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

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

RIN 3124–AA33

Appellate Jurisdiction Update II

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board (MSPB or Board) is amending its regulations to remove references to MSPB's jurisdiction over probationary termination, suitability, and reduction-in-force (RIF) appeals. This revision reflects the Office of Personnel Management's (OPM's) rescission of the MSPB's jurisdiction to hear these types of appeals. The rule retains MSPB's statutory jurisdiction over Foreign Service reduction-in-force appeals under 22 U.S.C. 4010a.

DATES: This final rule is effective on September 2, 2026. However, consistent with OPM's rulemakings, the MSPB will not apply this rule to pending cases or to newly filed cases relating to agency actions taken before the effective date of OPM's rulemakings, and will continue to adjudicate such probationary termination appeals, suitability appeals, and RIF appeals.

FOR FURTHER INFORMATION CONTACT: Gina K. Grippando, Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW, Washington, DC 20419; phone: (202) 653–7200; fax: (202) 653–7130; or email: *mspb@mspb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Civil Service Reform Act grants MSPB jurisdiction to hear appeals of any action made appealable to MSPB under law, rule, or regulation. 5 U.S.C. 7701(a). For the ease of MSPB's stakeholders, MSPB's regulation at 5 Code of Federal Regulations (CFR) 1201.3 contains a list of the types of appeals MSPB has been granted jurisdiction to hear. The current list includes 1201.3(a)(3), which reflects appeal rights for employees who are terminated during their initial or supervisory probationary period; 1201.3(a)(6), which reflects appeals rights for employees subjected to a reduction-in-force; and 1201.3(a)(9), which reflects appeal rights for employees subjected to a suitability action. OPM regulations previously granted MSPB jurisdiction over each of these types of appeals, except for reduction-in-force actions affecting a career or career candidate appointee in the Foreign Service, over which MSPB exercises jurisdiction pursuant to statute.

A. Appeals for Terminations During Probationary or Trial Periods

On June 24, 2025, OPM issued a final rule which stated that Executive Order (E.O.) 14284, ''Strengthening Probationary Periods in the Federal Service'' (90 FR 17729), issued on April 24, 2025, '' 'supersede[d] subpart H' [of part 315 of CFR title 5] and 'rendered [it] inoperative and without effect.' '' Accordingly, OPM's final rule rescinded subpart H of CFR part 315, including 5 CFR 315.806, which provided appeal rights to MSPB for employees serving an initial appointment to a competitive service position who are terminated during their probationary or trial period.

Subsequently, effective September 2, 2026, OPM issued a final rule revising 5 CFR 315.908(b) [of subpart I of part 315 CFR title 5] which previously granted MSPB appeal rights to competitive service, managerial or supervisory employees who alleged that an action under that subpart, such as return to a nonsupervisory or nonmanagerial position for failure to complete the probationary period, was based on partisan political affiliation or marital status. The revised rule rescinds MSPB appeal rights for these employees and instead provides a right to appeal such actions to OPM.

Consequently, MSPB now amends 5 CFR 1201.3(a)(3) to reflect the rescission of these MSPB appeal rights. MSPB notes that OPM has provided in its final rule that the rule covers actions effected from September 2, 2026, forward, and therefore does not apply to any pending MSPB appeals or future MSPB appeals filed based on actions effected before September 2, 2026.

B. Reduction in Force Appeals

Effective September 2, 2026, OPM issued a final rule revising 5 CFR 351.901, which previously granted MSPB appeal rights to federal employees subjected to a reduction-in-force. The new rule, in relevant part, rescinds these MSPB appeal rights and instead provides reduction-in-force appeal rights exclusively to OPM. Consequently, MSPB now amends 5 CFR 1201.3(a)(6) to reflect OPM's rescission of these previously codified MSPB appeal rights. This amendment does not affect the separate statutory right of a career or career candidate appointee in the Foreign Service to appeal a RIF action to MSPB under 22 U.S.C. 4010a. The final rule retains that appeal right in redesignated paragraph (a)(5) of 5 CFR 1201.3 but changes the referenced citation from 22 U.S.C. 4011 to 22 U.S.C. 4010a, where the precise statutory appeal reference is found.

MSPB notes that OPM's final rule on RIF appeals applies only to a RIF action for which an agency issues the employee a specific RIF notice on or after the effective date of the RIF appeals rule, and that MSPB appeals of RIF actions taken before the effective date of OPM's final rule may continue to be adjudicated through the MSPB process. MSPB will therefore continue to adjudicate RIF appeals that are not covered by OPM's final RIF appeals rule (*i.e.,* because the RIF actions were taken before the rule's effective date), and will accept such cases for filing where the agency's RIF notice was issued before the rule's effective date, and will not dismiss such appeals on the ground that OPM's final rule displaced the MSPB's jurisdiction.

C. Suitability Appeals

Effective September 2, 2026, OPM issued a final rule revising 5 CFR 731.501, which previously granted MSPB appeal rights to individuals subjected to a suitability action, which includes the cancellation of eligibility, removal, cancellation of reinstatement eligibility, and debarment. The new rule, in relevant part, rescinds these MSPB appeal rights and provides suitability action appeal rights exclusively to OPM. MSPB now amends 5 CFR 1201.3(a)(9) to reflect OPM's

rescission of these previously codified MSPB appeal rights.

MSPB notes that OPM's suitability appeals rule does not apply to suitability appeals filed with the MSPB before the effective date of OPM's final rule, and that the MSPB may continue to adjudicate such suitability appeals. MSPB will therefore continue to adjudicate such suitability appeals that are not covered by OPM's final suitability appeals rule, and will not dismiss such appeals on the ground that OPM's final rule displaced the MSPB's jurisdiction.

II. Summary of Changes

Section 1201.3 Appellate Jurisdiction

This amendment amends the list of appealable actions in section 1201.3(a) to remove references to appeal rights for employees in the competitive service or in a managerial or supervisory position who are terminated during their probationary or trial period; federal employees subjected to a reduction in force; and federal applicants, appointees, and employees subjected to a suitability action which includes the cancellation of eligibility, removal, cancellation of reinstatement eligibility, and debarment.

III. Effective Date of Amendment

The amendment described above will go into effect on September 2, 2026. However, as described above, and consistent with OPM's rulemakings, the MSPB will not apply this amendment to probationary termination, RIF, or suitability appeals pending as of September 2, 2026. Additionally, MSPB will adjudicate any RIF appeals it receives after September 2, 2026, in which the RIF effective date preceded September 2, 2026; and any probationary termination appeals pursuant to 5 CFR 315.908(b) it receives after September 2, 2026, in which the probationary termination action was effected prior to September 2, 2026.

IV. Regulatory Compliance

A. Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(B), MSPB finds that there is good cause to issue this final rule without prior notice and comment. This final rule merely reflects the recission of the regulatory bases for MSPB's jurisdiction. MSPB lacks any discretion regarding this change, and thus lacks discretion in this rulemaking action. Accordingly, notice and public comment procedures are unnecessary.

Similarly, pursuant to 5 U.S.C. 553(d)(3), MSPB finds that there is good cause to make this final rule effective immediately upon publication. This final rule merely reflects the recission of the regulatory bases for MSPB's jurisdiction.

B. Regulatory Impact Analysis: Executive Order 12866

The MSPB has examined the impact of this rulemaking as required by Executive Orders 12866 (Sept. 30, 1993) and 13563 (Jan. 18, 2011), which direct agencies to evaluate the benefits and costs of the action. A regulatory impact analysis must be prepared for rules with effects of $100 million or more in any one year. This rulemaking does not reach that threshold but has otherwise been designated as a ''significant regulatory action'' under section 3(f) of Executive Order 12866, as supplemented by Executive Order 13563.

C. Regulatory Flexibility Act

The MSPB certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities because OPM's rule will apply only to Federal agencies, employees, or applicants for employment, and the MSPB's rule does not in itself effect any change, but only reflects OPM's amendments to MSPB's jurisdiction.

D. Paperwork Reduction Act

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. Chapter 35).

E. Executive Order 13132, Federalism

This regulation will not have substantial direct effect on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (Aug. 10, 1999), it is determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

F. Executive Order 12988, Civil Justice Reform

This regulation meets the applicable standards set forth in section 3(a) and (b)(2) of Executive Order 12988 (Feb. 5, 1996).

G. Unfunded Mandates Reform Act of 1995

This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Thus, no written assessment of unfunded mandates is required.

List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

Under the authority of 5 U.S.C. 1204, 1305, and 7701, and 38 U.S.C. 4331, and for the reasons stated in the preamble, 5 CFR part 1201 is amended as follows:

PART 1201—PRACTICES AND PROCEDURES

■ 1. The authority citation for part 1201 continues to read as follows:

Authority: 5 U.S.C. 1204, 1305, and 7701, and 38 U.S.C. 4331, unless otherwise noted.

■ 2. Amend § 1201.3 in paragraph (a) by removing paragraphs (a)(3) and (a)(9).

■ 3. Further amend § 1201.3 by redesignating paragraphs (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), (a)(10), and (a)(11) as follows:

Old paragraph	New paragraph
(a)(4)	(a)(3).
(a)(5)	(a)(4).
(a)(6)	(a)(5).
(a)(7)	(a)(6).
(a)(8)	(a)(7).
(a)(10)	(a)(8).
(a)(11)	(a)(9).

■ 4. Revise newly redesignated paragraph (a)(5) to read as follows:

§ 1201.3 Appellate jurisdiction.

(a) * * *

(5) *Reduction in force.* Reduction-in-force action affecting a career or career candidate appointee in the Foreign Service (22 U.S.C. 4010a);

* * * * *

Gina K. Grippando,

Clerk of the Board.

[FR Doc. 2026–16456 Filed 8–11–26; 8:45 am]

BILLING CODE 7400–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2026–2047]

RIN 3150–AL68

List of Approved Spent Fuel Storage Casks: NAC International, Inc., MAGNASTOR® Storage System, Certificate of Compliance No. 1031, Amendment Nos. 16 and 17 and Revisions to Amendment Nos. 0 through 16

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of September 14, 2026, for the direct final rule that was published in the **Federal Register** on July 1, 2026. This direct final rule amended the NAC MAGNASTOR System listing within the ''List of approved spent fuel storage casks'' to include Amendment Nos. 16 and 17 and revisions to Amendment Nos. 0 through 16 to Certificate of Compliance No. 1031.

DATES: The effective date of September 14, 2026, for the direct final rule published July 1, 2026 (91 FR 39843), is confirmed.

