that DMRM provide the applicant with a copy of the cost estimate with supporting material, we find this requirement has no Federal counterpart, but it supplements the required notice and is well within Ohio's discretion to require. Finally, we find that Ohio's proviso that the applicant's chosen method of performance security (bond pool or full-cost) applies to the entire permit area is already implied by the language of ORC 1513.08. For these reasons, and the reasons mentioned above in our approval of ORC 1513.08, we approve the revisions to OAC 1501:13–7–01.

OAC 1501:13–7–02: Amount and Duration of Performance Security

Ohio revised subsection (A) and created subsection (B) to distinguish the amount of performance security for those permittees electing to provide performance security with reliance on the Reclamation Forfeiture Fund from those permittees electing to provide performance security without reliance on the bond pool (full-cost performance security). In subsection (A), Ohio also eliminated effective dates that had become moot and authorized applicants relying on the bond pool to fulfil their responsibility to repair material damage and replace water supplies resulting from subsidence by providing liability insurance so long as the policy contains terms and conditions that specifically provide for such coverage. Ohio created subsection (B) to reiterate that applicants providing full-cost performance security do so in the amount of the estimated cost of reclamation under OAC 1501:13–7–01 for the entire permit or increment thereof, and added the provisions from ORC 1513.08(K) that, for subsidence damage, applicants may either purchase an insurance policy prior to mining or provide additional performance security in the amount of the estimated cost to DMRM to repair the damage. Finally, Ohio added subsection (E), to incorporate the provisions of ORC 1513.08(E) and (F), regarding the adjustment of performance security. Subsection (E) provides that DMRM may make necessary adjustment at any time, but includes several minimum events that will trigger a review to determine if an adjustment is necessary, such as the filing of annual reports and maps, applications for permit revisions and permit renewals, etc.

OSM Finding: We find that Ohio's revisions to this section are substantively identical to those we approve above at ORC 1513.08(C) (creating the two methods of providing performance security), (K) (authorizing an applicant to provide insurance for subsidence damage), and (E) and (F) (relating to adjustments of performance security). We incorporate our findings for those provisions here. Regarding the adjustment of bond, we note that 30 CFR 800.15(a) provides a great degree of discretion to the regulatory authority to decide when a review for an adjustment is appropriate. For these reasons, we approve the revisions to OAC 1501:13–7–02.

OAC 1501:13–7–03: Form, Conditions, and Terms of Performance Security

Ohio revised subsection (A) to add trust funds to the list of acceptable forms of performance security. Ohio made several revisions to subsection (B), which enumerates terms and conditions for performance security generally, as well as terms and conditions for specific types of performance security. Ohio revised subsection (B)(1) to require the amount of the performance security to reflect the chosen method of providing performance security (bond pool or full cost), as provided in OAC 1501:13–7–02, merged subsections (B)(2) and (B)(3), and added a new proviso at subsection (B)(3) requiring that the name of the permittee on the performance security be identical to the name of the permittee on the permit. For surety bonds under subsection (B)(5), Ohio added that the corporate surety must be licensed to do business in Ohio. For collateral bonds under subsection (B)(6) (which excludes letters of credit), Ohio added that the bank holding a cash deposit or negotiable certificates of deposit must be licensed and operating in Ohio, that certificates of deposit be issued with a maturity date of not less than twelve months, and that the permittee must notify DMRM and submit a revised form if there is a change in account numbers when a certificate of deposit is being closed and rolled over into a new certificate of deposit.

Regarding letters of credit under subsection (B)(7), Ohio added that they must be automatically renewable and for a term not less than one year. Ohio also specified a process for their replacement if the bank will not renew them. Ohio revised subsection (B)(8) to specify that the margin for collateral bond is the ratio of the bond value to market value. Ohio added subsection (B)(10) to include terms and conditions for trust funds, including that they must: (a) be in amount equal to the reclamation cost estimate; (b) be in a form approved by DMRM and contain all terms and conditions DMRM requires; (c) use investment objectives specified by DMRM; (d) terminate only as specified by DMRM upon a determination that no further reclamation is necessary, that replacement has been filed, or that administration in accordance with its purposes requires termination; (e) that release of money from the trust fund be made only upon written authorization from DMRM or according to a schedule established in an agreement that accompanies the trust fund; and (f) that the institution serving as the trustee must be a bank, trust company, or other financial institution with trust powers that is organized or authorized to do business in Ohio.

Finally, Ohio removed two provisions related to surety and bank insolvency and combined them into one provision at subsection (B)(11) so that it applies to any surety, bank, trust company or other institution providing any of the forms of performance security. Ohio's new provision provides that if these institutions become incapacitated by reason of bankruptcy, insolvency, or suspension or revocation of its license, then the operator will be deemed in violation. Ohio then incorporates the process under ORC 1513.08(J), discussed above for notification, submission of a plan for replacement, and eventual replacement within certain periods of time depending on the method of performance security (bond pool or full-cost), including, importantly, that permittees who are reliant on the Reclamation Forfeiture Fund will have up to one year to replace coverage.

OSM Finding: First, we incorporate here our findings about the addition of trust funds as acceptable performance security in our discussions of ORC 1513.01(W) (defining *performance security*), ORC 1513.08(I) (authorizing trust funds as performance security), and OAC 1501:13–1–02(WWWWW) (defining *trust fund*). In those discussions, we mentioned the importance of the terms and conditions we placed on the use of trust funds in our Federal program in Tennessee, see 30 CFR 942.800, and reiterated in our recent approval in West Virginia. We find that the six conditions that Ohio included here at subsection (B)(10) are substantively identical to, and no less

effective than, those we require in Tennessee at 30 CFR 942.800(c)(1), (2), (4)–(7). Ohio includes the remaining Federal conditions not referenced here in the language of the other statutory and regulatory provisions mentioned above, which together capture all the conditions we required for our Federal program in Tennessee. Therefore, we approve the provisions here at (A)(4) and (B)(10).

We note that Ohio's provisions about the licensing of entities that hold performance security derive from ORC 1513.08(G) and we incorporate our discussion of that section above. We also find that Ohio's revisions to subsections (B)(5), (B)(6), and (B)(7) reflect the Federal requirements at 30 CFR 800.20, *Surety bonds,* 800.21, *Collateral bonds,* and 800.30, *Replacement bonds,* and, to the extent they provide additional detail conditions or detail, they are no less effective than the Federal regulations. Similarly, while no Federal regulation exists that specifically requires the name of the permittee on the performance security to be identical to the name on the permit, Ohio's requirement does not render its program less effective than the Federal regulations. Finally, concerning subsection (B)(11), we incorporate here our discussion of ORC 1513.08(J) above. We note that Ohio's provision here is substantively identical to its statutory counterpart, with some additional phrasing identical to that from the Federal regulation at 30 CFR 800.16(e)(2). While we approve subsections (B)(11) and (B)(11)(a), we do so consistent with our decision on ORC 1513.08(J), meaning we do not approve subsection (B)(11)(b) to allow permittees who have elected to rely on the bond pool up to one year to replace its performance security.

OAC 1501:13–7–04: Self-Bonding

Ohio proposed revising the self-bonding requirements to provide that an indemnity agreement, submitted by a limited liability company, must be signed by at least one member who is authorized to bind the company. The revision required that a copy of such authorization must be provided along with an affidavit certifying that such an agreement is valid under all applicable Federal and State laws.

OSM Finding: By letter dated November 30, 2015 (Administrative Record No. OH–2194–01), Ohio submitted a program revision that, among other things, rescinded this rule in its entirety and explained that Ohio will no longer accept self-bonding. We docketed that amendment at SATS No. OH–258–FOR. See 85 FR 26413 (May 4, 2020). Therefore, we do not make any decision on the revisions proposed here and will address this rule in our final decision on OH–258–FOR.

OAC 1501:13–7–05: Procedures, Criteria, and Schedule for Release of Performance Security for Permits Reliant on the Reclamation Forfeiture Fund (Bond Release)

Ohio revised this section to specify that this rule applies to a permittee that provides performance security together with reliance on the Reclamation Forfeiture Fund. Ohio revised subsection (A)(1) to require that the request for approval of a reclamation phase must also include a request for release of performance security. Ohio revised subsection (A)(2)(c) to require that the request for approval of a reclamation phase III must state the number of acres of the area requested for release that are reclaimed as lands eligible for remining. Ohio revised subsection (B)(1)(b), regarding the criteria and schedule for release of performance security, to add that phase II will be determined to be complete when, among the other enumerated requirements, any permanent structures to be maintained as part of the postmining land use are included in the approved reclamation plan. Concerning the approval of a reclamation phase, Ohio added new subsection (B)(2)(f) to provide that a portion of an incremental area requiring a reduced period of liability because of its classification as a remining area shall be separated from the rest of the incremental area and shall be eligible for phase III performance security release under OAC 1501:13–9–15(O), which includes the revegetation success standards for lands eligible for remining.

OSM Finding: We have determined that the provision specifying that this section, as revised, applies only to applicants relying on the Reclamation Forfeiture Fund is a non-substantive change and does not affect the implementation of the Ohio program because Ohio proposes to address the release of performance security for permittees who do not rely on the bond pool at newly created OAC 1501:13–7–05.1, discussed below. We have determined that the provision requiring requests for release of performance security to accompany requests for approval of reclamation phase work, so that they are made at the same time, is consistent with Federal regulations found at 30 CFR 800.40, which does not treat those as separate requests. The provision about the reporting of remining acres and separation of those acres for phase III bond release, as well as the provision about the period of liability for remining area, do not have direct Federal counterparts but are not inconsistent with SMCRA or the Federal regulations found at 30 CFR 800.40(c)(3) and subsections (c)(2)(ii) of 816.116 and 817.116, which make the period of revegetation responsibility for lands eligible for remining different than the period of responsibility for other lands. The provision about permanent structures is consistent with the regulations found at 30 CFR 800.40(a)(3) and (c)(1)–(2), which stress that the work be completed in accordance with the approved reclamation plan. For these reasons, we approve these revisions to OAC 1501:13–7–05.

OAC 1501:13–7–05.1: Procedures, Criteria and Schedule for Release of Performance Security for Permits Not Reliant on the Reclamation Forfeiture Fund

Ohio created this new rule to apply only to a permittee that provides performance security without reliance on the Reclamation Forfeiture Fund. This rule provides the terms, conditions, and procedures for seeking approval of a reclamation phase and release of performance security, and the criteria and schedule for release of performance security. Ohio used OAC 1501:13–7–05.1 as the template for this rule, including all the revisions discussed above, with two general distinctions. First, Ohio made revisions throughout to account for the relevant term for discretely bonded portions of conventionally bonded sites—*incremental mining unit*—defined at OAC 1501:13–1–02(QQQ), discussed above, as distinguished from the term *incremental area* used for permits that rely on the bond pool. Second, Ohio created subsection (A)(1)(b) to provide that a permittee under this section may seek approval of a reclamation phase for designated areas *within* the permit area or incremental mining unit without simultaneously seeking release of the relevant performance security. Ohio also made revisions throughout to accommodate this distinction.

OSM Finding: This new section reorganizes the Ohio Administrative Code to segregate the procedures for the release of performance security for permits that rely on the Reclamation Forfeiture Fund from those that do not. The distinction Ohio created with this rule, by allowing operators to seek approval of phases of reclamation for designated areas within the permit area or incremental mining unit, does not have a basis in the Federal regulations. We understand that an operator may

wish to seek approvals for such designated areas as they achieve reclamation standards, but DMRM may not approve bond release because the cost estimate for the performance security is based on the entire acreage of the permit or incremental mining unit. Ohio's process and criteria for releasing performance security appear to remain the same and continue to comply with the Federal process and standards at 30 CFR 800.40, as discussed above. Because Ohio's addition of phase approvals for designated areas is an additional, optional process that does not otherwise change the requirements for release, we find that it does not render Ohio's program less effective than the Federal regulations. Therefore, we approve OAC 1501:13–7–05.1.

OAC 1501:13–7–06: Performance Security Forfeiture Criteria and Procedures

In addition to minor revisions to account for the Ohio program's adoption of the terms (and concepts of) performance security and incremental mining units, Ohio also revised subsection (C)(5) to account for trust funds as an additional form of performance security, providing that, should the permittee fail to enter into a reclamation agreement or fail to comply with the terms of the reclamation agreement, the forfeiture order must inform the permittee that the State will proceed as set forth in the terms of the trust agreement.

Ohio revised subsection (C)(1) and deleted subsection (F)(3) to eliminate the requirement that DMRM determine how much of the performance security to forfeit based on the given formula, with the option of forfeiting additional amounts if, during reclamation, it appears that the cost of reclamation is greater than the performance bond filed for the incremental area and there remains on file performance bond which have not already been forfeited Instead, Ohio added new language to subsection (C)(1) to clarify that DMRM will order forfeiture of all remaining performance security on deposit for the permit.

OSM Finding: We have determined that the provisions in this section are consistent with Federal regulations found at 30 CFR 800.50, which concerns forfeiture of bonds. The addition of text about forfeiture procedures if the performance security is a trust is no less effective than the regulations and is consistent with our determination above about the conditions on trust funds at OAC 1501:13–7–03(B)(10)(D). Regarding the forfeiture of all bonds on the permit, incremental area, or incremental mining unit, we note that 30 CFR 800.50(d)(1) provides that the operator is responsible for remaining costs required for reclamation in excess of the bond forfeiture amount, and the State may complete the reclamation and recover the additional costs. One manner that Ohio may obtain the extra funds would be to revoke the bond on the areas remaining for the permit. Additionally, while 30 CFR 800.50(d)(2) requires the regulatory authority to return any unused funds to the party from whom they were collected, in States that consider unused funds to be a so-called 'penal bond' and the State reserves the right to use those funds for approved purposes, we have found that position to be more stringent than the Federal regulations. *See* 62 FR 60169, 60171 col. 2 (Nov. 7, 1997). Therefore, we approve these revisions to OAC 1501:13–7–06.