ADDRESSES: Please refer to Docket ID NRC–2026–2047 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Electronically at *https://www.regulations.gov.* Search for Docket ID NRC–2026–2047. Address questions about NRC dockets to Helen Chang; telephone: 301–415–3228; email: *Helen.Chang@nrc.gov*. For technical questions, contact the individual 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.* Amendment Nos. 16 and 17 and revisions to Amendment Nos. 0 through 16 of Certificate of Compliance No. 1031, the associated changes to the technical specifications, and the safety evaluation reports are available in ADAMS under Package Accession No. ML26202A387.
- *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, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Caylee Kenny, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7150, email: *Caylee.Kenny@nrc.gov.*

SUPPLEMENTARY INFORMATION: On July 1, 2026 (91 FR 39843), the NRC published a direct final rule amending its regulations in part 72 of title 10 of the *Code of Federal Regulations* to include Amendment Nos. 16 and 17 and revisions to Amendment Nos. 0 through 16 to Certificate of Compliance No. 1031. In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on September 14, 2026. The NRC did not receive any comments on the direct final rule. Therefore, this direct final rule will become effective as scheduled.

Dated: August 6, 2026.

For the Nuclear Regulatory Commission.

Araceli Billoch Colon,

Chief, Rulemaking Projects Branch 2, Division of Guidance, Rulemaking, Economic Analysis, and Technical Editing Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2026–16398 Filed 8–11–26; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Part 861

[DOE–HQ–2026–0529]

RIN 1992–AA65

Rescission of DOE's Procedures for Traffic Control on the Nevada Test Site

AGENCY: Office of Environment, Health, Safety, and Security, Department of Energy (DOE).

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule rescinds DOE's regulations outlining the establishment of traffic control regulations on the Nevada National Security Site (NNSS), formerly known as the Nevada Test Site. This action is being taken to remove regulations that are obsolete because the NNSS uses Nevada traffic enforcement statutes. The effect of this action will be the removal of obsolete regulations.

DATES: The interim final rule is effective on August 12, 2026. Comments must be filed electronically no later than September 11, 2026. The Department will not necessarily consider any comments received after the above date in making our decision.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov* under docket number DOE–HQ–2026–0529. Follow the instructions for submitting comments. *Docket:* The docket for this interim final rule, which includes **Federal Register** notices, comments, and other supporting documents and materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at *https://www.regulations.gov/docket/DOE-HQ-2026-0529.* The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the interim final rule.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *www.regulations.gov,* under the docket number.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Hojnacke, U.S. Department of Energy, Office of Security and Threat Management, EH–40, 1000 Independence Avenue SW, Washington, DC 20585. Telephone: (301) 903–3311, email: *mark.hojnacke@hq.doe.gov.*

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I. Background/Authority

The Atomic Energy Act of 1954, Public Law 83–703 (August 30, 1954), later codified at 42 U.S.C. 2011 *et seq.,* delegated many aspects of the development and regulation of nuclear materials and facilities to the Department of Energy. Specifically, 42 U.S.C. 2282c(a)(1), directs the Department of Energy (DOE or the Department) to promulgate regulations for industrial and construction health and safety at DOE nuclear facilities. In response, DOE promulgated 10 CFR part 861 (part 861) that was originally published on December 30, 1976, (41 FR 56788) to facilitate the control of traffic on the Nevada Test Site, now known as the Nevada National Security Site (NNSS). Part 861 outlines various aspects of traffic control, including speed limits, traffic signs and signals, stopping and yielding, and parking restrictions that are to be addressed in the ''Nevada Test Site Traffic Regulations'' which are to be promulgated by the Manager of the Nevada Site Office and posted at NNSS. The rule states that, ''once posted, these regulations shall have the same force and effect as if made a part hereof.'' 10 CFR 861.4(b). The rule also outlines penalties for violations and procedures for posting and distributing the regulations.

II. Basis for the Rule

Through this interim final rule, DOE is rescinding 10 CFR part 861, including all sections, because the rule has not been utilized in practice for many years to govern traffic flow at NNSS. Rather, NNSS site traffic has been governed by State of Nevada traffic laws with enforcement carried out by the Nye County Sheriff's Office through contractual arrangement since at least 1987. (NNSS is located wholly within the boundaries of Nye County, Nevada.) For these reasons, the rule is obsolete and should be rescinded. This interim final rule is based on the statutory authority delegated to the DOE to promulgate regulations for health and safety at DOE nuclear facilities pursuant to the Atomic Energy Act of 1954. Furthermore, 42 U.S.C. 2282c(a)(3), grants the Secretary ''flexibility'' in tailoring said regulations for efficiency. DOE deems the rescission of this provision and reliance on State of Nevada traffic laws to be both efficient and appropriate. Additionally, DOE rescinds obsolete part 861 to further Executive Order (E.O.) 14192, ''Unleashing Prosperity through Deregulation'' and E.O. 14219 ''Ensuring Lawful Governance and Implementing the President's ''Department of Governmental Efficiency'' Deregulatory Initiative.

The effect of rescinding 10 CFR part 861 will be that an obsolete regulation is eliminated resulting in the reduction of the overall regulatory burden including unnecessary Federal enforcement responsibilities.

III. Basis for Issuing an Interim Final Rule

The Department issues this interim final rule without prior public notice and comment pursuant to the Administrative Procedure Act's exception for rules ''relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.'' 5 U.S.C. 553(a)(2). This interim final rule falls into that exception for the reasons described in this section.

A. Rule Relates to Agency Management of Public Property

The purpose of 10 CFR part 861 is to set standards for the management of traffic control and enforcement at NNSS, a wholly owned and managed DOE site. DOE promulgated part 861 pursuant to the authority granted to the Department in the Atomic Energy Act of 1954, Public Law 83–703 (later codified at 42 U.S.C. 2211 *et seq.*), which granted DOE broad discretion to set standards for industrial and construction health and safety at DOE nuclear facilities. *See* 42 U.S.C. 2282c(a)(3). Since part 861 was promulgated in 1976, DOE has determined that contracting with local law enforcement to enforce Nevada traffic law at NNSS is a prudent alternative to enforcing separate site-specific traffic regulations. Therefore, this interim final rule relates to a matter of agency organization, procedure, or practice. *See* 5 U.S.C. 553(a)(2), (b)(A).

Furthermore, this interim final rule rescinds an obsolete 1976 regulation to align with current and historical practice related to traffic control at the NNSS. Removing this obsolete regulation addressing traffic control at a DOE site does not adversely affect members of the public and involves an agency management decision that is exempt from the notice-and-comment rulemaking procedures of the Administrative Procedure Act.

B. DOE Solicits Comment

Although DOE has determined that a notice of proposed rulemaking (and comment thereon) is not required for this interim final rule's rescission of part 861, DOE nevertheless voluntarily elected to solicit comment. DOE considers public participation to be a very important part of its process for considering rulemaking petitions. DOE actively encourages the participation and interaction of the public during the comment period. DOE will accept comments regarding this interim final rule on or before the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments as outlined in the **ADDRESSES** section at the beginning of this document. Comments submitted during this period will be reviewed and considered. A final rule, or additional notice, may be issued at a later date, with a response to comments, reflecting any experience DOE may gain in implementing this interim final rule. All comments received will be posted without change to *www.regulations.gov,* including any personal information provided. Do not include personal information you would not want publicly shared, including social security information, home addresses, or any other personal identifying information. DOE will not take responsibility for sharing information provided by you.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866

Section 6(a) of E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to the Office of Information and Regulatory Affairs (OIRA) for review. OIRA has determined that this interim final rule does not constitute a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, this interim final rule was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, ''Proper Consideration of Small Entities in

Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (*www.energy.gov/gc/office-general-counsel*).

DOE reviewed this interim final rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This rule eliminates obsolete regulations as discussed previously. Therefore, DOE initially concludes that the impacts of the interim final rule would not have a ''significant economic impact on a substantial number of small entities,'' and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5. U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This interim final rule imposes no new information or record-keeping requirements. Accordingly, Office of Management and Budget (OMB) clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE has analyzed this action in accordance with the National Environmental Policy Act of 1969, as amended (NEPA), DOE's NEPA regulations (10 CFR part 1021), and DOE's NEPA Implementing procedures at *https://www.energy.gov/nepa/doe-nepa-implementing-procedures.* Accordingly, DOE has determined that NEPA does not apply to the action in this interim final rule as this rulemaking is solely an administrative and routine action excepted from NEPA review. (*See* section 2.1(c)(5) of DOE's NEPA implementing procedures.).

E. Review Under Executive Order 13132

E.O. 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this interim final rule and determined that it 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. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, and (3) provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this interim final rule meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.*

DOE examined this interim final rule according to UMRA and its statement of policy and determined that the interim final rule does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This interim final rule would not have any financial impact on families nor any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), DOE has determined that this interim final rule would not result in any

takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: *www.energy.gov/cio/department-energy-information-quality-guidelines.* DOE has reviewed this interim final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under E.O. 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the rule be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This interim final rule of obsolete traffic control regulations is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Additional Executive Orders and Presidential Memoranda

DOE has examined this interim final rule and determined that it is consistent with the policies and directives outlined in E.O. 14192, ''Unleashing Prosperity Through Deregulation'' and E.O. 14219, ''Ensuring Lawful Governance and Implementing the President's ''Department of Governmental Efficiency'' Deregulatory Initiative. This interim final rule is expected to be an Executive Order 14192 deregulatory action.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this interim final rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

V. Approval of the Office of the Secretary

The Secretary of Energy has approved the publication of the interim final rule; request for comment.

List of Subjects in 10 CFR Part 861

Federal buildings and facilities, Penalties, Traffic regulations.

Signing Authority

This document of the Department of Energy was signed on July 28, 2026, by James Danly, Deputy Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 10, 2026.

Treena V. Garrett,

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

PART 861—[REMOVED AND RESERVED]

■ For the reasons set forth in the preamble, under the authority of 42 U.S.C. 2201, DOE is removing and reserving 10 CFR Part 861.

[FR Doc. 2026–16425 Filed 8–11–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 27

[Docket No. FAA–2025–5245; Special Conditions No. 25–895–SC]

Special Conditions: Skyryse, Robinson Helicopter Company Model R66 Helicopter; Flight Control System Annunciation of Control

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Robinson Helicopter Company (Robinson) Model R66 helicopter. This helicopter, as modified by Skyryse, will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for normal category helicopters. This design feature replaces the mechanical flight controls with a digital fly-by-wire (FBW) system. 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: Effective September 11, 2026.