OAC 1501:13–7–06.1: Tax Credit for Reclamation Outside an Applicant's Permit Area

This is a new rule that applies to a permittee providing performance security with reliance on the Reclamation Forfeiture Fund who wishes to claim a severance tax credit under ORC 5749.11. This rule sets forth the terms and conditions under which DMRM may approve an application to perform reclamation on a site not under permit of the permittee and establishes eligibility and application requirements for permittees applying for a severance tax credit. It also establishes procedures for obtaining the severance tax credit once reclamation is completed.

OSM Finding: This provision has no Federal counterpart. However, as we mention in our discussion of the tax credit at ORC 5749.11 and the tax credit certificate at ORC 1513.171, allowing a permit holder in good standing to reclaim a site that another entity adversely affected by coal mining, and to receive in return a severance credit, advances one of the primary purposes of SMCRA, which is ''to protect society and the environment from the adverse effects of surface coal mining operations.'' 30 U.S.C. 1202(a). As such, the provision is not inconsistent with SMCRA or its Federal regulations. Therefore, we approve the revisions to OAC 1501:13–7–06.1.

OAC 1501:13–7–08: Reclamation Phase Approval Conference and Performance Security Release Conference

Ohio revised this section (including its title) to accommodate reclamation phase approvals available pursuant to Ohio's new full-cost bonding system. This section allows DMRM to approve phases of completed reclamation on designated areas within the entire permit area or on specific incremental mining units without a release of performance security.

OSM Finding: Ohio's revisions merely extend Ohio's existing conference process, which conforms to the process required by the Federal regulations at 30 CFR 800.40(f), to Ohio's phase approvals. As we discussed above regarding OAC 1501:13–7–05.1, Ohio's phase approvals may precede the release of bond, which can only occur when the *entire* incremental mining unit or permit area meets the phase requirements. The Federal regulations do not contemplate these events occurring separately, but, in jurisdictions where they do, we find that adding the opportunity for a conference at phase approval is an appropriate measure and note that the opportunity for a conference is still provided at the proposed release of the performance security. Therefore, we approve the revisions to OAC 1501:13–7–08.

OAC 1501:13–14–05: Informal Conferences

Ohio revised this provision to add adjustments of performance security to the list of events for which an adversely affected person may request an informal conference and to make related revisions to the existing procedures to reflect this addition. For instance, the revisions provide that the request must be filed with DMRM not later than 30 days after receipt by the permittee of the proposed performance security adjustment and that the conference be held within 60 days following receipt by the permittee of a performance security adjustment. In 2010, Ohio added paragraph (B)(3) to provide that if the informal conference has been held, DMRM will issue and furnish the applicant for a permit, persons who participated in the informal conference, and persons who filed written objections, with the written finding of DMRM granting or denying the permit in whole or in part and stating the reasons therefore within 60 days of the conference provided that DMRM comply with the other time frames established in OAC 1501:13–5–01 (*i.e.,* making a decision on complete permit applications within 240 days, subject to notice of expected delay provided by DMRM).

OSM Finding: We have determined that the revisions proposed for this section are consistent with the Federal regulations at 30 CFR 800.15(b)(2), which states that the regulatory authority will provide the permittee

with an informal conference on the bond adjustment if requested. This revision makes clear that this is the case in Ohio when there is a reduction in bond amount. The revisions remain consistent with our requirements for informal conferences at 30 CFR 773.6, and 30 CFR 773.7 by establishing a timeline for scheduling an informal conference and providing a decision after the informal review within 60 days. The revisions are also consistent with the revisions to ORC 1513.07(I) and ORC 1513.08(E), which we have approved, and we incorporate the findings for those sections here. Therefore, we approve the revisions to OAC 1501:13–14–05.

D. Actuarial Analyses and Program Condition

Included in our analysis are eight actuarial reports submitted to the Ohio Governor by the RFFAB about the Reclamation Forfeiture Fund by letters dated June 2009, June 2011, June 2015, June 2017, June 2019, June 2021, June 2023, and June 2025. Our focus in this decision will be on the 2025 actuarial report with comparisons to the 2023 actuarial report because these are the most current reports. The previous reports provide additional snapshots through time of the solvency of the bond pool and the progress since the analysis began.

In July 2017, Ohio transferred $5 million out of the Reclamation Forfeiture Fund into the Ohio general fund authorized by the Ohio 131st General Assembly, which permitted the Director of Management and Budget to transfer non-general revenue funds. At that time, we expressed our concerns to Ohio about the impact this withdrawal may have on the solvency of the bond pool (Administrative Record No. OH.2185.77). Ohio explained the action and that this was a one-time transfer (Administrative Record No. OH.2185.78). As noted in the June 2021 letter from the Board transmitting the 2021 Actuarial Report to the Governor, a total of $4 million has been returned to the bond pool, $2 million in 2019 (see Administrative Record No. OH.2185.88) and another $2 million in 2021. The Board further noted that restoring this funding was critical for the bond pool to properly cover reclamation costs and other liabilities.

The 2025 letter from the Board did not recommend changes to the severance tax rates. Ohio has not made any adjustments to the rates set at ORC 5749.02(A)(8) in 2007, which by law self-adjusts between 12 cents, 14 cents, and 16 cents per ton of coal depending on the balance of the bond pool. The 2025 actuarial report indicated that the Reclamation Forfeiture Fund met the criteria for long-term solvency to cover expected liabilities, and that the bond pool's expected long-term liability decreased from $12.12 million in 2023 to $11.61 million in 2025. The bond pool balance at the end of 2024 was $28,520,000 with no current liabilities, an increase from the year end 2022 balance of $26,460,00. The RFFAB in their cover letter indicated that Ohio's DMRM works diligently to enforce contemporaneous reclamation requirements and oversee reclamation of bond-forfeited sites. However, the report also noted that the financial strength of Ohio's coal industry continued to decline from 2022 to 2024, and the Board must continue to take a conservative approach in forecasting coal production and interest income.

Program Condition and 733 Letter

We have determined, based on the information gathered in the actuarial analyses, and considering the changes we are approving in this amendment, that Ohio has satisfied the program condition described at 30 CFR 935.11(h) and the requirements we required in the 733 letter.

The program condition requires Ohio to demonstrate that its bond pool can assure timely reclamation at all sites for which bond have been forfeited. The most recent actuarial analysis of the Reclamation Forfeiture Fund has concluded that the bond pool is solvent in the short-term and long-term. The provisions approved in this amendment include an increase in the severance tax that funds Ohio's bond pool, an expansion of the sources of funding for the bond pool, automatic severance tax increases if the bond pool falls below specified amounts, the creation of an advisory board to recommend methods to increase the amount of the bond pool when needed, and stopping use of the Reclamation Forfeiture Fund to reclaim non-coal sites.

As we determined when we evaluated West Virginia's bond pool (*see* 60 FR 51900, October 4, 1995; 66 FR 67446, December 28, 2001; and 67 FR 37610, May 29, 2002), our evaluation of Ohio's Reclamation Forfeiture Fund focuses on whether Ohio has revised their bond pool to increase the revenues being added to the bond pool and whether Ohio has adopted the mechanisms to adequately adjust the revenues and revenue sources to keep the bond pool solvent. Our analysis to determine if Ohio's regulatory program meets the requirements of section 509(c) of SMCRA and 30 CFR 800.11(e) is guided by our Directive STP–1, Appendix L dated March 20, 2019, and the Secretary of the Interior's [Management By Objectives (MBO)] entitled, ''Alternative Bonding Systems: An Analytical Approach and Identified Factors to Consider for Evaluating Alternative Bonding Systems,'' dated December 4, 1990. In addition to the analysis of the Ohio regulatory program, we evaluated eight separate actuarial analyses submitted with this program amendment. Our analysis indicates that, since 2009, Ohio's Reclamation Forfeiture Fund has continually improved and is more solvent today than it was in 2009 due to the changes Ohio has made to their program.

Considering the current account solvency and the mechanisms for adjusting Reclamation Forfeiture Fund income in response to future conditions, Ohio has demonstrated that its alternative bonding system can assure timely reclamation at all sites that may be in default. Accordingly, we consider the conditions of our 733 letter satisfied, and we are removing the program condition at 30 CFR 935.11(h).

E. Non-Bond Related Statutory Provisions

ORC 1513.02: Chief of Division of Mineral Resources Management—Powers and Duties (Revised by HB 443)

Ohio revised subsection (A) of this provision to authorize the chief of DMRM to establish programs and adopt rules governing the use of diesel equipment in underground coal mines; revised subsection (C) to add that regulations related to permitting compliance, bond forfeiture, diesel equipment in underground mines, and potential future state programmatic general permit issued by the U.S. Army Corps of Engineers (USACE) must go through Ohio's administrative rulemaking process under ORC Chapter 119; and added subsection (J) to authorize DMRM to adopt rules to implement any future state program, covered by an ACOE-issued state programmatic general permit, for the discharge of dredged or fill material into the waters of the United States by operations that conduct surface and underground coal mining and reclamation operations or restoration of abandoned mine lands. At the time of this publication, Ohio has not yet entered into a state programmatic general permit with the USACE.

OSM Finding: First, we note that neither SMCRA nor its implementing regulations regulate the use of diesel equipment in underground mines, and SMCRA and its implementing regulations do not proscribe any

particular rulemaking process for State regulatory authorities. Therefore, we need not address the revisions to subsections (A) or (C). Regarding the addition of subsection (J), we note that it does not by itself change any provision of Ohio's regulatory program; it only authorizes hypothetical future rulemaking that would independently constitute a State program amendment under 30 CFR 732.17, made necessary by independent action by the USACE. Granting the chief the authority to take measures to implement programs pursuant to USACE programmatic general permits has no direct Federal counterpart; however, we find that these provisions are not inconsistent with SMCRA or its implementing regulations. These provisions facilitate Ohio's efforts to comply with section 404 of the Federal Clean Water Act by establishing the departmental authority to implement the related permits. Therefore, we approve ORC 1513.02(J).

ORC 1513.07: Coal Mining and Reclamation Permit—Application or Renewal—Reclamation Plan (Revised by HB 443, SB 386, HB 163)

In 2007, Ohio revised subsection (B)(1)(o), related permit application requirements, to add a provision that, if test borings or core samplings from the permit area indicate the existence of potentially acid forming or toxic forming quantities of sulfur in the coal or overburden to be disturbed by mining, the permit application also must include a statement of the acid generating potential and the acid neutralizing potential of the rock strata to be disturbed calculated in accordance with a method established at ORC 1513.075 or another calculation method. Ohio also added a corresponding revision at subsection (E)(8), related to permit application review, that if a conflict exists between the results of various methods of calculating potential acidity and neutralization potential for the purpose of assessing the potential for acid mine drainage, the permit must include provisions for monitoring and recordkeeping to identify unanticipated occurrences of acid mine water and impose additional requirements on mining practices and site reclamation to prevent discharge from the site.

In 2009, Ohio revised subsection (E)(1), related to permit application review, to establish that an application will be deemed complete unless DMRM provides a copy of a written list of deficiencies to the applicant within 14 days of submission. Ohio also added a provision to specify that a permit denial must state in writing the specific reasons for the denial. Separately, Ohio also revised subsection (E)(1) and (I), related to permit decisions and related timeframes. These revisions eliminated the condition that a decision to grant, require modification of, or deny a permit occur in a reasonable time established by DMRM and replaced that condition with a requirement that the permit decision occur not later than 240 days after submission of a complete application; the 240 days does not count time an applicant is making revisions to the application to provide additional information required by DMRM. Ohio's revision further specifies that if DMRM determines that a permit decision cannot be made within that time frame, DMRM must provide the applicant with a written notice of the expected delay no later than 210 days following the submission of the complete application. Ohio's revision at subsection (I)(1) specifies that DMRM must comply with these timeframes even when an informal conference has been held.

Finally, in 2011, Ohio revised subsections (E)(2)(e)(i)–(iii), related to the permit applicant's right-of-entry to the land comprising the proposed permit area, to emphasize the surface disturbance resulting from proposed operations. These provisions now provide that, in cases where the private mineral estate has been severed from the private surface estate and surface disturbance will result from the extraction of coal by the applicant's proposed strip mining operation, the permit applicant must provide the enumerated documents evidencing its right to cause such surface disturbance.

OSM Finding: The requirement to include information on acid generating potential and neutralizing potential of rock strata conforms with Federal permit application standards at 30 CFR 780.22(b)(2), which more generally requires chemical analysis identifying those strata that may contain acid- or toxic-forming or alkalinity-producing materials and to determine their content, and 30 CFR 780.22(c), which allows the regulatory authority to require additional analysis if necessary to protect the hydrologic balance or meet performance standards. Likewise, for the additional monitoring, recordkeeping, and response measures to identify and address potential acid mine water if conflicting results exist between various methods of calculating potential acidity and neutralization potential, we find that when read in conjunction with ORC 1513.07(E)(2)(c) (requiring the proposed operation to be designed to prevent material damage to the hydrologic balance outside the permit area), subsection (E)(8) is no less effective than the Federal requirements at 30 CFR 773.17, *Permit conditions,* and 780.21, *Hydrologic information.* Ohio imposes these conditions when the aforementioned conflicting results occur, which may factor into, but not replace, Ohio's obligation to determine that, overall, the operation has been designed to prevent material damage to the hydrologic balance outside the permit area. Therefore, we approve Ohio's revision to ORC 1513.07(B)(1)(o) and new addition of subsection (E)(8).

The requirement that DMRM notify applicants of any deficiencies in writing within 14 days, otherwise the application is deemed complete, is inconsistent with SMCRA and its implementing regulations. The automatic presumption of administrative completeness without the affirmative response from DMRM is less effective than 30 CFR 773.15, which requires the regulatory authority to issue a written decision that includes a finding that the application is accurate and complete. Ohio maintains this same requirement at ORC 1513.07(E)(2)(a). The Federal regulation and ORC 1513.07(E)(2)(a) place the burden of establishing that the permit application is complete and in compliance with the regulatory program on the applicant, and the lack of written findings by the regulatory authority within 14 days of the permit application does not make an otherwise incomplete application complete. While Ohio may have intended this provision to simply begin the clock for the requirement that DMRM issue permit decisions within 240 days of the submission of a complete application, discussed below, it is unclear whether this provision would preclude DMRM from subsequently basing a permit denial on the incompleteness of the application. Therefore, we do not approve this revision to ORC 1513.07(E)(1). We also note here that, in 2015, Ohio further revised this subsection to state that an application must not be considered incomplete or denied for lack of right-of-entry documentation provided that the applicant included such documentation for at least 67% of the proposed operational area. This revision is the subject of a separate pending program amendment, which we docketed at SATS No. OH–256–FOR, and we do not address it here.