FOR FURTHER INFORMATION CONTACT: Johannes VanHoudt, Product Policy Management, AIR–62B, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone (816) 329–4144; email *john.g.van.houdt@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On April 10, 2023, Skyryse applied for a supplemental type certificate (STC) for replacing the current mechanical primary flight controls with an FBW flight control system (FCS) in the Robinson Model R66 helicopter. The Robinson Model R66 helicopter, currently approved under Type Certificate No. R00015LA, is a single engine normal category rotorcraft with a maximum takeoff weight of 2,700 pounds and a maximum seating capacity of five passengers. The Model R66 is a single pilot helicopter approved for day and night operations under visual flight rules (VFR) only.

Section 27.695 was issued in 1964 for rotorcraft with rudimentary mechanical

systems. The state of technology at that time provided no basis for a digital replacement. Skyryse is proposing to replace the current mechanical primary flight controls on the Model R66 helicopter with a digital FBW FCS. Because of the loss of pilot awareness that would have been provided by mechanical system feedback to the cyclic, an annunciation requirement is necessary through these special conditions.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Skyryse must show that the Robinson Model R66 helicopter, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. R00015LA or the applicable regulations in effect on the date of application for the change.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 27) do not contain adequate or appropriate safety standards for the Robinson Model R66 helicopter 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 applicant apply for an STC to modify any other model included on the same type certificate 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 Robinson Model R66 helicopter must comply with the fuel-vent and 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 Robinson Model R66 helicopter would incorporate the following novel or unusual design feature:

A primary FCS that replaces the mechanical cyclic and collective with an FBW FCS. Skyryse applied for a supplemental type certificate for a system with aircraft-agnostic flight automation technology, the SkyOS, in Robinson Model R66 rotorcraft. The flight control inputs from this FBW system will replace the tactical feedback from pushrods with a position calculated by a computer. The SkyOS does not modify the engine, main rotor, tail rotor, or physical travel limits of the flight control surfaces.

Discussion

The 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. The special conditions are required to address the gap in the regulation that was created by the replacement of mechanical primary flight control with digital controls. Section 27.695 is based on the ability of the pilot to manage control of the rotorcraft with tactile feedback, which does not exist in the proposed FBW design. As such, to provide the same level of safety, these special conditions would require a display of the commanded positions of the primary flight controls and any information regarding the FBW system state of operation.

The 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.

Discussion of Comments

The FAA issued Notice of Proposed Special Conditions No. 27–26–01–SC for the Robinson Model R66 helicopter, which was published in the **Federal Register** on April 21, 2026 (91 FR 21268). One commenter stated general disagreement without explanation and without requesting a change to the proposed special conditions.

The special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Robinson Model R66 helicopter. Should Skyryse apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. R00015LA to incorporate 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 one helicopter model. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the helicopter.

List of Subjects in 14 CFR Part 27

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, 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 the Robinson Helicopter Company (Robinson) Model R66 helicopter, as modified by Skyryse.

Flight Control Systems

The flight control system functions, controls, indications, and alerts must be designed to minimize flightcrew errors and confusion concerning operation of the flight control system. This includes any degraded functions required for continued safe flight and landing. Means must be provided to indicate the current mode of operation to the pilot. The controls and indications must be grouped and presented to the pilot in a format that clearly defines the flight control system functions. The displayed information must be visible to the flightcrew under all expected lighting conditions.

Issued in Fort Worth, Texas, on August 8, 2026.

Jorge R. Castillo,

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

[FR Doc. 2026–16412 Filed 8–11–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2026–6370; Airspace Docket No. 26–AEA–9]

RIN 2120–AA66

Amendment of Class E Airspace Over Staunton, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace over Staunton, VA. This action expands that portion of the Staunton, VA Class E5 airspace extending to the northwest of Bridgewater Air Park from ''within 1.5 miles either side of the 338°

bearing from the airport extending from the 8.3-mile radius to 10 miles northwest of the airport'' to ''within 3.2 miles each side of the 329° bearing from the airport extending from the 8.3-mile radius to 15.2 miles northwest of the airport.'' This modification is necessary to contain Instrument Flight Rules (IFR) operations utilizing new special instrument approach procedures at Bridgewater Air Park. This action also updates the geographic coordinates for Bridgewater Air Park, Bridgewater, VA, in the Staunton, VA Class E5 airspace legal description.

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

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

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace in Staunton, VA.

History

The FAA published an NPRM for Docket No. FAA–2026–6370 in the **Federal Register** (91 FR 36549; June 17, 2026), proposing to amend Class E airspace in Staunton, VA. 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 latest version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Rule

This action amends 14 CFR part 71 by modifying Class E airspace over Staunton, VA. New special instrument approach procedures have been developed for Bridgewater Air Park, Bridgewater, VA. These new procedures include a new RNAV (GPS) approach to runway 15 at Bridgewater Air Park. A modification to the portion of the Staunton, VA Class E5 airspace serving Bridgewater Air Park is necessary to appropriately contain IFR operations at Bridgewater Air Park. This modification expands that portion of the Staunton, VA Class E5 airspace extending to the northwest of Bridgewater Air Park from ''within 1.5 miles either side of the 338° bearing from the airport extending from the 8.3-mile radius to 10 miles northwest of the airport'' to ''within 3.2 miles each side of the 329° bearing from the airport extending from the 8.3-mile radius to 15.2 miles northwest of the airport.'' This modification expands the Class E airspace to encompass IFR operations for both the new RNAV runway 15 approach and the existing RNAV runway 15 approach, which remains in service. This action also updates the geographic coordinates in the Staunton, VA Class E5 airspace legal description for Bridgewater Air Park from (Lat. 38°22′00″ N, long. 78°57′37″ W) to (Lat. 38°21′55″ N, long. 78°57′32″ W), which is five seconds of latitude and five seconds of longitude.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

■ 1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

AEA VA E5 Staunton, VA [Amended]

Shenandoah Valley Regional Airport, VA
(Lat. 38°15′50″ N, long. 78°53′47″ W)
Bridgewater Air Park, VA
(Lat. 38°21′55″ N, long 78°57′32″ W)

That airspace extending upward from 700 feet above the surface within a 7.6-mile radius of the Shenandoah Valley Regional Airport, and within 4 miles each side of the 218° bearing from the airport extending from the 7.6-mile radius to 16.4 miles southwest of the airport, and within 4 miles each side of the 038° bearing from the airport extending from the 7.6-mile radius to 13.5 miles northeast of the airport, and within an 8.3-mile radius of the Bridgewater Air Park, and within 3.2 miles each side of the 329° bearing from the airport extending from the 8.3-mile radius to 15.2 miles northwest of the airport.

* * * * *

Issued in College Park, Georgia, on August 7, 2026.

Gregory R. Garmon,

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

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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 12

[CBP Dec. 26–16]

RIN 1685–AA46

Imposition of Import Restrictions on Categories of Archaeological and Ethnological Material of Nepal

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This document amends U.S. Customs and Border Protection (CBP) regulations to reflect the imposition of import restrictions on certain archaeological and ethnological material from the Federal Democratic Republic of Nepal (Nepal). These restrictions are imposed pursuant to an agreement between the United States and Nepal, entered into under the authority of the Convention on Cultural Property Implementation Act. This document amends the CBP regulations by adding Nepal to the list of countries which have bilateral agreements with the United States imposing cultural property import restrictions and contains the Designated List, describing the archaeological and ethnological material to which the restrictions apply.

DATES: Effective on August 12, 2026.

FOR FURTHER INFORMATION CONTACT: For legal aspects, W. Richmond Beevers, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325–0084, *otrculturalproperty@cbp.dhs.gov.* For operational aspects, Christopher Mabelitini, Director, Intellectual Property Rights Policy & Programs, Trade Programs Directorate, Office of Trade, (571) 296–1269, *1USGBranch@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Convention on Cultural Property Implementation Act (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*) (CPIA), which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)) (the Convention), allows for the conclusion of an agreement between the United States and another party to the Convention to impose import restrictions on eligible archaeological and ethnological material. Pursuant to the CPIA, the United States entered into a bilateral agreement with the Federal Democratic Republic of Nepal (Nepal) to impose import restrictions on categories of archaeological and ethnological material of Nepal. This rule announces that the United States is now imposing import restrictions on categories of archaeological and ethnological material of Nepal through January 8, 2031. This period may be extended for additional periods, each extension not to exceed five years, if it is determined that the factors justifying the initial agreement still pertain and no cause for suspension of the agreement exists (19 U.S.C. 2602(e); § 12.104g(a) of title 19 of the Code of Federal Regulations (19 CFR 12.104g(a))).

Determinations

Under 19 U.S.C. 2602(a)(1), the United States must make certain determinations before entering into an agreement to impose import restrictions under 19 U.S.C. 2602(a)(2). On January 24, 2024, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, after consultation with and recommendation by the Cultural Property Advisory Committee, made the determinations required under the statute with respect to categories of archaeological and ethnological material originating in Nepal that is described in the Designated List set forth below in this document.

These determinations include the following: (1) that the cultural patrimony of Nepal is in jeopardy from the pillage of archaeological material representing Nepal's cultural heritage dating from approximately 32,000 B.C.E. to 1770 C.E., and ethnological material dating from approximately the 13th century C.E. to 1950 C.E. (19 U.S.C. 2602(a)(1)(A)); (2) that the government of Nepal has taken measures consistent with the Convention to protect its cultural patrimony (19 U.S.C. 2602(a)(1)(B)); (3) that import restrictions imposed by the United States would be of substantial benefit in deterring a serious situation of pillage and remedies less drastic are not available (19 U.S.C. 2602(a)(1)(C)); and (4) that the application of import restrictions as set forth in this final rule is consistent with the general interests of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes (19 U.S.C. 2602(a)(1)(D)). The Assistant Secretary also found that the material described in the determinations meets the statutory definition of ''archaeological or ethnological material of the State Party'' (19 U.S.C. 2601(2)).

The Agreement

On January 8, 2026, the United States and Nepal entered into a bilateral agreement, ''Agreement between the Government of the United States of America and the Government of Nepal Concerning the Imposition of Import Restrictions on Categories of Archaeological and Ethnological Material of Nepal'' (Agreement), pursuant to the provisions of 19 U.S.C. 2602(a)(2). The Agreement entered into force upon signature and enables the promulgation of import restrictions on certain archaeological material ranging in date from approximately 32,000 B.C.E. to 1770 C.E., as well as certain ethnological material dating from approximately the 13th century C.E. to 1950 C.E. A list of the categories of archaeological and ethnological material subject to the import restrictions is set forth later in this document.

Restrictions and Amendment to the Regulations

In accordance with the Agreement, importation of material designated below is subject to the restrictions of 19 U.S.C. 2606 and 19 CFR 12.104g(a) and will be restricted from entry into the United States unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met. CBP is amending 19 CFR 12.104g(a) to indicate that these import restrictions have been imposed.