Concerning the requirement for DMRM to issue its permit decision within 240 days of receiving a complete application, we find that, as drafted, it is no less effective than the Federal regulations at 30 CFR 773.7(a), which states that the regulatory may set a reasonable time in which to issue its permit decisions. We note that, while

240 days may not be reasonable for all permits, Ohio's requirement neither compels DMRM to grant a permit nor considers the permit granted should DMRM not comply with either the 240-day limit or the 210-day notice of expected delay. While a permit applicant may use these limits to compel some decision from DMRM, the revisions do not compel permit issuance. Therefore, we approve the relevant revisions to subsections (E)(1) and (I).

Finally, the provision at subsection (E)(2) that applicants must present right-of-entry documentation only in cases where the mineral estate and surface estate are severed and surface disturbance will result from the proposed strip mining is no less stringent than section 510(b)(6) of SMCRA, 30 U.S.C. 1260(b)(6), and no less effective than the Federal regulations at 30 CFR 778.15. The proposed revisions to the Ohio regulations contain identical language to the Federal regulations, with the added clarification that the provisions apply for areas where surface disturbance will occur. In cases where the applicant owns the mineral rights to the coal and the operation will not disturb the surface, the owner of the surface rights will not be affected. Access points, in the case of room-and-pillar or augur mining, would qualify as surface disturbance, and applicants would need to present right-of-entry documentation for such locations. Therefore, we approve the revision to ORC 1513.07(E)(2)(e). We are doing so with the understanding that applicants will demonstrate ownership of the mineral estate in such cases, as required elsewhere in the Ohio program. If we determine, in the future, that Ohio is implementing this provision differently, we may require Ohio to submit an amendment to revise its regulatory program to reflect our understanding of this provision. We also note that Ohio made a corresponding revision to its regulations at OAC 1501:13–4–03 in 2016, which is part of a separate program amendment docketed at SATS No. OH–258–FOR; we will address that provision in a future amendment.

ORC 1513.073: Designating Areas as Unsuitable for Coal Mining Operations (Revised by HB 163)

The designation criteria were revised to clarify that prohibitive distances for mining close to public roads, occupied dwellings, public buildings, schools, churches, community or institutional buildings, public parks, and cemeteries are measured horizontally.

OSM Finding: Ohio's clarification about how measurement is made reflects the language of the SMCRA regulations at 30 CFR 761.11 and does not substantively change Ohio's existing requirement. We also note that Ohio made a similar clarification to its regulations at OAC 1501:13–4–03(E) in 2016, which we address in a separate program amendment docketed at SATS No. OH–258–FOR. Because this clarification does not change the requirements and reflect the Federal language, we approve it.

ORC 1513.075: Potential Acidity and Neutralization of Disturbed Strata (Created by HB 443, Revised by HB 163)

This is a new section that describes how DMRM may evaluate whether a coal mining permit application has the potential to create acid or other toxic mine drainage, which DMRM must determine to decide whether the permit may be approved consistent with the permit application requirements of ORC 1513.07 and related environmental performance standards in ORC 1513.16. The rule defines the terms ''potential acidity'' and ''neutralization potential'' as laboratory measurements of those parameters that could be produced by material in rock strata proposed to be disturbed by mining, expressed as tons of acidity or neutralization potential per 1,000 tons of disturbed overburden. The rule defines ''test borings or core samplings'' as those performed on the rock strata, the results of which must be stated in the permit application. The new rule also describes how the measurement of potential acidity may be based on laboratory analysis of the pyritic sulfur content of the coal and overburden rather than total sulfur content, that tons of rock may be estimated and the sum measurements for each strata across the proposed permit area may be used to calculate the site's overall neutralization potential and potential acidity, and numeric conditions under which proposed mining areas may not be considered to have the potential to create acid or other toxic mine drainage.

OSM Finding: Although the provisions in this section have no direct Federal counterparts, we have determined that they are no less stringent than SMCRA and no less effective than its implementing regulations. These provisions provide a sound and reasonable methodology for measuring the acidity and neutralization potential of disturbed rock strata. These measurements will be used by Ohio to improve their decisions in approving permit applications and enforcing minimization of damage to the hydrologic balance. As we have already approved Ohio's permitting and hydrologic balance regulations as no less effective than the Federal regulations at 30 CFR 780.21(h), these new provisions describing sound methodology for informing Ohio's permit decisions to ''[a]void acid or toxic drainage'' are likewise no less effective than the Federal regulations. Therefore, we approve ORC 1513.075.

ORC 1513.076: Agency Coordination and Cooperation Respecting Permits (Created by SB 386)

This provision is a new section that requires coordination, cooperation, and communication between the Ohio Department of Natural Resources and the Ohio Environmental Protection Agency about the processing of coal mining permit applications. It requires establishment of a joint-agency task force to ensure that procedures are established and implemented. Ohio proposes these changes to reduce delays in processing permits.

OSM Finding: We have determined that these provisions have no direct Federal counterpart but are not inconsistent with the regulations found at 30 CFR 731.14(g)(9), which required a State regulatory authority to provide a narrative description of its permit coordination system as part of its submission to have its State program approved by OSM; it is also similar to 30 CFR 773.5, which requires coordination between different agencies to avoid duplication for the review of various Federal wildlife and historic preservation laws. Ohio's addition of this provision ostensibly strengthens or clarifies the system of cooperation between Ohio's DMRM and EPA to ensure the proper issuance of permits related to water quality. Therefore, we approve ORC 1513.076.

ORC 1513.13: Public Adjudicatory Hearings (Revised by HB 443)

Ohio revised this section, which relates to appeals made to the reclamation commission, to clarify that the party petitioning for costs and expenses may only be awarded its own costs and expenses, including attorney's fees that were necessary and reasonably incurred for, or in connection with, participating in the proceeding before the commission.

OSM Finding: We have determined that the limitation of expense reimbursements to the petitioning party is no less effective than the Federal regulations at 43 CFR 4.1294 and consistent with Ohio's existing language before the clarification. Therefore, we approve ORC 1513.13(E).

ORC 1513.29: Council on Unreclaimed Strip Mined Lands (Revised by HB 443, Later Repealed)

Subsequent to Ohio's submission of this amendment, Ohio repealed this section through House Bill 471 (HB 471) (approved December 19, 2016), 2016 Ohio Laws 140. We discussed the sunsetting of the Council on Unreclaimed Strip Mine Lands in our approval of Ohio's reclamation plan amendment docketed at SATS No. OH–259–FOR. See 89 FR 79436 (Sept. 30, 2024). Therefore, we are not issuing a finding on ORC 1513.29 here.

ORC 1513.30: Unreclaimed Lands Fund; Selection of Project Areas (Revised by HB 443, Subsequently Renamed and Amended)

Subsequent to Ohio's submission of this amendment, in 2016, Ohio further amended this section through HB 471 to delete references to the Council on Unreclaimed Strip Mined Lands, discussed above; it was amended again in 2017 through HB 49, which renamed the Unreclaimed Lands Fund to the Mining Regulation and Safety Fund and consolidated it with other funds, such as the mining administration and reclamation reserve fund created under former ORC 1513.181. *See* Ohio Legislative Service Commission, Final Analysis of Am. Sub. H.B. 49, pp. 479–480 (corrected version). In its current form, ORC 1513.30 states that the Mining Regulation and Safety Fund will be used for: (1) reclaiming certain coal mine lands, or controlling mine drainage, for which no cash is held in the Reclamation Forfeiture Fund created by ORC 1513.18; (2) reclaiming certain under-bonded or unpermitted noncoal mining operations; and (3) administration and enforcement of Ohio's coal regulatory program.

OSM Finding: While the use of this multi-purpose Mining Regulation and Safety Fund extends beyond abandoned mine land reclamation under Title IV of SMCRA, we acknowledged its relationship to Title IV reclamation generally in our approval of Ohio's reclamation plan amendment docketed at SATS No. OH–259–FOR. *See* 89 FR 79436 (Sept. 30, 2024). To the extent the Mining Regulation and Safety Fund now has additional elective purposes, Ohio does not rely upon it to ensure the sufficiency of its Reclamation Forfeiture Fund under ORC 1513.18, discussed above. Nor have we seen any ''significant changes in funding or budgeting relative to the approved program'' as a result of the revisions that would require notification under 30 CFR 732.17(b)(6). For these reasons, even though Ohio had not submitted, and we had not published notice of, the 2016 and 2017 revisions to ORC 1513.30, we find that notice and public procedure under section 553 of the APA, 5 U.S.C. 553(b)(B), for these revisions are impracticable, unnecessary, and contrary to public interest, and we approve them.

ORC 1513.371: Mined Land Set Aside Fund (Created by HB 443, Revised by HB 163, Later Repealed and Reenacted for a Different Purpose)

This section was originally included in the proposed rule to create a ''mined land set aside fund'' consisting of grants made under section 402 of SMCRA, which is part of the Title IV AML program. The provision was later repealed by Ohio House Bill 59 (approved June 30, 2013), 2013 Ohio Laws 36, and later reenacted for a different purpose through House Bill 96 (approved June 30, 2025), 2025 Ohio Laws 14, to receive grants awarded through the federal Infrastructure Investment and Jobs Act, Public Law 177–58. Neither the former nor the current version of this provision relates to the State program to regulate surface coal mining and reclamation operations. Therefore, we are not issuing a finding on this section. Should this new provision necessitate any revision to Ohio's Reclamation Plan, we will address it through the process outlined in 30 CFR part 884.

ORC 1513.372: Immunity From Liability (Created by SB 181)

This provision is a new section establishing the conditions under which an eligible landowner who allows access to their property for AML reclamation, or nonprofit organization that provides funding or free services for an AML reclamation project, is immune from liability for injuries or damages that occur during an AML or acid-mine drainage reclamation project. It includes definitions of ''abandoned mine land,'' ''eligible landowner,' ''landowner,'' ''nonprofit organization,'' ''reclamation project,'' and ''reclamation project work area.'' It also establishes procedures for notifying DMRM of known, latent, dangerous conditions located at the reclamation project work area. Finally, it sets forth circumstances within which the immunity would not apply, including the negligence, gross negligence, willful misconduct, or unlawful activities of the eligible landowner or nonprofit organization, or the failure to notify the division of known, latent, dangerous conditions located at a reclamation project work area that is not the subject of the reclamation project itself.

OSM Finding: We approved a similar statute in West Virginia, where we acknowledged the EPA's concern about the possible legal effects of the proposed provisions on its authority under the Clean Water Act. 71 FR 10764 (Mar. 2, 2006). We also note that Ohio's provision cannot provide immunity from Federal laws. Section 702(a) of SMCRA, 30 U.S.C. 1292, provides that nothing in the Act can be construed as superseding, amending, modifying, or repealing other Federal laws or regulations promulgated thereunder. However, we also note that this provision relates solely to Ohio's abandoned mine land (AML). In our decision on recent changes to Ohio's approved Reclamation Plan docketed at SATS No. OH–259–FOR, we explained that generally, States do not request that OSMRE accept changes to AML statutes or regulations as amendments to its Reclamation Plan, which is a narrative document that usually is not in the form of a statute or regulation. See 89 FR 79436, 79437 n.1 (Sept. 30, 2024). For clarity and ease of reference, we recommend that Ohio submit changes to its Reclamation Plan narrative document under 30 CFR part 884 that are consistent with these statutory amendments.

F. Non-Bond Related Regulatory Provisions

OAC 1501:13–1–02: Definitions

In 2009, Ohio made the following revisions to this section:

Added the term *angle of draw,* currently at subsection (H), meaning the angle with the vertical, made by a straight line extending away from the edge of a mined-out area to the ground surface, spanning the horizontal distance in which subsidence may occur.

OSM Finding: The Federal regulations do not define this term, but Ohio's definition conforms to our prior use of that term in the Federal regulations at 30 CFR 784.20, *Subsidence control plan,* and 817.121, *Subsidence control.* Although we have since removed the relevant provision from 30 CFR 817.121, *see* 91 FR 3373 (Jan. 27, 2026), and that portion of 30 CFR 784.20 is currently suspended, *see* 64 FR 71652 (Dec. 22, 1999), Ohio's definition does not render the Ohio program less effective than the Federal regulations, and we approve it.

Revised the terms *engineer* and *surveyor,* currently at subsections (TT) and (OOOOOO), respectively, to clarify *professional* engineer or surveyor, consistent with the phrasing of Ohio's

licensing requirements at ORC Chapter 4733 (Professional Engineers and Professional Surveyors).

OSM Finding: The Federal regulations do not define these terms; however, the term professional reflects a qualification provided under State law. *See, e.g.,* 30 CFR 817.49(a)(11). Therefore, Ohio's revision is consistent with the Federal regulations, and we approve it.

Revised the term *operator,* currently at subsection (IIII), to specify that it may include the permittee or a contract operator, if the permittee or contract operator are conducting the mining operation.

OSM Finding: The Federal regulations at 30 CFR 701.5 define the term *operator* to mean, in pertinent part, any person engaged in coal mining who removes or intends to more than 250 tons of coal. Ohio's revision simply states explicitly the implication in both the Federal definition, and Ohio's definition, that a permittee or a contract operator may be the entity engaging in coal mining. Therefore, we approve it.

Added the term *shadow area,* currently at subsection (ZZZZZ), meaning the surface areas above, and within the angle of draw of, the underground workings of underground coal mines. Ohio separately defines the term *underground workings.*

OSM Finding: The Federal regulations neither define the term *shadow area* nor do they use the term at all. However, the Federal regulations do make several references to underground workings, noticeably in 30 CFR 817.122, which requires underground mine operators to notify all owners and occupants of surface property and structures above the underground workings at least six months before mining. Section 516 of SMCRA specifically requires the Secretary ''to accommodate the distinct difference between surface and underground mining.'' 30 U.S.C. 1266. We have also previously approved Illinois' definition of the term, treated as distinct from permit area. *See* 85 FR 12735, 12736 (March 4, 2020). Therefore, we find Ohio's definition of the term shadow area does not render the program less effective than the Federal regulations, and we approve it.