Import restrictions listed at 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which an agreement enters into force with respect to the United States. This period may be extended for additional periods of not more than five years if it is determined that the factors which justified the agreement still pertain and no cause for suspension of the agreement exists. Therefore, the import restrictions will expire on January 8, 2031, unless extended.

Designated List of Archaeological and Ethnological Material of Nepal

The Agreement between the United States and Nepal includes, but is not limited to, the categories of objects described in the Designated List set forth below.

The archaeological material in the Designated List ranges in date from 32,000 B.C.E., through 1770 C.E. The ethnological material in the Designated List includes religious architectural elements; religious material and ceremonial items; and manuscripts from the 13th century C.E. through 1950 C.E. The list set forth below is representative only. Any dates and dimensions are approximate.

Categories of Material

I. Archaeological Material
- A. Stone
- B. Ceramics, Faience, and Fired Clay
- C. Metal
- D. Plaster, Stucco, and Unfired Clay
- E. Painting
- F. Ivory and Bone
- G. Glass
- H. Leather, Parchment, Birch Bark, Paper, and Palm Leaf
- I. Wood, Shell, and other Organic Material
- J. Human Remains

II. Ethnological Material
- A. Religious Architectural Elements
- B. Religious and Ceremonial Items
- C. Manuscripts

Approximate Simplified Chronology of Well-Known Periods:

Paleolithic to Mesolithic: 32,000–5000 B.C.E.
Neolithic: 5000–2500 B.C.E.
Chalcolithic: 2500 B.C.E.–1200 B.C.E.
Early Historic Period (includes Gopala, Mahishapala, Kirata, Shakya): 1200 B.C.E.–200 C.E.
Historic Period (includes Sunga Period, Kushan Period, Lichchavi Kingdom, also spelled Licchavi and Lichavi): 200–11th century C.E.
Medieval Period (includes Malla Dynasty, Three Kingdoms period): 11th century–1769 C.E.
Modern Period (includes Shah Dynasty and Rana Rule): 1769–2008 C.E.

I. Archaeological Material

A. Stone

1. Architectural elements—Primarily in sandstone, limestone, marble, soapstone, granite, slate, or schist, but includes other types of stone. Category includes, but is not limited to, decorative arches; columns, including capitals and bases; finials and spires; pillars, including capitals and bases; and elements of tombs. Elements may be plain, carved in relief, incised, inlaid, or inscribed in various languages and scripts, such as Devanagari, Newar, Tibetan, Sanskrit, Brahmi, Maithili, Khas Kura; may be polished, painted or colored, and/or gilded. Stones bearing inscriptions may be part of architectural features. Architectural elements may include relief sculptures, mosaics, and inlays that were part of a building, such as friezes and panels. May include depictions of floral, vegetal, animal, geometric, human, mandalas, and mythological motifs and scenes from Hindu and Buddhist religious traditions. Approximate Date: 1–1770 C.E. Distinctive elements include:

a. Stone drinking fountain heads (*dhunge dharas* or *hitis*)—Usually long in shape and tapering to a spout. Often intricately carved with mythical animal motifs, including crocodiles, sea creatures, elephants, boars, serpents, and peacocks. (Lichchavi and Malla periods.)

b. Tympanums (*toranas*)—Semi-circular decorative panels above doorways and windows. Often featuring a central deity or mythological figure surrounded by carved human and/or animal figures and geometric, curving, and floral motifs.

2. Non-architectural elements—Primarily in sandstone, limestone, marble, soapstone, granite, slate, or schist, but includes other types of stone. Types include, but are not limited to, altars; bases; free-standing pillars; *linga* (a short cylindrical pillar representing the Hindu deity Shiva) and *yoni* (a platform topped by a flat disc representing the *linga's* counterpart); memorial stones; plaques; rock edicts, whole or in fragments; decorated or inscribed slabs; and stelae and their bases. Elements may be plain, carved in relief, incised, inlaid, or inscribed in various languages and scripts; may be polished, painted, and/or gilded. Stones bearing inscriptions may be standalone. Decorative elements may include geometric, floral, and/or vegetal motifs, as well as animals, mandalas, mythological and/or human figures in various poses from secular or Buddhist and Hindu religious traditions. Approximate Date: 1–1770 C.E.

3. Statuary—Primarily in sandstone, limestone, marble, or granite, but includes other types of stone. Stone statuary can come in a variety of sizes and include seated, standing, reclining, crouching, amorous, fighting, and/or dancing human, animal, and/or mythological figures and geometric, floral, and/or vegetal motifs, as well as figures from Buddhist and Hindu religious traditions. May be polished, painted, and/or gilded, and may bear inscriptions in various languages and scripts. Includes roundels; freestanding larger pieces, such as door guardians; freestanding or semi-attached altarpieces in a variety of sizes featuring Buddhist and Hindu deities and saints, the Buddha, devotees, and bodhisattvas adorned in usually form-fitting clothing, jewelry, and headpieces, and making stylized hand gestures. May include accompanying animal and floral elements, as well as tantric iconography. Approximate Date: 1–1770 C.E.

4. Tools and implements—Primarily in chert, shale, sandstone, limestone, slate, or schist, but includes other types of stone. Types include, but are not limited to, adzes, choppers, scrapers, hammerstones, celts, grinding stones, handaxes, blades, flakes, points, projectiles, and other prehistoric macrolithics. Also includes stone weights and decorated handles and hilts which may be inscribed, inlaid, or plain. Approximate Date: 32,000 B.C.E.–1770 C.E.

5. Beads, jewelry, and gems—Primarily in turquoise, carnelian, coral, jade, and precious and semi-precious gemstones, but includes other types of stone. Includes jewelry and beads associated with religious contexts, including adornments for royalty and their retinue, historical religious leaders and saints, icons and idols, and reliquaries, as well as inlaid or embedded within architectural features. Beads may be carved, cut, drilled, ground, etched, fired, glazed, painted and/or polished. Beads may be in animal, conical, cylindrical, disc, faceted, spherical, teardrop, and other shapes. May bear geometric designs, images, and/or inscriptions in various languages and scripts. Includes amulets, anklets, bracelets, bangles, pectorals, pendants, rings, and other types. Approximate Date: 2500 B.C.E.–1770 C.E.

B. Ceramics, Faience, and Fired Clay

1. Statuary and non-architectural elements—Includes small- and large-scale statuary in ceramic, faience, and terracotta. Includes, but is not limited to, auspicious emblems, cart frames or wheels, figurines, masks, model stupas, plaques, reliefs, and roundels. Includes bases, plinths, or stands. May be associated with religious or spiritual activity, decoration, commemoration, or games. May depict scenes of animals, deities, humans, or mythological figures, monuments, mandalas, or vegetation. Figurines may be hollow and/or molded and depict gods and human figures, animals (such as humped bulls, elephants, lions, horses, cows, buffalos), and foliage. May be

painted or have traces of paint or pigment, as well as stamped, incised, or inscribed in various languages and scripts. Forms may be stylized or naturalized. Approximate Date: 200–1770 C.E.

2. Architectural elements—Primarily in terracotta. Includes, but is not limited to, bricks, panels, tiles, and other elements used as functional or decorative elements in buildings or flooring. Bricks may be cut, carved, or molded to form decorative patterns on building exteriors. Panels and tiles may be painted, plastered, stuccoed, have traces of paint or plaster, and/or inscribed in various languages and scripts. Tiles may bear carved, incised, impressed, or molded decoration in the form of animals, humans, geometric, floral, vegetal, and/or mythological motifs. Approximate Date: 200–1770 C.E.

3. Vessels and containers—Includes, but is not limited to, utilitarian vessels, fine tableware, lamps, and special-purpose vessels for religious or ceremonial use. Approximate Date: 2500 B.C.E.–1770 C.E.

a. Chalcolithic vessel types—Include cord-marked, red ware, pale red ware, black-slipped ware, black-red ware, or northern black-polished ware. Most vessels are wheel-thrown but can also be handmade. Forms include plates (*thalis*), bowls (*katoras*), cooking vessels (*handi*), cups (*pyalas*), lids (*dhakkans*), miniature pots (*katiyas*), small vases, basins, and storage jars (*matakas*). Approximate Date: 2500–1200 B.C.E.

b. Early Historic Period vessel types—Include cord-marked, red ware, black-slipped ware, black-red ware, or northern black-polished ware. Most vessels are wheel-thrown but can also be handmade. Forms include previously listed as well as closed mouth vessels, and globular jars. Decorations include, but are not limited to, incisions, cross-hatching, stamping, red or black slips, punctations, or simple appliques. Approximate Date: 1200 B.C.E.–200 C.E.

c. Historic Period vessel types—include red ware, yellowish ware, red-slipped ware, light-red ware, red-polished ware, black ware, and brown-slipped ware. Vessels may be wheel-made, molded, or handmade. Forms include previously listed as well as small upright jars, oil lamps, stands, and dabbers. Decorations include, but are not limited to, incisions, cross-hatching, stamping, slips, punctations, or simple appliques. Approximate Date: 200–11th century C.E.

d. Medieval Period ceramic types include previously listed wares in addition to fine wares. Vessels may be wheel-made, molded, or handmade. Forms include previously listed as well as saucers and specialty pieces. Decorations include, but are not limited to, intricate designs and glazing techniques, incisions, cross-hatching, punctuations. May be inscribed in various languages and scripts. Approximate Date: 11th century–1770 C.E.

C. Metal

Includes copper, iron, gold, silver, lead, tin, zinc; alloys such as bronze, brass, pewter, and steel; and can include an amalgamation of different metals. Approximate Date: 2500 B.C.E.–1770 C.E. (unless specifically indicated otherwise).

1. Statuary, ornaments, and other decorated objects—Includes, but is not limited to, finials; free-standing and supported statuary; oil lamps; reliefs or incised plaques or roundels; stands; votive ornaments; and other ornaments. Statuary may depict humans; animals; deities and saints from Buddhist and Hindu religious traditions; anthropomorphic and/or mythological figures; mandalas; and architectural or monumental forms, such as stupas. Statuary may take naturalized or stylized forms and may be depicted seated, standing, dancing, and/or with other figures and symbolic imagery. Includes bases or plinths. Statuary may feature figures with curved, voluptuous forms or slender, long limbs. Decorative techniques for statuary, ornaments, and other decorated objects include embossing, gilding, engraving, painting, repoussé (relief hammering), and/or inlaying with other materials. Decorative elements may include floral, geometric, and/or vegetal motifs, and/or inscriptions in various languages and scripts.