In 2010, Ohio made the following revisions to this section:

Added the term *effluent limitations,* currently at subsection (RR), to mean specific, numeric, measurable limits on the amount of various pollutants that are placed on point source discharges through the national pollutant discharge elimination system (NPDES), and, for remining NPDES permits that use non-numeric limitations, to mean best management practices as required under that remining NPDES permit.

OSM Finding: The Federal regulations at 30 CFR Chapter VII (OSM), do not define the term *effluent limitations;* however, several provisions use the term. Notably, the regulations at 30 CFR 816.42 and 817.42, *Hydrologic balance: Water quality standards and effluent limitations,* require that discharges of water from areas regulated under SMCRA be made in compliance with all applicable State and Federal water quality laws and regulations, and with the effluent limitations for coal mining promulgated by EPA at 40 CFR part 434. The EPA defines *effluent limitation* at 40 CFR 122.2 and 401.11, to mean, in pertinent part, *any* restriction imposed by EPA on quantities, discharge rates, and concentrations of pollutants discharged from point sources into waters of the United States. EPA's regulations for coal mining discharges at 40 CFR part 434, include numerical limitations for all such discharges except remining discharges, which receive non-numerical limitations at 40 CFR 434.72. Ohio's definition, while not identical to EPA's, encompasses both relevant discharge limitations provided by EPA and does not render Ohio's program less effective than 30 CFR 816.42 and 817.42. Therefore, we approve it.

Added the term *national pollutant discharge elimination system* and *NPDES,* currently at subsection (AAAA), meaning the national permit program authorized under the Clean Water Act, 33 U.S.C. 1251 *et seq.,* that controls water pollution by regulating point source discharges that discharge pollutants into waters of the United States.

OSM Finding: The Federal regulations at 30 CFR Chapter VII (OSM) do not define this term. However, it appears generally consistent with EPA's definition at 40 CFR 122.2, and, important for Ohio's purposes, its use in defining the terms *effluent limitations* and *remining NPDES permit,* and OAC 1501:13–9–04(N)(2), requiring surface water monitoring consistent with NPDES permits, and its Federal counterpart at 30 CFR 816.41(e). In sum, this definition does not render the Ohio program less effective than the Federal regulations, so we approve it.

Revised the term *person,* currently at subsection (SSSS), to add that, in addition to the other listed entities, it may be an individual, business trust, estate, or trust.

OSM Finding: The Federal regulations at 30 CFR 700.5 defines a *person* to include, among other things, an individual, partnership, association, joint venture, company, firm, corporation, or other business entity. While the Federal definition does not specifically list business trusts, estates, or trusts, we believe that those entities are fairly implied in the existing list and specifically naming them is no less effective than the Federal regulation. Therefore, we approve this revision.

Added the term *point source discharge,* currently at subsection (VVVV), meaning any discernible, confined or discrete conveyance from which a pollutant is, or may be, discharged into the waters of the state.

OSM Finding: The Federal regulations at 30 CFR Chapter VII (OSM) do not define this term. However, Ohio's definition appears to be consistent with the definitions of the terms *point source, discharge,* and *discharge of pollutants* under EPA's regulations at 40 CFR 122.2, and Ohio's definitions of the terms *discharge* and *point source* under its water quality regulations at OAC 3745–1–02(35) and (77). Ohio uses the term *point source discharge* in its definitions of the terms *effluent limitations* and *NPDES,* described above, in its regulation relating to protection of the hydrologic system at OAC 1501:13–9–04. This regulation requires that these discharges be made in compliance with effluent limitations of all applicable state laws and regulations. Further, in its regulations relating to reclamation and operations plans at OAC 1501:13–4–05 and –14, Ohio requires that point source discharges be monitored in accordance with EPA's regulations at 40 CFR parts 122, 123, and 434 and as required by the NPDES permitting authority. These are substantially the same as the Federal regulations at 30 CFR 816.42 and 817.42, discussed above, and 30 CFR 784.14(i), regarding surface water monitoring plans. In sum, Ohio's addition of this definition does not render the Ohio program less effective than the Federal regulations, and therefore we approve it.

Revised the term *pollution abatement area,* currently at subsection (WWWW), to incorporate, to the extent practicable, areas within the permit area which are adjacent to and nearby the remining operation and which also must be affected to reduce the pollution load of the pre-existing discharges and may include the immediate location of the pre-existing discharges.

OSM Finding: We approved this revision in 2004. *See* 69 FR 57640, 57643 (Sept. 27, 2004). It is unclear why Ohio did not memorialize this revision in its regulations until its 2010 submission, but, to the extent it

remained unresolved, we incorporate our 2004 findings herein.

Added the term *receiving water,* currently at subsection (LLLLL), meaning the specific water body of the waters of the state into which point and non-point sources flow.

OSM Finding: The Federal regulations do not define this term, and Ohio only uses the term once in its regulations related to the quality of water in permanent impoundments at OAC 1501:13–9–04(H)(2). Ohio's use of the term is identical to that in the Federal regulations at 30 CFR 816.49(b)(2) and 817.49(b)(2), and its definition is consistent with the context of its use. We approve this addition because it does not render Ohio's program less effective than the Federal regulations but note that we will review additional proposed uses of this term in future program amendments.

Revised the term *recurrence interval,* currently at subsection (NNNNN), to add a website address for the National Oceanic and Atmospheric Administration (NOAA) through which the NOAA technical report referenced in the definition is available.

OSM Finding: This revision is non-substantive and we approve it.

Revised the term *runoff,* currently at subsection (VVVVV), by completely deleting the existing description that the term means precipitation that is not absorbed by the strata and may flow overland before entering waters of the state, and instead providing that it means the overland flow caused by excess rainfall.

OSM Finding: The Federal regulations do not define this term; however, it does use this term in many provisions. We reviewed Ohio's use of this term in its other provisions and find that its definition is consistent with its uses and their Federal counterparts. For instance, Ohio and the Federal regulations at 30 CFR 701.5, use the term *runoff* in corresponding definitions of the terms *best technology currently available, hydrologic balance, intermittent stream, perennial stream,* and *recharge capacity,* for which Ohio's definition is an appropriate substitute for the term. Therefore, we approve this revision.

Revised the term *safety factor,* currently at subsection (WWWWW), to eliminate the option that it means the ratio of the available shear strength to the developed shear stress, leaving only that it means the ratio of the sum of the resisting forces to the sum of the loading or driving forces, as determined by acceptable engineering practices.

OSM Finding: The Federal regulations at 30 CFR 701.5 defines the term *safety factor* exactly as Ohio had before the proposed revision. In its rulemaking, Ohio explained that it removed the first clause because shear strength is mostly associated with materials engineering, and the remaining more generic clause simpler and easier to understand. We promulgated the Federal definition as part of the original permanent Federal program in 1979. *See* 44 FR 14902, 15320 (Mar. 13, 1979). In response to public comment offering an alternative definition, we stated that our definition ''is consistent with that utilized in engineering texts, design manuals, and other regulations,'' and provided citations. *Id.* at 14937. However, in the notice we were unclear whether we were referring to either clause specifically, or both. Regardless, we would not have included both clauses if either one would have been incorrect. Moreover, our engineers provided an informal review of Ohio's proposal and found that Ohio's remaining definition is no less effective than the definition at 30 CFR 701.5. Therefore, we approve this revision.

Revised the term *valid existing rights,* currently at (DDDDDDD), to eliminate the existing criteria that were moved to OAC 1501:13–3–01, and instead simply refer to it as a set of circumstances under which a person demonstrates compliance with the standards of that provision, subject to DMRM's approval, where the activity would otherwise be prohibited under ORC 1513.073(D) or OAC 1501:13–3–03.

OSM Finding: We incorporate here our findings about ORC 1513.073 and OAC 1501:13–3–01 and –03, which we approved elsewhere in this program amendment. We find that Ohio's decision to simply refer to those provisions here does not render Ohio's regulations less effective than the Federal requirements, and we approve the revision.

Added the term *water quality standards,* currently at subsection (IIIIIII), meaning the rules set forth at OAC Chapter 3745–1 establishing stream use designations and water quality criteria protective of such uses for the surface waters of the state.

OSM Finding: While the Federal regulations at 30 CFR Chapter VII (OSM) do not define the term, Ohio's definition is consistent with EPA's definition of the term at 40 CFR 130.3, Ohio's water quality regulations at OAC 3745–1–02(106), and how OSM uses the term throughout its regulations, particularly 30 CFR 816.42 and 817.42, *Hydrologic balance: Water quality standards and effluent limitations.* Therefore, we approve it.

OAC 1501:13–1–03: Restrictions on Financial Interest of Employees

Ohio added references to the RFFAB, as created and defined in ORC 1513.182, to this rule to clarify that the restrictions on financial interest of employees do not apply to the advisory board members. However, advisory board members do have to file an annual statement of employment and financial interest.

This section also clarifies that members of the Reclamation Commission, as created and defined in ORC 1513.05, do not have prohibited financial interests under this rule and, therefore, will never be ordered by DMRM to take remedial action. Instead, commission members are required to file statements of employment and financial interest and are required to recuse themselves from proceedings that may affect their direct or indirect financial interests. Unlike the requirements for commissioner members, prohibited financial interest provisions apply to hearing officers of the Reclamation Commission. As such, Ohio added specific references to hearing officers to the provision allowing employees and the chief of DMRM to appeal orders for remedial action.

Finally, Ohio added additional detail about employees accepting gifts of nominal value from coal companies, setting that value at $20.00 per year from a single company; Ohio added information about how an employee is notified that remedial action is necessary to resolve a prohibited interest; and Ohio added notice that employees signing a certification of financial interests without listing known prohibited interests may result in penalties.

OSM Finding: We have determined that the revisions concerning the financial interests of RFFAB members are no less effective than 30 CFR part 705. Section 705.5 defines ''employee'' to exclude such advisory board members. We have likewise determined that the revisions regarding members of the Reclamation Commission simply add clarity to existing requirements for its members. Members of these groups are required to file statements of financial interest but are only required to recuse themselves should a conflict of interest with a direct or indirect financial interest occur with their position. 30 CFR 705.4(d). We have determined that the remaining revisions are no less effective than their Federal counterparts in 30 CFR 705.17(c)(4) (penalties for false certification by employees), 705.18(b) (gifts of nominal

value), and 705.21(b) (appeals to OSM). While 30 CFR 705.18(b) does not specifically define gifts of a ''nominal value'', Ohio's decision to set a limit at $20.00 per year from a single company is fully consistent with the Federal regulations. Therefore, we approve the revisions to OAC 1501:13–1–03.

OAC 1501:13–1–10: Availability of Records

In 2009, Ohio deleted from subsection (B)(2) a requirement that DMRM make documents involving permits and inspection and enforcement actions available to the public at offices of the county recorder or U.S. Department of Agriculture within the county where the operation was occurring if DMRM did not maintain a district office in that county. Ohio also deleted a provision specifying that, upon request of any resident of the area where the mining is occurring, copies of the documents will be sent by mail at the Division's expense.

OSM Finding: The provisions deleted from this section were effectively reinstated by Ohio in 2016 and are part of another program amendment that we docketed at SATS No. OH–258–FOR. Therefore, we are not issuing a finding on these provisions. To the extent Ohio's 2016 rulemaking made revisions that relate specifically to persons other than residents of the area where the mining is occurring, we will address those revisions in OH–258–FOR.

OAC 1501:13–1–14: Incorporation by Reference

This is a new rule that includes a list of all Federal regulations and Federal laws that are referenced in Chapter 1501:13 of the Ohio Administrative Code. The rule also explains where the public can find a copy of the Federal regulations and Federal laws, and the editions of the Code of Federal Regulations and United States Code in which the regulations and laws are published.

OSM Finding: This provision is not an operative component of Ohio's regulatory program, provides only references, and reflects a similar provision that used to exist at the end of OAC 1501:13–1–02 (Definitions). Therefore, we approve its addition. Ohio has made several revisions to this section since its inception in this program amendment to correct and/or adjust the references. For clarification, we do not need to affirmatively make findings for revisions to this section for the revisions to take effect unless Ohio begins to add operative regulatory requirements to this section.

OAC 1501:13–3–01: Standards for Demonstration of Valid Existing Rights

This is a new rule that describes the demonstration that a person must make to claim valid existing rights to conduct coal mining operations in areas otherwise prohibited under the approved State program, except for those lands subject to 30 CFR part 761, which require a demonstration to OSM. To claim valid existing rights, the regulation requires that a person demonstrate that they have the property rights necessary to conduct the activity, and either (a) have all necessary permits or have made a good faith effort to obtain them or (b) that the land is needed for and immediately adjacent to an operation meeting the conditions in (a). The rule also allows a person who claims valid existing rights to use or construct a road for coal mining operations across the surface of protected lands to provide other types of demonstrations, such as that the road existed when the land became protected and that the person has a right to use the road for coal mining operations.

OSM Finding: We have determined that the provisions in this section are substantively identical to, and therefore no less effective than, the definition of ''valid existing rights'' under the Federal regulations at 30 CFR 761.5. Therefore, we approve the revisions to OAC 1501:13–3–01.

OAC 1501:13–3–02: Submission and Processing of Requests for Valid Existing Rights Determinations

This is a new rule that describes the requirements for submitting a request for a valid existing rights determination to DMRM, which is required before preparing and applying for a permit or boundary revision for the land for which the determination is sought. The rule specifies what information and materials an applicant must provide to make their property rights demonstration; additional submission requirements if the basis for their claim involves the good faith/all permits standard; additional submission requirements if their claim is based on the ''needed for and adjacent to'' standard; and submission requirements if the claims involve the use or construction of roads.

This rule also describes the procedures Ohio will use to process a request for a valid existing rights determination. This includes the initial review of the request; public notice and opportunity to comment; determination of DMRM; and post-determination process.

OSM Finding: We have determined that the provisions in this section are substantively identical to, and therefore no less effective than, the Federal regulations at 30 CFR 761.16. With these changes, Ohio seeks to clarify the requirements and procedures that must be met when a request for valid existing rights is submitted to the State. Therefore, we approve the revisions to OAC 1501:13–3–02.