2. Jewelry and personal adornments—Types include, but are not limited to, amulets and amulet boxes, anklets, armbands, bangles, beads, bracelets, belts, brooches, buckles, chains, collars, crowns, scepters, and other royal regalia, earrings, hair ornaments, headdress, masks, medallions, necklaces, pectoral ornaments, and pendants. Includes metal ornaments, appliqués, clasps, and ornaments once attached to textiles or leather objects. May be decorated by chasing (embossing), enameling, engraving, filigree, gilding, granulation, inlaying, painting, and/or repoussé (relief hammering). Decoration and designs may portray deities and religious imagery from Hindu and Buddhist traditions, animals, human figures, astrological symbols, or tantric symbolism, as well as geometric, floral, or vegetal motifs. May include inlays of bone, other metals, precious stones, or semi-precious stones, including diamonds, topaz, emeralds, rubies, sapphire, pearl, aquamarine, lapis lazuli, turquoise, and coral.

3. Weapons—Includes, but is not limited to, *kukuris* (short swords with curved blades that widen towards the tip), *koras* (long swords with curved blades with flared tips), axes, spears and javelins, *ramdaos* (short chopping knives used in ritual ceremonies), sickles, *dhanush baan* (ornamented curved bows, may also include non-metal materials), shields, and *katars* (short daggers with triangular blades and split hilts), and their accompanying sheaths, hilts, pommels, and cross guards. Some weapons may be highly decorative and incorporate inlays of other types of metal, precious stones, or semi-precious stones in the sheaths and hilts. Some weapons, hilts, and sheaths may be engraved or embossed with inscriptions in various languages and scripts, geometric, floral, religious, and/or vegetal motifs. May also be gilded, polished, burnished, painted, or filigreed, and incorporate non-metal materials.

4. Coins—Coins minted in or commonly circulating in Nepal over past millennia come in a variety of sizes and denominations. Coins may be circular, oval, square, or polygonal in shape. May be punch-marked, hammered, cast, molded, and/or gilded. Coins may include designs on one or both sides, including edges. Designs may include portraits of Buddhist and Hindu religious figures or ruling figures, religious symbols, crests, and animal, floral, architectural, geometric, and/or vegetal motifs, and/or may be inscribed in various languages and scripts.

a. Early Historic Period types include punch-marked coins and may include depictions of human figures and deities, as well as natural, animal, floral, and/or geometric motifs. Approximate Date: 1200 B.C.E.–200 C.E.

b. Historic Period types include Lichchavi coins with portraits, depictions of deities, inscriptions, and human figures. Approximate Date: 200–11th century C.E.

c. Medieval Period types include silver and gold circular and square *mohars* and copper *dams,* and may include emblems, inscriptions, and crests featuring religious and mythological icons as well as geometric, floral, and vegetal motifs. Often with decorative borders and with a central trident icon. Approximate Date: 11th century–1770 C.E.

5. Tools and implements—Types include, but are not limited to, adzes, arrowheads, bells, blades, celts, chisels,

drills, goads, hoes, hooks, keys, knives, mirrors and mirror handles, nails, pickaxes, rakes, rods, saws, scale weights, scythes, shears, shovelheads, staffs, and tools of craftspeople such as carpenters, masons, and metalsmiths, among others. Includes musical instruments.

6. Containers and vessels—Types include, but are not limited to, conventional shapes such as basins, bottles, bowls, boxes, canisters, cauldrons, chalices, cups, dishes, ewers, flasks, incense burners, jars, jugs, lamps, pans, plates, platters, prayer boxes, pots, rosewater sprinklers, saucepans, stands, utensils, and reliquaries and their contents. Some reliquaries may take the form of a stupa or other religious designs. Metal containers may have been decorated by chasing (embossing), engraving, gilding, inlaying, painting, punching, and/or repoussé (relief hammering). Designs include inscriptions in various languages and scripts, geometric, filigree, floral, vegetal, and animal motifs, and portrait busts or scenes of human figures and deities. Some containers and vessels, such as reliquaries, may be inlaid with precious or semi-precious stones, as well as metals such as gold and silver.

D. Plaster, Stucco, and Unfired Clay

Includes, but is not limited to ceiling decoration; friezes; figurines; wall decorations; murals; and other architectural and non-architectural decoration or sculpture. May be painted or bear traces of paint or glaze; gilded; inlaid with stones, glass, or other materials; and/or inscribed in various languages and scripts. Stucco was usually used for panels and exteriors and may have been made with molds. Unfired clay may comprise figural sculpture, such as Buddhas, bodhisattvas, or goddesses. Approximate Date: 200–1770 C.E.

E. Painting

Includes paintings, murals, and wall paintings, and fragments on natural stones, cave walls, building walls and ceilings, and portable media, such as paper, cloth, canvas, leather, and others. Approximate Date: 200–1770 C.E. Distinctive types include:

1. *Thangkas*—Buddhist paintings on cotton or silk depicting Buddhist deities, saints, demons, mandalas, or composite scenes. *Thangkas* can be mounted when hung for display. Usually consist of many small figures surrounding one or more central scenes or deities, primarily depicting religious scenes and often colorful. May include text or inscriptions in various scripts and languages, such as Devanagari, Newar, Tibetan, Sanskrit, Brahmi, Maithili, Khas Kura. May include elements in metal, wood, or other materials.

2. *Paubhas*—Traditional religious paintings on cloth that depict deities, saints, mandalas, significant monuments, or composite scenes. May display images from Hindu or Buddhist religious traditions.

F. Ivory and Bone

1. Panels and plaques—Includes decorated and engraved panels and plaques featuring low- and high-relief carvings. May include imagery of humans and human activities, deities, animals, mythological creatures, monuments, as well as floral, geometric, architectural, and/or vegetal motifs. May be gilded and/or painted or bear traces of paint or pigment. Includes elements with ivory and/or bone inlay or finishing. Approximate Date: 200–1770 C.E.

2. Statuary—Includes depictions of deities or religious figures, animals, vehicles or implements, humans, and mythological creatures. Designs may include geometric, floral, and/or vegetal decorative elements. Includes inlays, finishing, or bases for statuary in other materials. Approximate Date: 200–1770 C.E.

3. Containers, tools, and other implements—Includes, but is not limited to, bowls; boxes; buckles; buttons; game dice and other game pieces; hooks; jewelry caskets; mirrors and mirror handles; musical instruments; needles; points; reliquaries; and other types made of ivory or bone or having ivory and/or bone inlay or finishing. May be incised, gilded, and/or painted with decorative motifs, inlaid with other materials, carved in relief, and/or inscribed in various languages and scripts. Approximate Date: 200–1770 C.E.

4. Jewelry and ornaments—Types include, but are not limited to, bangles; beads; buckles; chains; combs; hair ornaments; pendants; pins; rings, and other types made of ivory and bone or having ivory and/or bone inlay or finishing. Includes works that are gilded, painted, or combined with other materials. Approximate Date: 1200 B.C.E.–1770 C.E.

G. Glass

1. Architectural elements—Includes mosaics, panes, stained glass, and tiles with various colors and designs, including geometric, floral, mythological, and/or vegetal motifs on architectural surfaces or in windows. Includes secular and religious imagery. Includes glass inlay used in architectural elements. Glass may be mirrored or stained. Approximate Date: 200–1770 C.E.

2. Beads and jewelry—Includes beads in the form of animals, cylinders, cones, discs, spheres, and other shapes. Decorations may include bevels, incisions, and/or raised decoration. Glass beads may be used to adorn clothing, jewelry, ornaments, idols, or other figures. Includes glass inlay used in other types of beads, jewelry, and decorated items. Includes beads with silver-plated caps, enamel, and other materials. Approximate Date: 2500 B.C.E.–1770 C.E.

3. Ornaments—Includes glass bangles, mirrors, and figurines. May have molded and/or inlaid decorations including, but not limited to, animals, deities, humans, geometric, floral, and vegetal motifs. Approximate Date: 200–1770 C.E.

H. Leather, Parchment, Birch Bark, Paper, and Palm Leaf

1. Books and manuscripts—Includes scrolls, sheets, bound volumes and their bindings, playing cards and other small items, as well as fragments and portions. May be inscribed on materials such as, but not limited to, birch bark; handmade paper, cloth or fabric; palm-leaf; and parchment. May be gathered into bindings, albums, and folios composed of leather, wood, cloth, paper, and/or paste or pulp board. May use ink, paint, and/or metals (gold and silver). Bindings may be decorated with paint, lacquer, and/or inlay; may be gilded, engraved, tooled, impressed, inscribed, and/or stamped. May have monochrome, bichrome, polychrome, and/or gold handmade decorations, decoupage and stenciled motifs, illustrations, and/or hand-made illuminations, such as decorative borders, margins, frames, medallions, cartouches, frontispieces or headpieces, paintings, panels, or scientific diagrams. Decorative elements include geometric, floral, mythological, and/or vegetal motifs. Illustrations and illuminations may depict animals, plants, human figures, deities and saints, religious iconography, and portraiture of historical, religious, and mythical figures; landscapes and architectural scenes; and/or scenes of human activities, such as royal proceedings, religious ceremonies, hunting, battles, and historical, religious, mythological, or legendary scenes. Includes secular and religious texts. Texts may be written in various scripts, calligraphies, and languages. Approximate Date: 200–1770 C.E.

2. Birch bark containers. Approximate Date: 1200 B.C.E.–1770 C.E.

3. Items of personal adornment—Primarily in leather, including arm bands, bracelets, earrings, necklaces, and other types of jewelry; belts; headpieces; sandals; sheaths; shoes; vests; and other types of clothing. May be embroidered, stamped, or embellished with other materials. Leather goods may also be combined with other textile elements. Approximate Date: 2500 B.C.E.–1770 C.E.

4. Weapons and armor—Primarily in leather, including armor; bow cases; quivers; saddles; sheaths; and ornaments for humans, cavalry animals, and domesticated animals. Approximate Date: 200–1770 C.E.

5. Coins—Includes leather Lichchavi coins. Approximate Date: 400–900 C.E.

I. Wood, Shell, and Other Organic Material

1. Architectural elements—Wooden elements primarily in *sal,* rosewood, *champak,* cedar. teak, beechwood, laurel, walnut, blackwood, and mahogany, but includes other types of wood. Category includes, but is not limited to, arches; balconies; balustrades; beams; columns; friezes; gates; ornamental freestanding archways or gateways; panels; partitions; posts; or fragments of architectural objects. Architectural elements may be plain; painted; carved, including with reliefs; incised; inlaid; lacquered; and/or inscribed in various languages and scripts. Decorative elements may include depictions or motifs from secular as well as religious traditions, including deities and religious figures, animals, human figures, mythological forms, vegetation, and stylized and/or geometric designs. Approximate Date: 2500 B.C.E.–1770 C.E. Distinctive elements include:

a. Tympanums (*toranas*)—Semi-circular decorative carved panels placed above and around doorways and windows. Often feature a central deity or mythological figure surrounded by other carved human and/or animal figures and geometric, curving, and floral motifs.

b. Windows, window screens, and lattices—Includes carved lattices placed over windows, as well as intricately carved lintels, jambs, sills, and frames. Often feature geometric designs.

c. Struts (*tudal*)—Intricately carved long posts that often act as supports in temples. Often carved with religious motifs, deities, human devotees, and erotic art along with floral, vegetal, geometric, and symbolic ornamentation.

2. Non-architectural elements—Wooden elements primarily in *sal,* rosewood, *champak,* cedar, teak, beechwood, laurel, walnut, blackwood, and mahogany, but including other types of wood. Category includes, but is not limited to, bookstands; bows; arrows; bedframes and platforms; saddle frames; stands; boxes; chests; furniture; musical instruments; and vessels and containers. May include relief carvings and/or inlay. Approximate Date: 2500 B.C.E.–1770 C.E.

3. Vessels—Made of shell or set with mother-of-pearl panels; may include, but are not limited to, bowls; boxes; fiber baskets; bamboo cups; libation vessels; plates; trays; utensils. Decorative elements may include depictions or motifs from secular as well as religious traditions, including animals, human figures, deities, mythological forms, vegetation, and stylized and/or geometric designs. Non-architectural elements may be plain, painted, carved, incised, inlaid, lacquered, and/or inscribed in various languages and scripts. Approximate Date: 2500 B.C.E.–1770 C.E.

4. Book and manuscript covers—Often painted or inked with scenes from religious and literary traditions and dramas on the reverse. Book covers are often long and narrow. Buddhist iconography includes depictions of deities surrounded by large halos. Hindu iconography includes depictions of deities often accompanied by standing or kneeling attendants or animals, as well as human figures and stylized floral motifs. Common colors include bright red, dark blue, green, and gold. Some book covers may be carved in miniature on the obverse, painted, and/or gilded. Manuscript covers can be either single or in a pair. Approximate Date: 200–1770 C.E.

5. Statuary and figurines—Can be of wood, ivory, shell, tusk, mother-of-pearl, pearl, and other organic materials. Examples may include stylized and/or naturalistic depictions of human, animal, hybrid, mythological, abstract, and/or vegetal motifs from secular as well as Hindu and Buddhist religious traditions. Statuary may be polished, painted, inlaid, gilded, incised, and/or lacquered. Approximate Date: 200–1770 C.E.

6. Ornamentation and implements—Jewelry and other items of personal adornment; masks; and worked conches. Jewelry and ornaments made of shell, mother-of-pearl, pearl, resin, seeds, shells, tusks, and other organic materials may include, but are not limited to: anklets; arm bands; bangles; beads; bracelets; cones; earrings; headpieces and hair ornaments; inlays; necklaces; pendants; rings; studs; and other types. Includes conches that may be carved, inlaid, and/or combined with other materials. Approximate Date: 200–1770 C.E.

J. Human Remains

Includes human remains and fragments of human remains that have been intentionally modified or are culturally or historically significant. Includes skeletal remains, soft tissue, and ash from the human body that may be preserved in burials, reliquaries, and other contexts. Approximate Date: 32,000 B.C.E.–1770 C.E.

II. Ethnological Material

A. Religious Architectural Elements

This category consists of non-industrial and/or handmade elements of religious architecture from Buddhist, Hindu, animistic, tantric, and other traditions. May be made of stone, ceramic or terracotta, wood, and/or metal. Approximate Date: 13th century C.E.–1950 C.E.

1. Stone—Primarily in sandstone, limestone, marble, soapstone, granite, slate, and schist, but includes other types of stone. Includes altars, arches, balustrades, benches, bricks and blocks from walls, ceilings, and floors; columns, including capitals and bases; disks, including *amalakas* (segmented or ridged stone discs found atop Hindu temples, usually under a finial) and *chattras* (stone discs found atop Buddhist stupas); door frames, portals, and jambs; finials and spires; fountains and fountainheads; friezes; gates and freestanding archways; lintels; mosaics; panels; pillars, including capitals and bases; portable shrines and stupas; reliefs; tiles; tombstones; and window screens and lattices. May be plain, carved in relief, incised, inlaid, and/or inscribed in various languages and scripts. May be painted, polished, and/or gilded. Designs include depictions of animal, human, religious, floral, vegetal, geometric, and/or mythological motifs. Includes inscriptions.

2. Ceramic and terracotta—Includes terracotta bricks, panels, reliefs, tiles, and other elements used as elements in religious architecture. Bricks may be cut or molded to form decorative patterns on building exteriors. Mosaic designs include animal, human, religious, geometric, floral, and/or vegetal motifs. Panels and tiles may be painted, plastered, or stuccoed, or have traces of paint or plaster. Tiles may be square, polygonal, or otherwise shaped, and may be carved, incised, impressed, or molded with decorations in the form of animal, human, religious, geometric, floral, and/or vegetal motifs, and/or writing in various scripts and languages.

May be glazed. Glaze may be clear, monochrome, and/or polychrome.

3. Wood—Includes hand-carved altars, arches, balconies, balustrades, struts, coffins, bedframes, doors and door frames, friezes, gates, lintels, tympana, ornamental freestanding archways or gateways, panels, partitions, posts, window screens and lattices, portable shrines and stupas, swings, or parts thereof, used as structural elements in and/or to decorate religious architecture. These architectural elements may have been reused for other purposes, such as a wood panel used as a table, or a door jamb used as a bench. May be painted, carved, incised, inlaid, lacquered, and/or inscribed in various languages and scripts. Includes relief carvings and/or inlay.

4. Metal—Includes, but not limited to, finials, reliefs or incised plaques or roundels, affixed sculpture, statues, or idols, as well as other ornaments.

B. Religious and Ceremonial Items

Includes non-industrial and/or handmade moveable objects typically associated with use in religious and ceremonial settings. Includes, but is not limited to, objects from Hindu and religious practices, as well as animistic and/or tantric practices. Primarily in stone, metal, ceramic, wood, bone, textiles, leather, and other organic materials. Approximate Date: 13th century C.E.–1950 C.E.

1. Statuary, sculpture, and ceremonial objects—Includes non-architectural objects used in communal religious and ceremonial settings. Sculpture from Buddhist and Hindu temples or idols used in regular or special religious ceremonies have stylistically distinct facial features, exaggerated postures, and high degrees of ornamentation. Primarily in stone, metal (especially copper, bronze, and brass), wood, ceramic, papier-mâché, cloth, bone, and ivory. Types include, but are not limited to, idols, figurines, altars, amulets, bells (freestanding and affixed), biers, bookstands, canopies, lecterns, prayer beads, conches, palanquins and processional chariots, prayer wheels, *mani* stones, plaques, portable shrines, crowns, *vajras,* priest masks for ceremonial or ritual use, screens, and stelae. Statuary may depict humans; animals; deities and saints from Buddhist and Hindu religious traditions; anthropomorphic and/or mythological figures; mandalas; and architectural or monumental figures, such as stupas. May be polished, gilded, carved in relief, painted, incised, inlaid, and/or inscribed in various languages and scripts. Decorative elements may include floral, geometric, and/or vegetal motifs, as well as animal, mythological, divine, religious, architectural, and/or human figures in various poses.

2. Paintings (*thangkas* and *paubas*)—Used for both Hindu and Buddhist religious practice and made by different ethnic and religious groups across Nepal. Typically ornate, detailed, and colorful.

a. *Thangkas*—Buddhist paintings on cotton or silk depicting Buddhist deities, saints, demons, mandalas, or composite scenes. *Thangkas* can be mounted when hung for display. Usually consist of many small figures surrounding one or more central scenes or deities, primarily depicting religious scenes and often colorful. May include text or inscriptions in various scripts and languages, such as Devanagari, Newar, Tibetan, Sanskrit, Brahmi, Maithili, Khas Kura. May include elements in metal, wood, or other materials.

b. *Paubhas*—Traditional religious paintings on cloth that depict deities, saints, mandalas, significant monuments, or composite scenes. May display images from Hindu or Buddhist religious traditions.

3. Vessels and containers—Includes vessels and containers of particular significance used in communal religious and ceremonial settings and made in stone, metal (especially silver, iron, copper, bronze, steel, brass, and other alloys), ceramic, wood, bone, ivory, leather, papier-mâché, and other materials. Types include, but are not limited to, amulet boxes and other boxes, bowls, particularly singing bowls, urns, ceremonial trays or plates, ritual flasks and jars, incense burners and braziers, prayer lamps, and scroll, book, or manuscript containers. May be polished, gilded, painted, incised, inlaid, covered in cloth or other materials, and/or inscribed in various languages and scripts. Decorative elements may include floral, geometric, and/or vegetal motifs, as well as animal, mythological, divine, architectural, and/or human figures in various poses.

4. Textiles—Includes textiles used for religious and ceremonial purposes, primarily in cotton, silk, flax, wool, and linen. Types include, but are not limited to, banners, covers for notable sacred texts, parasols, sacred garments and vestments for religious idols or icons, garments for priests or priestesses. May be dyed, stamped, painted, quilted, and/or embroidered, including embroidery with metal threads (gold and/or silver) or ribbons, mirrors, and/or gems. Decorative elements may include floral, geometric, symbolic, and/or vegetal motifs, as well as animal, mythological, divine, architectural, and/or human figures in various poses. May be inscribed in various languages and scripts.

5. Jewelry—Includes jewelry and ornaments used in communal religious or ceremonial functions or settings. Primarily in metal, wood, ceramic, leather, bone, ivory, glass, and other organic material. Types include, but are not limited to, hair pieces and ornaments, headpieces, arm bands, necklaces, pendants, rings, earrings, bracelets, and bangles for decorating religious figures or icons. May be polished, gilded, carved, painted, incised, inlaid, and/or inscribed in various languages and scripts. Decorative elements may include floral, geometric, and/or vegetal motifs, as well as animal, mythological, divine, architectural, and/or human figures in various poses.

6. Burial objects and remains—Includes funerary headstones and monuments, shrouds, reliquaries and their contents, tombs and their contents, as well as any and all objects interred alongside a burial.