OAC 1501:13–3–03: Areas Where Mining Is Prohibited or Limited

Ohio reorganized this rule and added a provision to specify that the provisions of this rule do not apply to mining operations for which a valid permit existed when the land came under protection of the law.

OSM Finding: We have determined that this provision is substantively identical to, and therefore no less effective than, the Federal regulations at 30 CFR 761.11 and 30 CFR 761.12. Therefore, we approve OAC 1501:13–3–03.

OAC 1501:13–3–04: Procedures for Identifying Areas Where Mining Is Prohibited or Limited

In 2009, Ohio revised subsection (B) to clarify that an applicant who seeks a determination of valid existing rights on Federal lands within the boundaries of a national forest must submit its request to the Director of OSM for processing under 30 CFR subchapter F. In 2010, Ohio revised subsection (C) to clarify that this rule applies to applications for boundary revisions. It also expands the requirements for obtaining a road permit to include situations where the applicant proposes to relocate or close a public road. Finally, Ohio revised and reorganized subsection (D), which sets distance limitations from occupied dwellings, and waivers thereof, to eliminate redundancy.

OSM Finding: We have determined that the provisions in this section are substantively identical to, and therefore no less effective than, counterpart portions of the Federal regulations at 30 CFR part 761 (requiring OSM review for Federal lands within the National Forest System); 761.14 (requiring process for proposals to relocate or close public roads); 761.15 (waiver of distance limitations from occupied dwellings); and 761.17(a) (requiring regulatory authority to review applications for boundary revisions). Therefore, we approve the revisions to OAC 1501:13–3–04.

OAC 1501:13–4–02: Requirements of Coal Exploration

In 2010, Ohio revised subsection (A), which concerns written notices of intent for coal exploration operations, to remove the clause specifying that the requirement applies to those operations involving the removal of 250 tons of coal or less. Ohio also revised subsections (D) and (F), which concerns coal exploration permits, to add paragraphs requiring that, for any area where mining is prohibited or limited under OAC 1501:13–3–03, the application to conduct coal exploration must include a demonstration that the proposed exploration activities have been designed to minimize interference with the values for which those lands were designated as unsuitable for coal mining operations, to the extent technologically and economically feasible. The new paragraphs also require that the application must include documentation of consultation with the owner of the feature causing the land to come under the protection of unsuitable for mining and, when applicable, with the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under such protection. Lastly, the new paragraphs require that, before making a finding, DMRM must provide reasonable opportunity to the owner of the feature causing the land to come under such protection and, when applicable, to the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection, to comment on whether the finding is appropriate.

OSM Finding: Ohio's regulation at OAC 1501:13–4–02 addresses the Federal implementing regulations at both 30 CFR 772.11, which concerns notices of intent (NOI) for exploration operations removing 250 tons of coal or less, and section 772.12, which concerns permits for exploration operations that remove more than 250 tons of coal or that will occur on lands designated as unsuitable for surface coal mining operations. In 1983, OSM attempted a revision to 30 CFR 772.11 that would have effectively required an NOI for coal exploration operations removing 250 tons of coal or less only if such operation would also substantially disturb the natural land area. *See* 53 FR 52942 (Dec. 29, 1988). That revision was challenged in Federal court, was found to be an unsupported departure from the previous rule and was later suspended by OSM. Id. (citing *In re: Permanent Surface Mining Regulation Litigation (II),* No. 79–1144 (D.D.C. July 15, 1985) and 51 FR 41961 (Nov. 20, 1986). In 1988, OSM removed the reference to the land being substantially disturbed, noting that operators should not be in a position to make their own determination of whether their operations substantially disturb the natural land surface, and that regulatory authorities should therefore be informed of all exploration occurring within their jurisdictions. 53 FR at 52943. Ohio, on the other hand, has a differently structured regulation but effectively a similar result. Ohio eliminated the reference to 250 tons of coal from its requirement to file an NOI, but it still exists in the requirement to obtain a coal exploration permit. Ohio also retained references to the substantial disturbance of land surface. Therefore, the version of Ohio's regulation that remains requires a coal exploration permit for operations that intend to remove more than 250 tons of coal, substantially disturb the natural land surface, or involve lands designated as unsuitable. Operations not meeting these triggers may proceed only under an NOI, but all operations must at least have met that requirement. In 2018, Ohio removed the reference to the substantial disturbance of land from the subsection (A) subtitle to further avoid confusion. To the extent that Ohio requires operations that substantially disturb the natural land surface to receive a coal exploration permit where the Federal regulations would only require an NOI, Ohio has that discretion. For these reasons, we have determined that the amendments to the provisions in this section are no less effective than the Federal regulations at 30 CFR 772.11 and 772.12. Therefore, we approve the revisions to OAC 1501:13–4–02, including those later made in 2018 which do not substantively affect the requirements.

OAC 1501:13–4–03: Permit Application, Requirements for Legal, Financial, Compliance and Related Information

This provision was revised to allow submission of either the employer identification number or the last four digits of the social security number for each individual who is identified as having ownership or control in the permit application. This rule was also revised to clarify that right of entry information must be provided for the permit and shadow areas of underground mines.

OSM Finding: We approved changes to this regulation in 2015 following a complete side-by-side analysis with the counterpart Federal regulations at 30 CFR part 778. *See* 80 FR 63120 (Oct. 19, 2015). We also discuss minor revisions Ohio made to this regulation in 2016 in our discussions of statutory revisions to ORC 1513.02 and 1513.073, above. Subsequent revisions Ohio made to this regulation in 2016, 2018, and 2020 are discussed in other state program amendments docketed at SATS Nos. OH–258–FOR, OH–260–FOR, and OH–263–FOR, respectively. To the extent we have not specifically addressed Ohio's requirement to provide right of entry information for shadow areas, we note that although the Federal regulations do not specifically require right of entry information for shadow areas of underground mining operations, Ohio has the authority and the discretion to require more information than required by Federal law and regulations. We find that the revisions to this provision are no less effective than the Federal regulations at 30 CFR 778.15.

OAC 1501:13–4–04: Permit Application Requirements for Information on Environmental Resources

In 2009, Ohio revised subsections (D) (groundwater information) and (E) (surface water information), by adding aluminum and sulfates to the list of parameters for which an applicant must analyze water samples. In 2010, Ohio further revised subsections (J) and (K) to distinguish between the roles of engineers and surveyors in preparing maps. In 2016, Ohio made significant revisions to this section by including new provisions about seasonal variation of groundwater and surface water and moving the mapping provisions of subsections (J) and (K) to OAC 1501:13–4–08. Those revisions are under our consideration as a separate program amendment docketed at SATS No. OH–258–FOR.

OSM Finding: The Federal regulations at 30 CFR 780.21(b) do not require sulfates and aluminum as sampling parameters for groundwater or surface water, but they do not prohibit the regulatory authority from requiring additional parameters. Ohio asserted in its rulemaking that it had already been requiring analysis to include aluminum and sulfates pursuant to its authority to require ''other such information'' DMRM determines is relevant. *See* OAC 1501:13–4–04(D)(4)(d)(x) and (E)(2)(j). For Ohio's revisions about the distinction between surveyors and engineers, to avoid confusion, we will defer our discussion of these revisions until our review of their move to OAC 1501:13–4–08 in OH–258–FOR. Therefore, we approve the revisions to OAC 1501:13–4–04(D) and (E) related to the addition of aluminum and sulfates as additional parameters.

OAC 1501:13–4–05: Permit Applications; Requirements for Legal, Financial, Compliance and Related Information

In 2009, Ohio deleted from subsection (A)(2)(b) part of a parenthetical indicating that in order to retain certain facilities they must be necessary for the postmining land use and instead indicated that they need only be approved by DMRM. In 2016, following discussions with OSM, Ohio restored the requirement that the facilities must be necessary for postmining land use, while keeping the requirement that such facilities be approved by DMRM. Ohio also added subsection (A)(3) to include a requirement that it is the applicant's responsibility to provide information in the detail necessary for DMRM to determine the estimated cost to reclaim the site in the event of forfeiture of the performance security. Such information must be sufficient to determine the greatest potential reclamation cost liability to the State and include any other operational detail required by DMRM that may affect the cost. Ohio also revised subsection (B)(1)(d) to remove an applicant's ability to demonstrate that existing structures meet interim program performance standards because Ohio had previously removed its interim program regulations. Ohio revised subsection (H)(1)(a)(i) to clarify that detailed design plans for each proposed siltation structure, water impoundment, and coal mine waste bank, dam, or embankment must be certified by an engineer and cannot just be prepared under the direction of an engineer. Finally, Ohio deleted redundant language at subsection (M)(1).

OSM Finding: Because Ohio restored the requirement that the facilities proposed for retention be necessary for postmining land use in 2016, we need not address the original revision.

We find that the provision requiring the applicant to provide information for estimating the cost of reclamation is consistent with that which we discussed and approved above at ORC 1513.07(C), and we incorporate that analysis here. We have determined that the provision concerning existing structures is more stringent than the Federal regulations at 30 CFR 780.12(a)(4), which still allows existing structures to meet interim program standards, and is therefore consistent with the Federal regulations. We have determined that the provision about design plan certification is no less effective than the Federal regulations at 30 CFR 780.25(a)(1), which requires the plans to be certified. Therefore, we approve the revisions to OAC 1501:13–4–05.

OAC 1501:13–4–06: Permit Applications, Revisions, and Renewals, and Transfers, Assignments, and Sales of Permit Rights

In 2010, Ohio revised subsection (A)(3) to state that an application is deemed complete unless DMRM notifies an applicant within 14 business days of application submission that the application is incomplete and provides written notification that identifies the deficiencies in the application.

OSM Finding: Ohio made this revision to conform its regulations to the statutory revision at ORC 1513.07(E)(1), discussed above, which we do not approve. We incorporate our findings for that provision here and do not approve the revision to OAC 1501:13–4–06(A)(3) for the same reasons.

OAC 1501:13–4–07: Annual Reports

Ohio revised the requirements that the permittee file information with DMRM thirty days after each anniversary date of the issuance of a coal mining and reclamation permit to account for the new ABS and full-cost performance security methods, which use the terms *incremental area* and *incremental mining unit,* respectively, for different purposes. The revisions clarify that estimates of acreages are required for both the permit area and any incremental area or incremental mining unit; remove requirements to provide surety-specific information that Ohio no longer collects; requires the annual map to be prepared by or under the direction of a professional surveyor, eliminating the option for an engineer to prepare it; requires the annual map to include the boundaries of each incremental mining unit affected during the permit year for which the annual report is filed and for all preceding permit years, replacing the requirement to delineate the perimeter of the area affected during the permit year that is to be re-affected during the next permit year; requires the annual map show the incremental area for the reporting year and all preceding years. Ohio also removed the requirement that the map be shaded in various colors, if applicable, for the types of bonds posted for each area of the permit and if more than one surety was procured and added that within 30 days after the completion of mining operations on a permit, a final report must be filed with DMRM.

OSM Finding: We have determined that the provisions in this section have no direct Federal counterpart but are not inconsistent with the Federal regulations at 30 CFR 780.14(b)(3), which requires operation plans and maps to show each area of land for which a performance bond will be posted. The revisions are also consistent with Ohio's purposes under its ABS and full-cost bonding system, and the definitions of *incremental area* and *incremental mining unit* described above at ORC 1501:13–1–02. We incorporate those findings here. Ohio is merely outlining the requirements for an annual report. Therefore, we approve the revisions to OAC 1501:13–4–07.

OAC 1501:13–4–09: General Map Requirements

Ohio revised its general map requirements to clarify that acreage figures must be reported or estimated to the nearest 1/10th of an acre and to state that professional surveyors, not engineers, must certify the maps unless the map includes the only depiction of a design element for proposed features, in which case a professional engineer must also certify the map.

OSM Finding: We have determined that the provisions in this section are no less effective than the Federal regulations at 30 CFR 779.24, *Maps: General requirements.* Ohio goes beyond the map requirements in the Federal regulations to add additional requirements about which professionally licensed professions are required to certify maps pursuant to State law. These revisions also add additional requirements by specifying the decimal accuracy required on the maps. As these changes are consistent with the Federal regulations, we approve the revisions to OAC 1501:13–4–09.

1501:13–4–13: Underground Mining Permit Application Requirements for Information on Environmental Resources

OSM Finding: Ohio made the same revisions to this rule that it made to OAC 1501:13–4–05, discussed above, adding aluminum and sulfates as testing parameters, and clarifying the roles of engineers and surveyors. In 2016, Ohio also moved the map and plan provisions from this section to OAC 1501:13–4–08, which will be addressed in a separate program amendment at SATS No. OH–258–FOR. Therefore, we incorporate the findings from above and approve the revisions to OAC 1501:13–4–13(D) and (E) related to the addition of aluminum and sulfates as additional parameters and defer the remainder to our decision on OH–258–FOR.

OAC 1501:13–4–14: Underground Mining Permit Application Requirements for Reclamation and Operations Plans

Ohio revised this section in the same manner it revised OAC 1501:13–4–05, discussed above, with two additional revisions unique to underground mines. First, we incorporate our discussion of retaining existing structures, the estimated cost of reclamation, interim standards, and redundant language from that provision here. Here, Ohio also revised its mapping provisions at subsection (M) to replace ''areas above underground workings'' and ''underground workings'' with the term *shadow area,* defined at OAC 1501:13–1–02(ZZZZZ), and requires the map to show the *angle of draw,* a term defined at OAC 1501:13–1–02(H), both terms discussed and approved.

OSM Finding: We incorporate our findings about the retention of existing structures, estimated cost of reclamation, and interim standards from OAC 1501:13–4–5 here. We have determined that the provision concerning maps of the shadow area that show the angle of draw is no less effective than the Federal regulations at 30 CFR 784.20, *Subsidence control plan,* and consistent with our approval of the defined terms *shadow area* and *angle of draw* from OAC 1501:13–1–02, which we also incorporate here. Therefore, we approve the revisions to OAC 1501:13–4–14.