C. Manuscripts

Includes non-industrial and/or handmade, handwritten, hand-illustrated, and illuminated scrolls, sheets, and bound volumes. Includes fragments. Types include original royal court or government documents, original folios, treatises, or musical scores, including illustrations that may be unbound, and sacred texts. May be made from or on various media, such as paper, palm-leaf, parchment, vellum, birchbark, cotton, silk, or cloth. May be bound in leather, cloth, metal, and/or wood. Texts may be written in various languages and scripts, such as Sanskrit, Newari, Hindi, Nepali, Ranjana, Devanagari, and/or a mix, such as Sanskrit-Newari, Sanskrit-Hindi, and Sanskrit-Nepali. May include sacred texts from Hinduism and Buddhism. Other topics include, but are not limited to, poetry, medicine, astronomy, grammar. Includes prosodic works and handbooks. May be embellished or decorated with monochrome, bichrome, or polychrome handmade illustrations and/or illuminations. These may include geometric, floral, or vegetal motifs; images of animals, plants, deities, and humans, including portraiture; landscapes; and/or scenes of human activities, such as royal proceedings, religious ceremonies, hunting, battles, and historical, religious, mythological, or legendary events or scenes. Approximate Date: 13th century C.E.–1950 C.E.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under 5 U.S.C. 553(a)(1). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Executive Order 12866

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for a rule. Since a general notice of proposed rulemaking is not necessary for this rule, CBP is not required to prepare a regulatory flexibility analysis for this rule.

Signing Authority

In accordance with Treasury Order 100–20, the Secretary of the Treasury has delegated to the Secretary of Homeland Security the authority related to the customs revenue functions vested in the Secretary of the Treasury as set forth in 6 U.S.C. 212 and 215, subject to certain exceptions. This regulation is being issued in accordance with Department of Homeland Security Delegation 07010.3, Revision 03.2, which delegates to the Commissioner of CBP the authority to prescribe and approve regulations related to cultural property import restrictions.

Rodney S. Scott, Commissioner, having reviewed and approved this document, has delegated the authority to electronically sign this document to Susan S. Thomas, the Executive Assistant Commissioner, Office of Trade, for purposes of publication in the **Federal Register**.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise, and Reporting and recordkeeping requirements.

Amendment to the CBP Regulations

For the reasons set forth above, part 12 of title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

■ 2. In § 12.104g, the table in paragraph (a) is amended by adding Nepal to the list in alphabetical order to read as follows:

§ 12.104g Specific items or categories designated by agreements or emergency actions.

* * * * *

(a) * * *

State party	Cultural property	Decision No.
*	*	*
Nepal	Archaeological material of Nepal ranging in date from 32,000 B.C.E. through 1770 C.E., and ethnological material of Nepal ranging in date from the 13th century C.E. through 1950 C.E..	CBP Dec. 26–16
*	*	*

* * * * *

Susan S. Thomas,

Executive Assistant Commissioner, Office of Trade, U.S. Customs and Border Protection.

[FR Doc. 2026–16432 Filed 8–11–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 117

[Docket No. FDA–2018–D–3583]

Guide To Minimize Biological Hazards in Ready-to-Eat Fresh-Cut Produce; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of a final guidance for industry entitled ''Guide to Minimize Biological Hazards in Ready-to-Eat Fresh-Cut Produce.'' This guidance supersedes a previous guidance, entitled ''Guide to Minimize Microbial Food Safety Hazards of Fresh-Cut Fruits and Vegetables,'' issued in 2008, and is a final guidance to the draft guidance for industry entitled ''Guide to Minimize Food Safety Hazards of Fresh-Cut Produce'' issued in 2018. The guidance is intended to help manufacturers or processors of ready-to-eat fresh-cut produce that is not a low-moisture food comply with applicable requirements in our regulations on current good manufacturing practices for hazard analysis and risk-based preventive controls for human food.

DATES: The announcement of the guidance is published in the **Federal Register** on August 12, 2026.

ADDRESSES: You may submit either electronic or written comments on FDA guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–3583 for ''Guide to Minimize Biological Hazards in Ready-to-Eat Fresh-Cut Produce.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' We will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Office of Microbiological Food Safety's Office of Produce Safety, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Adam Baker, Office of Microbiological Food Safety, Office of Produce Safety, or Marla Hallacy, Office of Policy and International Engagement, Office of Policy Initiatives and Projects, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 301–796–5528.

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of a guidance for industry entitled ''Guide to Minimize Biological Hazards in Ready-to-Eat Fresh-Cut Produce.'' We are issuing this guidance consistent with our good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

In the **Federal Register** of October 22, 2018 (83 FR 53197), we made available a draft guidance for industry entitled ''Guide to Minimize Food Safety Hazards of Fresh-Cut Produce'' and gave interested parties an opportunity to submit comments by April 22, 2019, for us to consider before beginning work on a final guidance. We received several comments on the draft guidance and have modified the final guidance where appropriate. Changes to the guidance include clarifying that the guidance applies only to ready-to-eat fresh-cut produce with a water activity above 0.85; adding another example of an antimicrobial substance that can be used as a process control in the production of fresh-cut produce; providing additional examples of a supply chain program to control pathogens in a fresh-cut processing facility; and providing additional recommendations on time/temperature controls. To further improve clarity, we made editorial and organizational changes throughout the guidance. The guidance announced in this notice finalizes the draft guidance dated October 2018. This guidance supersedes a previous guidance, entitled ''Guide to Minimize Microbial Food Safety Hazards of Fresh-Cut Fruits and Vegetables,'' issued in 2008.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 117 have been approved under OMB control number 0910–0751.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/FoodGuidances, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.* Use the FDA website listed in the previous

sentence to find the most current version of the guidance.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–16420 Filed 8–11–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–1641]

Schedules of Controlled Substances: Temporary Placement of O-Desmethyltramadol in Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Temporary amendment; temporary scheduling order.

SUMMARY: The Drug Enforcement Administration issues this temporary order to schedule *O*-desmethyltramadol (other names: *O*-DSMT; desmetramadol; 3-[(1*R*,2*R*)-2-[(dimethylamino)methyl]-1-hydroxycyclohexyl]phenol), including its isomers, esters, ethers, salts, and salts of isomers, esters and ethers, in schedule I of the Controlled Substances Act. DEA bases this action on a finding that placing *O*-DSMT in schedule I is necessary to avoid an imminent hazard to public safety. This order imposes the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis with, or possess) or propose to handle *O*-DSMT.

DATES: This temporary order is effective August 12, 2026, until August 12, 2028. If this order is extended or made permanent, DEA will publish a document in the **Federal Register**.

ADDRESSES: 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Dr. Terrence L. Boos, Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION: The Drug Enforcement Administration (DEA) issues a temporary scheduling order [1] (in the form of a temporary amendment) to add *O*-desmethyltramadol (other names: 3-(2-((dimethylamino)methyl)-1-hydroxycyclohexyl)phenol; *O*-DSMT; desmetramadol), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, to schedule I under the Controlled Substances Act (CSA).

Legal Authority

The CSA provides the Attorney General (as delegated to the Administrator of DEA (Administrator) pursuant to 28 CFR 0.100) with the authority to temporarily place a substance in schedule I of the CSA for two years without regard to the evaluation requirements of 21 U.S.C. 811(b), if he finds that such action is necessary to avoid an imminent hazard to the public safety.[2] In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1) while the substance is temporarily controlled under section 811(h), the Attorney General may extend the temporary scheduling for up to one year.[3]

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under 21 U.S.C. 812, or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355.[4]

Background

The CSA requires the Administrator of DEA (Administrator) to notify the Secretary of Health and Human Services (HHS) of an intent to temporarily place a substance in schedule I of the CSA (*i.e.,* to issue a temporary scheduling order).[5] By letter dated May 27, 2025, the previous Acting Administrator transmitted the required notice to place *O*-DSMT in schedule I on a temporary basis to the then-Acting Assistant Secretary for HHS (Assistant Secretary).[6] On June 11, 2025, the previous Acting Assistant Secretary responded to this notice and advised DEA that, based on a review by the Food and Drug Administration (FDA), there were currently no investigational new drug applications (INDs) or approved new drug applications (NDAs) for *O*-DSMT. The previous Assistant Secretary also stated that HHS had no objection to the temporary placement of *O*-DSMT in schedule I of the CSA. *O*-DSMT is not currently listed in any schedule under the CSA.

DEA has taken into consideration the Acting Assistant Secretary's comments as required by 21 U.S.C. 811(h)(4). DEA has found the control of *O*-DSMT in schedule I on a temporary basis is necessary to avoid an imminent hazard to public safety.

To find that temporarily placing a substance in schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator must consider three of the eight factors set forth in 21 U.S.C. 811(c): the substance's history and current pattern of abuse; the scope, duration, and significance of abuse; and what, if any, risk there is to the public health.[7] Consideration of these factors includes any information indicating actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution of *O*-DSMT.[8]

Substances meeting the statutory requirements for temporary scheduling may only be placed in schedule I.[9] Substances in schedule I have high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use of the drug under medical supervision.[10]

As required by 21 U.S.C. 811(h)(1)(A), DEA published a notice of intent (NOI) to temporarily schedule *O*-DSMT in the **Federal Register** on June 24, 2026.[11] That NOI discussed findings from DEA's Three-factor analysis dated May 2026, which DEA made available on *www.regulations.gov.*

O-Desmethyltramadol (O-DSMT)

O-DSMT is a mu-opioid agonist that is being abused for its psychoactive effects. *O*-DSMT is one of two metabolites produced by liver enzymes following the ingestion of the parent compound tramadol. Tramadol is active as a norepinephrine and serotonergic reuptake inhibitor, in addition to being a weak mu-opioid receptor agonist. *O*-DSMT is an active metabolite of tramadol with a strong affinity for the mu-opioid receptor and is responsible for the majority of the opioidergic

[1] Though DEA has used the term ''final order'' with respect to temporary scheduling orders in the past, this action adheres to the statutory language of 21 U.S.C. 811(h), which refers to a ''temporary scheduling order.'' No substantive change is intended.

[2] 21 U.S.C. 811(h)(1).

[3] 21 U.S.C. 811(h)(2).

[4] 21 U.S.C. 811(h)(1); 21 CFR part 1308.

[5] 21 U.S.C. 811(h)(4).

[6] The Secretary of HHS has delegated to the Assistant Secretary for Health of HHS the authority to make domestic drug scheduling recommendations. *Comprehensive Drug Abuse Prevention and Control Act of 1970, Public Law 91–513, As Amended; Delegation of Authority,* 58 FR 35460 (July 1, 1993).

[7] 21 U.S.C. 811(c)(4)–6), (h)(3).

[8] 21 U.S.C. 811(h)(3).

[9] 21 U.S.C. 811(h)(1).

[10] 21 U.S.C. 812(b)(1).

[11] *Schedules of Controlled Substances: Temporary Placement of O–DSMT in Schedule I,* 91 FR 37822 (June 24, 2026).

effects following the ingestion of tramadol.