OAC 1501:13–4–15: Authorization To Conduct Coal Mining on Pollution Abatement Areas

In 2009, Ohio revised this rule to replace the term *bond* with *performance security,* the terms *operator* and *applicant* with the term *permittee,* where applicable, and made other minor editorial revisions. In 2010, Ohio codified revisions it had originally proposed in 2003, with some modifications, as well as additional substantive and minor revisions. Ohio revised subsection (A), *Applicability,* to clarify that applicants who seek authorization to conduct coal mining operations on certain previously mined areas under this rule do so with modified effluent limitations of a remining NPDES permit. Ohio revised subsection (C)(2), concerning the data necessary to determine baseline pollution load, to require that sampling locations be selected from among (instead of 'including, but not limited to') all surface-water bodies, groundwater sites, and all discharges from the pollution abatement area into surface water bodies. Ohio also added a reference to the new exception to baseline sampling at subsection (C)(4), discussed below, and clarified that DMRM may increase the number of samples and/or lengthen the sampling period. Ohio added subsections (C)(3) and (C)(4) to provide new exemptions from meeting numeric requirements of total suspended solids and settleable solids, or numeric effluent limitations, respectively. Ohio also added total aluminum to the required sampling program at subsection (C)(5) and eliminated the requirement that the permittee notify DMRM before and upon completion of each step of the abatement plan formerly at subsection (E)(3). Ohio repurposed subsection (F)(1), which required that non-pre-existing discharges be treated, to state that all pre-existing discharges commingled with active mining wastewater must be treated until the pollution abatement plan is implemented and the commingling has ceased. Ohio revised subsection (F)(2) to clarify that EPA's regulations at Appendix B of 40 CFR part 434 will be used to determine whether numeric effluent limitations established in the remining NPDES permit are exceeded, and revised subsection (F)(4) to state that sampling sites will be determined by DMRM, rather than proscribing that they be acquired at the farthest downstream discharge point of any, or any series of, sedimentation ponds.

OSM Finding: In 2004, we approved Ohio's proposed provisions at subsections (C)(3), (C)(4)(a) and (C)(4)(b) (formerly proposed as subsections (C)(2)(a)–(c)), the elimination of subsection (E)(3), and the revisions to subsection (F)(1). *See* 69 FR 57640, 57643 (Sept. 27, 2004). We incorporate those findings herein and note only that Ohio made minor editorial revisions to account for the reordering and reference their relation to other provisions. Ohio also omitted ''a pre-existing discharge that is too large to adequately assess via collection'' from its original list of examples of when collection of samples to establish baseline pollution load is infeasible to conform with EPA's regulation at 40 CFR 434.72(b)(2). Concerning the remaining revisions, we discuss below that EPA, which is primarily responsible for establishing effluent limitations, concurred in the proposed changes after finding that they comport with the Federal Water Pollution Control Act (*i.e.,* the Clean Water Act) and its implementing regulations. *See* Administrative Record Number OH–2185–84. We note that Ohio's revisions generally clarify or reflect Ohio's existing implementation of its program and are within Ohio's discretion to require, such as sampling site selection or including total aluminum as a sampling parameter. Therefore, we find that the revisions to OAC 1501:13–4–15 are in accordance with section 702(a) of SMCRA, which provides that nothing in SMCRA can be construed as superseding, amending or modifying the Clean Water Act or its regulations, and we approve them. In 2018, Ohio made additional revisions to this rule, particularly subsection (C)(5)(b), that we will address in a subsequent State program amendment.

OAC 1501:13–4–16: Requirements for Exemption for Coal Extraction Incidental to the Extraction of Other Minerals

Ohio revised the provisions about the exemption for coal extraction incidental to the extraction of other minerals to clarify three of the five requirements: (1) the requirement that coal must be produced from a geological stratum lying above or immediately below the deepest stratum from which other minerals are extracted for purposes of bona fide sale or reasonable commercial use was clarified to define that the term ''immediately below'' means that the coal to be mined must be located not more than three feet below the lowest other mineral to be mined; (2) language was added that other minerals mined in a mining area, but not in the stratigraphic column of coal removed, cannot be used to calculate cumulative production or cumulative revenue; and (3) language was added stating that augering of coal is not used as a mining method, except for permits issued before February 29, 1988, with approved mining plans that allowed the augering of coal.

OSM Finding: We have determined that the provisions in this section add further clarification to this exemption and narrow it in scope, and, though they have no direct Federal counterparts, they are therefore consistent with the Federal regulations at 30 CFR 702.14. We also understand that Ohio made these revisions to align the regulations with DMRM's Procedure Directive Inspection and Enforcement 2008–01 and, therefore, reflect Ohio's existing interpretation of this exemption. Therefore, we approve the revisions to OAC 1501:13–4–16.

OAC 1501:13–5–01: Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions

In 2009, Ohio made several editorial corrections to this section and added the word ''significant'' before the word

''revisions'' in subsections (A) and (B) to clarify that public notice of the filing of applications is only required for significant permit revisions. In 2010, Ohio added subsection (D)(2) to mirror the 240-day permit decision timeframe added to ORC 1513.07, discussed above, and to elaborate that the days referenced therein are ''business days.''

OSM Finding: We have determined that Ohio's addition of the word ''significant'' to subsections (A) and (B) is consistent with the requirements in 30 CFR 773.6, *Public participation in permit processing,* which makes the same distinction, and is consistent with how Ohio was already implementing its program. We also incorporate our findings from our approval of the 240-day decision timeframe under ORC 1513.07, above, and note that whether Ohio interprets days as business days is immaterial to our analysis. Therefore, we approve these revisions to OAC 1501:13–5–01. We note that Ohio made subsequent revisions to this rule in 2016 and 2018, which we will address in separate program amendments docketed at SATS Nos. OH–256–FOR and OH–258–FOR.

OAC 1501:13–9–01: Signs and Markers

In addition to minor corrections and reorganization, Ohio revised this provision to eliminate strict distance limitations for perimeter markers, instead requiring that they be placed to clearly define the perimeter so that adjacent markers are visible by a person standing at any other marker along the perimeter.

OSM Finding: We have determined that this provision is no less effective than the Federal regulations at 30 CFR 816.11(d) that requires generally that the perimeter of a permit area be clearly marked before beginning surface mining operations. Therefore, we approve the revisions to OAC 1501:13–9–01.

OAC 1501:13–9–03: Topsoil Handling

Ohio revised subsection (B) to provide that DMRM may choose not to require the removal (for salvage) of topsoil for minor disturbances that (a) will occur at the site of small structures, such as power poles, signs, or fence lines, or (b) will not destroy the existing vegetation and will not cause erosion. Ohio also revised the final grading and replacement of topsoil requirements at subsection (C) to provide that final grading must follow the completion of backfilling and rough grading with a timeframe that will allow replacement of topsoil or approved resoiling materials to begin and be completed during either the current normal period for favorable planting or at the start of the first appropriate normal period for favorable planting following final grading, whichever occurs first. It also provides that resoiling must begin, continue reasonably uninterrupted, and be completed before the end of the normal period for favorable planting unless the permittee receives an extension of time limit because of climatic conditions. Concerning the final grading and replacement of topsoil and soil thickness provisions, Ohio revised this rule to provide that topsoil or approved alternative resoiling materials must be redistributed in a manner that achieves an approximately uniform, stable thickness when consistent with the postmining land use, contours, and surface water drainage systems. Soil thickness may also be varied to the extent such variations help meet the specific revegetation goals identified in the permit.

OSM Finding: The provision about minor disturbances is nearly identical to, and no less effective than, the Federal regulations at 30 CFR 816.22(a)(3). The provision about final grading and replacement of topsoil, though it has no direct Federal counterpart, is consistent with the Federal regulations at 30 CFR 816.100, requiring reclamation efforts occur as contemporaneously as possible, and 816.113, requiring disturbed areas to be planted during the first normal period for favorable planting conditions after replacement of the plant-growth medium. The provision about redistributed topsoil thickness is identical to, and no less effective than, the Federal regulations at 30 CFR 816.22(d)(i). Therefore, we approve the revisions to OAC 1501:13–9–03.

OAC 1501:13–9–06: Use of Explosives

Following our 2012 publication of Ohio's proposed changes to this rule, Ohio made additional significant changes in 2018, which it has yet to submit. Ohio has also recently notified us that it intends to further revise this rule in its upcoming 5-year rule review. Therefore, to understand all of Ohio's proposed revisions in concert with one another, we defer our decision on these revisions and await Ohio's forthcoming submission of updates to OAC 1501:13–9–06 to address all of Ohio's revisions at once in a subsequent program amendment.

OAC 1501:13–9–10: Training, Examination, and Certification of Blasters

In 2010, Ohio revised subsection (C)(1) to raise minimum training for blaster certification from 30 hours to 40 hours. Subsection (D)(1) was also revised to reflect that other agencies, boards, or institutions may provide certification according to agreements entered into by DMRM pursuant to subsection (A)(2). Additionally, subsection (D)(1) and related provisions were further revised to ensure that each person approved for certification receives a certificate suitable for office display and a wallet-size identification card. These documents must include the type of certification, the person's name, certification number and date of expiration, and the name and signature of the chief or the official of the authorized agency, board, or institution granting the certification.

Ohio also eliminated subsection (D)(2)(c), which instructed DMRM to prorate its continuing education hours requirement based on the expiration date of each blaster's certification for three years from April 15, 2004, the effective date of the rule. In 2018, Ohio created a limited type of certification for blasters who conduct small-scale blasting on industrial minerals mining permits issued under ORC Chapter 1514, reflected by additions or revisions at subsections (A)(4), (C)(1), (C)(5)(b), and (D)(2)(b). Ohio also removed the requirement at subsection (B) that DMRM conduct workshops. The training topics at subsection (B) were revised to include fumes and reference carbon monoxide and nitrogen oxides as examples of toxic gases covered. Additionally, subsection (C)(5)(a) was created, which allows a person seeking standard certification to take the examination after completing the required training and at least one of the two years of required blasting crew work. However, certification cannot be granted until the full requirement is met.

OSM Finding: Concerning the 2010 revisions, we have determined that they are consistent with the Federal regulations at 30 CFR 850.13, 850.14, and 850.15 which generally require States to promulgate regulations related to the training, examination, and certification of blasters to ensure their competence but does not directly proscribe specific minimum hours of training or what form the documents memorializing certification must take. Thus, this provision is consistent with the Federal regulations. Similarly, Ohio's elimination of the requirement to prorate continuing education hours is appropriate because the provision has expired by its own terms.

Concerning the 2018 revisions, we note that these revisions occurred after our 2012 public notice of this state program amendment. Nonetheless, we

find that notice and public procedure under section 553 of the APA for approval of these revisions are impracticable, unnecessary, and contrary to public interest. *See* 5 U.S.C. 553(b)(B). Notification is impractical, unnecessary, and contrary to public interest because the revisions are either well consistent with the Federal regulations or do not pertain to SMCRA-regulated activities. Ohio's expansion or elaboration on the training topics required by 30 CFR 850.13(b), elimination of workshops, and creation of minimum requirements a blaster must meet before taking the examination, are at least neutral to, if not more stringent than, any requirement required by 30 CFR part 850. Ohio's creation of a limited type of certification applies only to industrial minerals mining permits, which are not regulated by SMCRA, and, therefore, those provisions do not require our approval. Rather than further delaying our decision on these revisions that have no obvious discernable impact on Ohio's approved program, we approve all of these revisions to OAC 1501:13–9–10.

OAC 1501:13–9–13: Contemporaneous Reclamation

In 2009, Ohio revised this section to add the word *highwall* where auger mining was referenced and make general revisions reflecting its new system for performance security, including a reference to its new rule at OAC 1501:13–7–05.1 (release of full-cost performance security). In 2010, Ohio revised subsection (A) to require that final grading and replacement of topsoil occur in accordance with OAC 1501:13–9–13, and that mulching, seeding, and planting follow resoiling as soon as practicable to minimize erosion. Ohio also revised subsection (A) to provide that the normal expected time for tree planting is March through April, and that, for forestry reclamation, end-dumped soil placed after April must not be planted with trees until the spring. This revision also allows mulching or seeding to occur when trees are planted or in the fall to help minimize herbaceous competition. Finally, Ohio added subsection (A)(9) requiring permittees to seek a permit revision for additional time for backfilling and rough grading, subject to certain minimum criteria that must be provided to justify additional time.

OSM Finding: We have determined that the 2009 revisions were editorial and did not substantively change Ohio's requirements. Concerning the 2010 revisions, we note that Ohio made these revisions so that this regulation would align with Ohio's existing interpretation and practice in DMRM's Procedure Directive Regulatory 08–02, *Contemporaneous Reclamation.* Provisions in this section are no less effective than the Federal regulations at 30 CFR 816.100, which requires generally that backfilling, grading, topsoil replacement, and revegetation occur as contemporaneously as possible, without more specificity. Here, Ohio expands on the requirements of this regulation by providing timeframes for completion of each stage and requires a formal process (permit revision) to request and justify additional time. The Federal regulations at 30 CFR 816.113 also leave room for the regulatory authority to determine the normal period for favorable planting based on local conditions and the plants selected. Therefore, we approve the revisions to OAC 1501:13–9–13.

OAC 1501:13–14–02: Enforcement

In 2009, Ohio revised this provision to add subsection (A)(9), which states that when DMRM issues a failure to abate cessation order for a violation of the contemporaneous reclamation requirements and the performance security was provided together with reliance on the Reclamation Forfeiture Fund, DMRM may require the permittee to increase the amount of performance security for the permit from $2,500 per acre to $5,000 per acre of land. In 2010, Ohio further added paragraphs (a) through (e) to implement subsection (A)(9). These paragraphs provide that: (a) if the violation relates to backfilling and/or grading and not corrected within 30 days from the issuance of the cessation order, DMRM may order that the performance security be increased within ten days in an amount of $5,000 per acre; (b) for all other contemporaneous reclamation violations, if the violation is not corrected within 30 days from the issuance of the cessation order, DMRM may order that performance security be increased within ten days in any amount not to exceed a total of $5,000 per acre; (c) if DMRM orders the permittee to increase the amount of performance security, it will also order the permittee to show cause why its performance security will not be forfeited pursuant to OAC 1501:13–7–06; (d) if DMRM orders the permittee to increase the amount of performance security, the increased performance security will remain in effect for the permit, including all future acreage of the permit, until DMRM determines that the amount of performance security may be reduced; and (e) a reduction in the amount of performance security under paragraph (d) will not be considered release of performance security and therefore not subject to ORC 1513.16(F), proscribing the procedure for release of performance security.

OSM Finding: Ohio added subsection (A)(9) to mirror the statutory addition at ORC 1513.08(E), which we address and approve above. We incorporate those findings here. Ohio added paragraphs (a) through (e) to help implement the provision. We note that ORC 1513.08(E) provides general discretion to DMRM to increase performance security in these situations, and that nothing in paragraphs (a) through (e) exceed that discretion. Concerning the reduction of performance security, we note that ORC 1513.08(C)(2) requires $2,500 per acre of performance security for sites participating in the bond pool. We read these provisions together to conclude that a reduction under OAC 1501:13–14–02(d) would not include a reduction below the amount otherwise required by ORC 1513.08(C)(2). For these reasons, we approve the revisions to OAC 1501:13–14–02.

IV. Summary and Disposition of Comments

A. Public Comments

We asked for public comments and requests for public hearings or meetings about the amendment. We received responses from one individual, and individuals representing three organizations: Save Our Rural Environment (SORE); Citizens for Pennsylvania's Future (PennFuture); and Ohio Environmental Council (OEC). The following summarizes the comments and testimony that were received.

Comment: An individual cited concerns about the long-term solvency of Ohio's Reclamation Forfeiture Fund and indicated that Ohio has not met its program condition at 30 CFR 935.11.

OSM's Response: We disagree that Ohio has not met the program condition described at 30 CFR 935.11. The provisions approved in this amendment include an increase on the severance tax that funds Ohio's bond pool, an expansion of the sources of funding for the bond pool, automatic severance tax increases if the bond pool falls below specified amounts, and the creation of an advisory board to recommend methods to increase the amount of the bond pool when needed. Additionally, the most recent actuarial study of the bond pool indicates that it has sufficient funding for Ohio to meet its reclamation obligations at any site that may be in default.

Considering the current account solvency and the mechanisms for adjusting bond pool income in response to future conditions, Ohio has demonstrated that its ABS can assure timely reclamation at all sites in default at any time. Therefore, we are removing the program condition at 30 CFR 935.11(h) and determining that Ohio has satisfied our concerns set forth in our 733 letter dated May 4, 2005.

Comment: Another commenter raised concerns about two provisions in the proposed amendment. They supported the approval of ORC 1513.076 and requested the disapproval of ORC 1513.07(E)(1), asserting that 14 days would not provide sufficient time for the State to determine the administrative completeness of an application.

OSM's Response: We agree that ORC 1513.076 should be approved. We also agree that 14 days is not always sufficient for Ohio to determine that an application is administratively complete, and, as we explained above when we disapproved subsection (E)(1), the automatic presumption of administrative completeness without the affirmative response from DMRM is not consistent with the Federal regulations.

Comment: A commenter opined that ORC 1513.076 should be more specific as to when the chief should coordinate with other branches of the Ohio regulatory apparatus in order to avoid improper permit approvals. Similarly, the commenter also objected to OAC 1501:13–1–10 because they alleged that it would shift the cost of examining records to the public.

OSM's Response: As we noted above, ORC 1513.076 has no direct counterpart in the Federal regulations. However, we found that it is not inconsistent with the Federal regulations at 30 CFR 731.14(g)(9), which requires a State to provide a narrative description of its permit coordination system as part of its submission to have its State program approved by OSM and is similar to 30 CFR 773.5, which requires coordination between different agencies to avoid duplication for the review of various Federal wildlife and historic preservation laws. That regulation does not specify how or when agencies should coordinate, only that agencies avoid duplication. Ohio's proposed amendment is no less effective than these regulations and establishes a joint task force to ensure proper implementation.

The deleted portions of OAC 1501:13–1–10 that are the subject of the commenter's concerns were reinstated as part of the subsequent program amendment OH–258–FOR, and we will address them in that amendment.

Comment: A commenter indicated that several new or amended provisions in the ORC, OAC, and several of Ohio's guidance documents were omitted from the proposed rulemaking notice that appeared in the **Federal Register** on February 14, 2012. The commenter acknowledged that some of the changes to these provisions may be ''clerical in nature,'' but suggested that we publish the name and number of each provision or guidance document nonetheless.

OSM's Response: Except as discussed in response to other comments below, proposed revisions to the statutory and regulatory sections noted by this commenter are either editorial in nature, which do not require our approval, or they are addressed in other program amendments, such as that docketed at SATS No. OH–254–FOR. Our approval of any section or subsection of Ohio's statutes or regulations in this amendment does not apply to any substantive changes not specifically accounted for in this **Federal Register** notice. In reviewing this amendment, we also made note of all outstanding substantive revisions and are coordinating with Ohio to ensure necessary submissions occur. The guidance documents to which the commenter refers are not a part of this program amendment.

Comment: A commenter objected to provisions in ORC 1513.02(J) that allow the chief to establish rules to implement a state programmatic general permit from USACE, alleging that Ohio lacks the capacity to comply with a general permit, and asserts that it was not published in the proposed rulemaking notice.

OSM's Response: This section, which was included in the proposed rulemaking notice at 77 FR 8185, 8188 (Feb. 14, 2012), is not a self-implementing, enforceable provision. As we discuss above, this provision merely authorizes DMRM to undertake a future potential rulemaking. If and when Ohio uses this authority, we will evaluate that rulemaking under 30 CFR part 732.

Comment: The commenter objected to ORC 1513.07(E)(2) and OAC 1501:13–4–06(A)(3), which deem a permit application to be complete within 14 days of its submission, asserting that does not allow for sufficient time for a review to satisfy section 510 of SMCRA, and that DMRM improperly extended ''days'' from Ohio's statute to ''business days'' in its regulations.

OSM's Response: We generally agree with the commenter's assertion that this provision is not in accordance with SMCRA and is not consistent with the Federal regulations; thus, as explained above, we have disapproved it. We note, however, that while the SMCRA regulations typically refer to calendar days, *see* 30 CFR 700.15 (Computation of time), whether a State's rule implementing a particular timeframe conflicts with a State statute is a question of State law that is outside of our purview. Our review is confined to determining whether the provision is in accordance with SMCRA and consistent with the Federal regulations.

Comment: A commenter objected to ORC 1513.07(I), which they noted was omitted from the proposed rulemaking notice, and OAC 1501:13–5–01 and 1501:13–14–05, which they asserted contravene SMCRA's requirement for permit decisions to occur within 60 days of an informal conference. They also contended that Ohio's 240-day decision window for decisions without an informal conference is unreasonably long.

OSM's Response: As we discussed above, we do not interpret Ohio's requirement as allowing Ohio to issue its decision on a permit application more than 60 days following an informal conference. Rather, we interpret these provisions as simply requiring DMRM to notify a permit applicant if DMRM anticipates that a permit decision will not occur before 240 days from the time that the permit application is determined to be complete. We acknowledge that this timeframe will not likely be met in situations where an informal conference is held, which should typically conclude within approximately 170 days from when the permit application is determined to be complete. Nonetheless, delays may occur by mutual consent of all interested parties, which may make Ohio's 240-day requirement relevant. We note in our findings that we will monitor Ohio's program to ensure DMRM is implementing the 60-day requirement. We also note in our findings that for permits that do not involve an informal conference, 240 days is a reasonable timeframe considering the complexity of some permit applications, and no part of Ohio's provisions compel a particular permit decision (*i.e.,* a deemed approval). Timely and efficient permit processing benefits all parties. Finally, we note that we did erroneously omit a description of the change in ORC 1513.07(I) from our proposed rulemaking notice at 77 FR 8185 (Feb. 13, 2012). However, we did sufficiently describe Ohio's regulatory revisions implementing this provision, *see* 77 FR at 8193 and 8196, and, therefore, we

find that the omission of a separate description of ORC 1513.07(I) is harmless error because it is a logical outgrowth of the proposed rule notice.

Comment: A commenter asserted that DMRM does not adequately enforce ORC 1513.07(E), which relates to written consent by the landowner for right-of-entry. The commenter raised objection to the changes to these provisions themselves.

OSM's Response: OSM addresses issues related to the implementation and enforcement of a State's program through the processes outlined in 30 CFR part 733, which is beyond the scope of this program amendment.

Comment: A commenter opined that the proposed rulemaking notice of February 12, 2012, omitted the following substantive additions of defined terms: *best management practices, knowing, pre-existing discharge, transfer, assignment or sale of permit rights, violation, violation notice,* and a reference to the Federal rules.

OSM's Response: All of these terms were included in other program amendments, which were released for public notice and comment. We approved the terms *best management practices,* and *pre-existing discharges* in the program amendment docketed at SATS No. OH–248–FOR. *See* 69 FR 57640 (Sept. 27, 2004). We approved the terms *knowing, violation,* and *violation notice* in the program amendment docketed at SATS No. OH–254–FOR. *See* 80 FR 63120 (Oct. 19, 2015). We included revisions to the term *transfer, assignment, and sale of permit rights* in the program amendment docketed at SATS No. OH–262–FOR, which we consolidated with this notice. Concerning the reference to the Federal rules, Ohio subsequently eliminated these references from its definitions and instead migrated them to OAC 1501:13–4–14, which the commenter later notes is important and encourages its approval.

Comment: A commenter asserted that Ohio's provision allowing remining operations to be exempt from numeric limitations for total suspended solids and settleable solids at OAC 1501:13–4–15(C)(3) must require concurrent approval of the Ohio EPA.

OSM's Response: As we discussed above, we approved this provision in 2004. *See* 69 FR 57640. We note that this provision is subject to OAC 1501:13–4–15(D)(5), which provides that ''no authorization may be granted under this rule until a remining NPDES permit has been issued by the Ohio environmental protection agency and a copy of the remining NPDES permit has been provided to the chief.''

Comment: Another commenter raised concerns that the alternative financial security for long-term discharge treatment as described in ORC 1513.16(F)(8) could be inconsistent with SMCRA performance security standards found at 30 CFR 800.12, and bond release regulations found at 30 CFR 800.40, if it is interpreted as terminating Ohio's jurisdiction for areas where ongoing water treatment or water supply replacement is required. The commenter also opined that the termination of jurisdiction language of ORC 1513.16(F)(9) is inconsistent with 30 CFR 700.11(d)(1) by declaring that termination occur at final bond release instead of retaining discretion in DMRM to separately terminate jurisdiction.

OSM Response: As noted in our findings above, we approve the use of alternative financial securities, including trust funds, as alternative bonding mechanisms. However, we agree with the commenter's concerns about the possible interpretation of subsection (F)(8) and (F)(9). We note in our findings that Ohio subsequently defined *alternative financial security* as trust funds and similar financial mechanisms. We have limited our approval of Ohio's definition only to trust funds because those instruments are further defined and conditioned as a form of collateral bond in Ohio's regulations. Therefore, our finding makes clear that final bond release, for the purpose of termination of jurisdiction under subsection (F)(9), will not occur until all land reclamation is completed and all pollutional discharges are eliminated or otherwise cease to exist that would result in release of any remaining performance security including any alternative financial security.

We disagree that the termination of jurisdiction language of ORC 1513.16(F)(9) is less effective than SMCRA and 30 CFR 700.11. 30 CFR 700.11 gives regulatory authorities the ability to terminate jurisdiction upon release of the performance bond and does not provide any conditions for which a regulatory authority may not terminate jurisdiction after release of a performance bond. This section of the Federal regulations is intended to allow a regulatory authority to terminate jurisdiction after all performance bond releases, as Ohio has done here. Under Ohio's approved program, it is unnecessary to retain discretion for the termination of jurisdiction separate from the discretion for the final release of performance security for the same reason we declined to exercise that discretion in the rulemaking for the Tennessee program cited by commenter. *See* 72 FR 9616, 9627–28 (Mar. 2, 2007). Our decision to acknowledge trust funds for long-term treatment as either collateral bonds or alternative bonding systems under section 509 of SMCRA, 30 U.S.C. 1259, means that the regulatory authority retains jurisdiction over the treatment site until that too meets all the requirements imposed by the applicable regulatory program and the trust is terminated, constituting ''release of the performance bond fully'' under 30 CFR 700.11(d)(1)(ii). Ohio has also retained the mandatory Federal requirement that the regulatory authority may reinstate jurisdiction if it has found that release of the performance bond occurred was based on fraud or other misrepresentations.

Comment: A commenter contended that the proposed rule neither provides adequate funding for the ABS nor provides adequate funding for Ohio's oversight of surface mining. The commenter also asserted that ORC 1513.08(E) fails to require DMRM to adjust the amount of bond, as required under section 509(e) of SMCRA, 30 U.S.C. 1259(c), and that ORC 1513.08(C) improperly limits expenditures from the bond pool to the estimated cost of reclamation rather than the actual cost of reclamation. Finally, the commenter alleged that the creation of the Reclamation Forfeiture Fund Advisory Board creates unnecessary, costly, and inefficient bureaucracy, that the Board's makeup and duties conflict with SMCRA's regulations about the restrictions on financial interests of State employees under 30 CFR part 705, and conflicts with ODNR's designation as the regulatory authority.

OSM Response: Concerning the text of ORC 1513.08(E), Ohio revised this provision again through SB 386 of 2009 to require DMRM adjust the bond when the acreage changes or the cost of reclamation changes. Concerning the text of ORC 1513.08(C), we agree generally that the expenditures from the bond pool cannot be limited to the difference between the amount of flat-rate bond and DMRM's estimated cost of reclamation if that estimate turns out to be less than the actual cost to meet all requirements of the approved program, the permit, and the reclamation plan. Accordingly, we approved this provision insofar as Ohio implements its approved regulations that allow DMRM to adjust the estimated cost at any time, including after forfeiture, to accurately reflect final costs to complete reclamation. In that context, we interpret Ohio's provision as ensuring that money in the bond pool is not used

to complete work in excess of that necessary to satisfy SMCRA's requirements.

Next, we disagree that the amendment does not provide adequate funding for the ABS. Please see our response to this comment that we previously addressed in this section for more detail. We also disagree that Ohio's funding of ODNR is currently inadequate. We regularly monitor and inspect surface mining activity and regulatory authority effectiveness and intervene as required.

Concerning the RFFAB, while we agree that ORC 1513.182 gives the RFFAB a role that is more than simply advisory (*i.e.,* the power to adjust the reclamation tax through rulemaking), which raises conflict of interest concerns, we disagree that the creation of a RFFAB generally is inconsistent with SMCRA and its implementing regulations. We do not approve ORC 1513.182(E)(3), which authorizes the RFFAB to adjust the reclamation tax and refer to our discussion of that provision above. However, as we have held in other jurisdictions, the creation of an advisory board with the directive to analyze and respond to the solvency of the Reclamation Forfeiture Fund will improve Ohio's ability to fulfill the conditions of 30 CFR 800.11(e). *See* 66 FR 67446 (Dec. 28, 2001) (approving of similar bond pool advisory board in West Virginia). SMCRA is otherwise silent on how States may choose to fulfill those conditions. Further, SMCRA tasks OSM with oversight of State coal mining regulatory programs, not particular State agencies, and does not prevent us from recognizing more than one State agency or entity involved in carrying out the State's program. *See* 30 U.S.C. 1211(c) (Duties of Secretary), and 30 U.S.C. 1291(26) (defining *State regulatory authority* as that with *primary* responsibility at the State level for implementing SMCRA). As other comments point out, the Ohio Environmental Protection Agency also has some role in Ohio's SMCRA program.

B. Federal Agency Comments

We requested comments from the Mine Safety and Health Administration (MSHA), Environmental Protection Agency, Natural Resources Conservation Service, U.S. Fish and Wildlife Service, U.S. Department of Labor, and Advisory Council on Historic Preservation. We received a letter from MSHA dated August 22, 2011, Administrative Record ID Number OH–2185–64, stating that MSHA had reviewed the proposed amendment and had no comment. We received no comments from the other Federal agencies.

We also requested concurrence from the U.S. Environmental Protection Agency (EPA) by letter dated July 28, 2011, Administrative Record ID Number OH–2185–62, for provisions that could affect compliance with the Clean Water Act. We received a letter from the EPA dated August 8, 2011, Administrative Record ID Number OH–2185–63, stating that the EPA forwarded the request for concurrence to its Chicago regional office for review. We sent another request for concurrence to the EPA Chicago regional office on December 6, 2012, Administrative Record ID Number OH–2185–74. We spoke by telephone with EPA Chicago staff on November 15, 2017, as a follow up to our request for concurrence for the proposed amendment.

We received a letter from the EPA dated July 5, 2018, Administrative Record ID Number OH–2185–84. The EPA concurred that the proposed changes to the Ohio program comport with the Clean Water Act and its implementing regulations. The EPA determined that only the proposed changes to OAC 1501:13–4–04, 1501:13–4–13 and 1501:13–4–15 are within its purview and concurred without comment on the proposed changes to OAC 1501:13–4–04 and 1501:13–4–13. The EPA provided additional discussion on its concurrence of OAC 1501:13–4–15. That discussion noted that EPA regulations at 40 CFR part 434 subpart G allows for modified NPDES permitting for preexisting discharges in coal remining operations provided that the operator selects Best Management Practices (BMPs) to reduce the pollution load from the pre-existing discharges. We agree with the EPA, and our finding on OAC 1501:13–4–15 is conditioned on comportment with these regulations.

The EPA also noted that the proposed changes to OAC 1501:13–4–15 would allow exemptions from numeric effluent limitations for pH, iron, manganese, total suspended solids and settleable solids when DMRM determines that setting numeric limitations is infeasible and when the remining operation would result in significant improvement to water quality. The EPA wrote that although the term 'non-numeric remining NPDES permit' does not appear in the CWA or Federal regulations, the proposed language in 1501:13–4–15 tracks well with 40 CFR 434 Subpart G. We agree with this determination, and our finding on 1501:13–4–15 reflects this determination.

V. OSM's Decision

Based on the above findings, we approve Ohio's PA–82 submitted March 6, 2007, and updated through February 14, 2012 (referenced as SATS No. OH–252–FOR) and PA 87 submitted April 11, 2019 (referenced as SATS No. OH–262–FOR) with the following exceptions.

Provisions Not Approved

1. We do not approve the presumption of administrative completeness 14 days after application submission, found at ORC 1513.07(E)(1) and OAC 1501:13–4–06(A)(3). The automatic presumption of administrative completeness without the affirmative response of the DMRM is less effective than 30 CFR 773.7, which requires the regulatory authority to issue written decisions on permits and places on the applicant the burden of establishing that the permit application complies with the regulatory program. Therefore, the proposed revisions to ORC 1513.07(E)(1) and OAC 1501:13–4–06(A)(3) are less stringent than SMCRA and its implementing regulations and cannot be approved.

2. We do not approve that provision of ORC 1513.08(J) and OAC 1501:13–7–03(B)(11)(b) related to permittees who have provided performance security in accordance with ORC 1513.08(C)(2). The procedures for the replacement of flat-rate bonds due to the insolvency of the surety or related financial institution conflict with the Federal regulations that require replacement bonds be obtained within 90 days with no exception for alternative bonding systems. Although Ohio seeks to revise its program to allow the operator to partially replace the bond within 90 days and the balance of the remaining bond being provided by the bond pool within one year, we require a complete replacement of the bond within 90 days. If Ohio implements their program allowing the bond pool to supplement the replacement bond, an undue risk on the solvency of Ohio's bond pool may result.

3. We do not approve ORC 1513.182(E)(3) and that clause of ORC 5749.02(A)(8) that authorizes the RFFAB to adjust the rate of the bond pool tax. The authority to adjust the bond pool tax is one that may affect a RFFAB member's direct or indirect financial interest subject to the prohibitions under section 517(g) of SMCRA, and the Ohio program does not provide for recusal by those members under such circumstances.

Conditional Approvals

1. We approve the change at ORC 1513.07(E)(2)(e), concerning right-of-entry documentation, with the understanding that an applicant will demonstrate ownership of the mineral estate in such a situation, as required elsewhere in the Ohio program. If we determine, in the future, that Ohio is implementing this provision differently, we may require Ohio to submit an amendment to revise their regulatory program to reflect our understanding of this provision.

2. We also limit our approvals to ORC 1513.16 and OAC 1501:13–1–02(G) to ensure that ''alternative financial security'' refers to only the treatment trusts as we understand them through related revisions to Ohio's program that we approve herein and not other unknown financial vehicles. Similarly, we limited our approval of ''other'' forms of collateral bond in the definition at OAC 1501:13–1–02(DD) to those specifically referenced in the Federal regulations at 30 CFR 800.5. We have decided to limit our approval in this way rather than disapprove the relevant portions of these provisions in order to indicate that Ohio may add specific, additional financial instruments to these terms subject to our approval through the state program amendment process.

No Finding Issued

1. We are not issuing a finding for ORC 1513.29 (Council on unreclaimed strip mined lands) because these provisions were repealed by Ohio House Bill 471 (approved December 19, 2016), and we addressed it in SATS No. OH–259–FOR. See 89 FR 79436 (Sept. 30, 2024).

2. We are not issuing a finding for ORC 1513.371 (Mined land set-aside fund), repealed and later reenacted for a different purpose, because both iterations of this section relate to Ohio's AML program and not its approved coal mining regulatory program.

3. We are not issuing a finding for revisions to OAC 1501:13–1–10 (availability of records) because Ohio effectively reinstated this rule in its prior form in 2016, which is part of a program amendment we docketed at SATS No. OH–258–FOR. Therefore, we are not issuing a finding on these provisions and will otherwise address this rule in that amendment.

4. We are not issuing findings for revisions to subsections (J) and (K) of OAC 1501:13–4–03 and 1501:13–4–13 (Environmental information for surface and underground coal mine permit applications, respectively). In 2016, Ohio further revised these subsections, which relate to mapping requirements, and moved them to other, new rules in Ohio's code. Those changes are reflected in a subsequent program amendment at SATS No. OH–258–FOR, and we will address them in that amendment.

5. We are not issuing a finding for revisions to OAC 1501:13–7–04 (Self-bonding) because Ohio indicated that it has repealed this rule in its entirety. We docketed that amendment at SATS No. OH–258–FOR, see 85 FR 26413 (May 4, 2020), and will address it in our decision on that amendment.

6. We are not issuing a finding for OAC 1501:13–9–06 (Use of explosives in coal mining and coal exploration operations) because Ohio made additional significant changes in 2018, which it has yet to submit, and recently notified us that it intends to further revise this rule in its upcoming 5-year rule review. Therefore, we defer our review of this rule until Ohio's next submission.

To implement this decision, we are amending the Federal regulations, at 30 CFR part 935, that codify decisions concerning the Ohio regulatory program. In accordance with the APA, this rule will take effect 30 days after the date of publication. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

Removal of Program Condition at 30 CFR 935.11(h).

We are removing the program condition at 30 CFR 935.11(h)(1), for the reasons described in Section D of our Findings and consider the conditions set forth in the 733 letter we issued to Ohio on May 4, 2005, addressed.

VI. Statutory and Executive Order Reviews

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not result in a taking of private property or otherwise have taking implications that would result in public property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of corresponding Federal regulations, including those that set minimum performance standards for alternative bonding systems.

Executive Order 12866—Regulatory Planning and Review and 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of state program amendments is exempted from OMB review under Executive Order 12866. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by section 3(a) of Executive Order 12988. The Department has determined that this **Federal Register** document meets the criteria of section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency writes its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive Order did not extend to the language of the State regulatory program or to the program amendment that the State of Ohio drafted.

Executive Order 13132—Federalism

This rule has potential Federalism implications as defined under section 1(a) of Executive Order 13132. Executive Order 13132 directs agencies to ''grant the States the maximum administrative discretion possible'' with respect to Federal statutes and regulations administered by the States. Ohio, through its approved regulatory program, implements and administers SMCRA and its implementing regulations at the State level. This rule approves, in part, an amendment to the Ohio program submitted and drafted by the State and disapproves elements of the amendment only to the extent necessary to ensure that the State program is ''in accordance with'' the requirements of SMCRA and ''consistent with'' the regulations issued by the

Secretary pursuant to SMCRA. Therefore, this rule is consistent with the direction to provide maximum administrative discretion to States.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on the distribution of power and responsibilities between the Federal government and Tribes. The basis for this determination is that our decision on the Ohio program does not include Indian lands as defined by SMCRA or other Tribal lands and does not affect the regulation of activities on Indian lands or other Tribal lands. Indian lands under SMCRA are regulated independently under the applicable Federal Indian Lands Program. The Department's consultation policy also acknowledges that our rules may have Tribal implications where the State proposing the amendment encompasses ancestral lands in areas with mineable coal. We are currently working to identify and engage appropriate Tribal stakeholders to devise a constructive approach for consulting on these amendments.

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

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

National Environmental Policy Act

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(A), State program amendments are not major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.).* The State submittal, which is the subject of this rule, is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations. The Federal regulations were also promulgated to provide flexibility to ensure the availability of surety bonding to small operators.

Congressional Review Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, including those that set minimum performance standards for alternative bonding systems, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Ben H. Owens,

Acting Regional Director, North Atlantic—Appalachian Region.

For the reasons set out in the preamble, 30 CFR part 935 is amended as set forth below:

PART 935—OHIO

■ 1. The authority citation for part 935 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 935.11 [Amended]

■ 2. Amend § 935.11 by removing and reserving paragraph (h).

■ 3. Amend § 935.12 by adding paragraphs (c) through (h) to read as follows:

§ 935.12 State statutory, regulatory, and proposed program amendments not approved.

* * * * *

(c) The second sentence of ORC 1513.07(E)(1)—An application is deemed to be complete as submitted to the chief unless the chief, within fourteen days of the submission, identifies in the application in writing and subsequently submits a copy of a written list of deficiencies to the applicant.

(d) The last sentence of ORC 1513.08(J)—If the permittee provided performance security in accordance with division (C)(2) of this section, the permittee shall provide the replacement performance security within one year after receipt of notice from the chief, and, for a period of one year after the permittee's receipt of notice from the chief or until the permittee provides the replacement performance security, whichever occurs first, money in the reclamation forfeiture fund shall be the permittee's replacement performance security in an amount not to exceed the estimated cost of reclamation as determined by the chief.

(e) The first sentence of OAC 1501:13–4–06(A)(3)—Be deemed to be complete as submitted to the chief unless the chief, within fourteen business days of the submission, identifies deficiencies in the application

in writing and sends a written list of the deficiencies to the applicant.

(f) OSM does not approve ORC 1513.08(J) and OAC 1501:13–7–03(B)(11)(b) related to permittees who have provided performance security in accordance with ORC 1513.08(C)(2).

(g) OSM does not approve ORC 1513.182(E)(3) and the clause of ORC 5749.02(A)(8) that authorizes the RFFAB to adjust the rate of the bond pool tax.

(h) The clause in the first sentence of ORC 5749.02(A)(8) reading—''. . . or in rules adopted by the reclamation forfeiture fund advisory board under section 1513.182 of the Revised Code. . .''

■ 4. In § 935.15, amend the table by adding an entry for ''March 6, 2007'' at the end of the table to read as follows:

§ 935.15 Approval of Ohio regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
March 6, 2007	8/7/2026	ORC 1513.01(W), .02, .07 (partial), .071, .073, .075, .076, .08 (partial), .081, .10, .13, .16, .17, .171, .18, .181, .182 (partial), .30, .372; ORC 5749.02 (partial), .11; OAC 1501:13–1–02, –1–03, –1–14, 13–3–01, –3–02, –3–03, –3–04, 13–4–01, –4–02, –4–03, –4–04 (partial), –4–05, –4–06 (partial), –4–07, –4–09, –4–12, –4–13 (partial), –4–14, –4–15, –4–16, 13–5–01, 13–7–01, –7–02, –7–03 (partial), –7–04, –7–05, –7–05.1, –7–06., –7–06.1, –7–08, 13–9–01, –9–03, –9–10, –9–13, 13–14–02, –14–05

[FR Doc. 2026–16136 Filed 8–6–26; 8:45 am]

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