In the United States, since tramadol is only approved as a pill formulation, a user must ingest tramadol orally, thus allowing the drug to be metabolized via the liver, to experience the analgesic effects. In the absence of any approved medical product or identified lawful commercial source of *O*-DSMT in the United States, understanding the metabolism of tramadol and its opioidergic metabolite *O*-DSMT has resulted in the clandestine production of *O*-DSMT. Data has demonstrated that *O*-DSMT has a significantly higher affinity for opioid receptors ($K_i - 3.4$ nM) than the parent drug tramadol ($K_i - 2400$ nM) and is more potent in producing analgesia. In addition, overdoses and deaths, both internationally and within the United States, have been documented involving *O*-DSMT. With no approved medical use and limited safety or toxicological information, *O*-DSMT has emerged in the designer drug market, and the abuse of this substance is a significant public health concern in the United States.

Available data and information for *O*-DSMT, summarized below, indicate that this substance has a high potential for abuse, no currently accepted medical use in treatment in the United States,[12] and a lack of accepted safety for use under medical supervision. DEA's Three-factor analysis is available in its entirety under ''Supporting and Related Material'' of the public docket for this action at *www.regulations.gov* under Docket Number DEA–1641.

Factor 4. Its History and Current Pattern of Abuse

As described previously, *O*-DSMT is a major metabolite of tramadol. O-Demethylation of the parent drug tramadol results in the formation of *O*-DSMT, which is primarily catalyzed by the cytochrome P450 liver enzyme 2D6 (CYP2D6). Individuals of various backgrounds have been identified as either ultrarapid metabolizers, normal metabolizers, intermediate metabolizers, or poor metabolizers of tramadol based upon genotyping of CYP2D6. The current Clinical Pharmacogenetics Implementation Consortium guidelines recommend avoiding tramadol in CYP2D6 ultrarapid metabolizers (due to possible toxicity from increased formation of *O*-DSMT) and CYP2D6 poor metabolizers (due to possible lack of efficacy from decreased formation of *O*-DSMT). Ultrarapid metabolizers have approximately 40 percent greater serum concentration of *O*-DSMT and subsequently experience a stronger opioid response compared with poor metabolizers.

O-DSMT has been encountered in various forms, including as a solid powder, pressed into pills or tablets, in a capsule, as a semi-solid paste/slurry, and in liquid formulations. Direct ingestion of *O*-DSMT avoids the need for metabolic activation via liver enzymes, resulting in a compound that is pharmacologically active at the mu-opioid receptor. Injection or insufflation by drug abusers of tramadol would be devoid of most immediate opioid activity due to the parent compound having little affinity for the opioid receptors. As further described in Factor 5, drug seizures have demonstrated *O*-DSMT both alone and in combination with multiple other drugs. In a randomized, double-blind, placebo and active comparator-controlled trial, the pharmacokinetics and analgesic properties of *O*-DSMT, as compared to tramadol, in 103 healthy participants were investigated. The study also investigated CYP2D6 inhibition on the ability of both tramadol and *O*-DSMT to influence analgesia. The results showed that 20 mg of *O*-DSMT was equivalent in its analgesic potency as compared to 50 mg of tramadol following chronic dosing at steady state, whereby both were significantly greater than placebo (*see* Three-Factor analysis).

Factor 5. The Scope, Duration, and Significance of Abuse

With the first encounters appearing in 2011, law enforcement continues to report seizures of *O*-DSMT. The threat of serious injury to the individual and the imminent threat to public safety following the ingestion of *O*-DSMT persists. DEA's National Forensic Laboratory Information System (NFLIS)[13] has reported 147 encounters of *O*-DSMT across 30 states.[14] Because not every forensic laboratory has the capacity to test for *O*-DSMT, it is likely that these encounters are underreported.

O-DSMT has been encountered in various forms, including as a solid powder, pressed into pills or tablets, in a capsule, as a semi-solid paste/slurry, and in liquid formulations. Among these various reports, *O*-DSMT has been found as the only drug in a majority of these encounters (*n*=118 of 147, 80.2 percent), or mixed with various other substances to include mitragynine (kratom alkaloid), heroin, isopropyl-U-47700 (synthetic opioid), methamphetamine, fentanyl, acetyl fentanyl, 5F-AEB (synthetic cannabinoid), methoxyacetyl fentanyl, *N*-benzylfuranylfentanyl, 3-OH-PCE (synthetic hallucinogen), tramadol, bromazolam (designer benzodiazepine), *para*-fluorofentanyl, dipentylone (synthetic cathinone), and/or cocaine, among others. *O*-DSMT has also been identified in conjunction with other

[12] When finding schedule I placement on a temporary basis is necessary to avoid imminent hazard to the public, 21 U.S.C. 811(h) does not require DEA to consider whether the substance has a currently accepted medical use in treatment in the United States. Nonetheless, there is no evidence suggesting that *O*-DSMT has a currently accepted medical use in treatment in the United States. First, DEA looks to whether the drug or substance has FDA approval for marketing in interstate commerce. When no FDA approval exists, DEA has traditionally applied a five-part test to determine whether a drug or substances has a currently accepted medical use: (1) The drug's chemistry must be known and reproducible; (2) there must be adequate safety studies; (3) there must be adequate and well-controlled studies proving efficacy; (4) the drug must be accepted by qualified experts; and (5) the scientific evidence must be widely available. *See Marijuana Scheduling Petition; Denial of Petition; Remand,* 57 FR 10499 (Mar. 26, 1992), pet. for rev. denied, *Alliance for Cannabis Therapeutics* v. *Drug Enforcement Admin.,* 15 F.3d 1131, 1135 (D.C. Cir. 1994). DEA applied the traditional five-part test and concluded the test was not satisfied. In a recent published letter in a different context, HHS applied an additional two-part test to determine currently accepted medical use for substances that do not satisfy the five-part test: (1) whether there exists widespread, current experience with medical use of the substance by licensed health care providers operating in accordance with implemented jurisdiction-authorized programs, where medical use is recognized by entities that regulate the practice of medicine, and, if so, (2) whether there exists some credible scientific support for at least one of the medical conditions for which part (1) is satisfied. On April 11, 2024, the Department of Justice's Office of Legal Counsel (OLC) issued an opinion, which, among other things, concluded that HHS's two-part test would be sufficient to establish that a drug has a currently accepted medical use. Office of Legal Counsel, Memorandum for Merrick B. Garland Attorney General Re: Questions Related to the Potential Rescheduling of Marijuana at 3 (April 11, 2024). For purposes of this notice of intent, there is no evidence that health care providers have widespread experience with medical use of *O*-DSMT or that the use of *O*-DSMT is recognized by entities that regulate the practice of medicine, so the two-part test also is not satisfied. By letter dated June 11, 2025, DEA has been advised by HHS that there are currently no approved new drug applications or investigational new drug applications for *O*-DSMT. Additionally, HHS communicated no objections to the temporary placement of *O*-DSMT into Schedule I of the CSA.

[13] NFLIS is a national forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by state, local, and federal forensic laboratories in the United States. NFLIS represents an important resource in monitoring illicit drug trafficking, including the diversion of legally manufactured pharmaceuticals into illegal markets. NFLIS is a comprehensive information system that includes data from forensic laboratories that handle more than 96 percent of an estimated 1.0 million distinct annual State and local drug analysis cases. NFLIS includes drug chemistry results from completed analyses only. While NFLIS data is not direct evidence of abuse, it can lead to an inference that a drug has been diverted and abused. *See Schedules of Controlled Substances: Placement of Carisoprodol Into Schedule IV,* 76 FR 77330, 77332 (Dec. 12, 2011).

[14] NFLIS query date: May 11, 2026; 2025 and 2026 data are still being reported.

substances, as evidenced by toxicology reports (*see* Factor 6). *O*-DSMT was found to be mixed with the kratom plant as determined by testing of the packaging material and the confirmation of both *O*-DSMT and mitragynine in toxicology results of individuals.

Factor 6. What, if Any, Risk There Is to the Public Health

Public health risks associated with *O*-DSMT abuse relates to its pharmacological similarities with known opioids such as morphine, oxycodone, and fentanyl. The ingestion of *O*-DSMT has resulted in serious adverse effects including lung congestion, brain edema, and death. The following four examples discussed briefly below can be found in their entirety in DEA's Three-factor analysis at *www.regulations.gov* under Docket Number DEA–1641.

In 2009, reports in Sweden described nine deaths due to intoxication with *O*-DSMT combined with mitragynine and confirmed via forensic autopsies. Occurring between October 2009 and October 2010, ten forensic medical investigations found concomitant use of *O*-DSMT and mitragynine in the blood of these deceased individuals. It was noted that in nine of these cases, the death was explained by intoxication with *O*-DSMT. Other substances were identified, but it was stated that these substances were not at toxic levels. Ages of the individuals ranged between 22–35 years old, concentrations of *O*-DSMT ranged between 0.4 and 4.3 μg/g in blood, and all the individuals died before arriving at a hospital. Deaths for all individuals were noted to be accidental. Additional information in the reports detailed significant lung congestion and edema following use of ''Krypton'' (a mix of kratom and *O*-DSMT).

Around the same time as the deaths were reported in Sweden, a group in Germany in 2010 were asked to analyze urine samples for ''Krypton'' in a former opiate-addicted woman. The woman's clinical picture included miosis, itchiness, agitation, and moderate euphoria following three months of use. Both immunoassays and liquid chromatography-tandem mass spectrometry (LC–MS/MS) were conducted on the samples. Results were negative for tramadol or its metabolites using the immunoassays. LC–MS/MS detected the kratom alkaloids mitragynine, speciociliatine, speciogynine, mitraciliatine, and paynantheine and approximately 9 mg/L *O*-DSMT, but no tramadol nor *N*-desmethyltramadol. Once confronted with these results, the woman admitted to having drunk ''3–4 infusions of Krypton'' during the past week. The researchers ruled out the use of tramadol because both tramadol and *N*-desmethyltramadol were not detectable. It was concluded that the most likely source of the *O*-DSMT was the ''Krypton'' product, containing both kratom alkaloids and *O*-DSMT.

In 2021 in Portugal, a 25-year-old male was found dead in his room at a boarding house where he lived. He was a chemistry student who, according to relatives, was ''trying to find a cure to his illness using chemical products bought by himself.'' Drug paraphernalia found at the scene included a spoon, a syringe, and six different plastic bags found with powders inside. It was noted that all six bags were labeled with the supposed name of the compounds. Further testing confirmed that the labels were accurate for each substance, including *O*-DSMT. His past medical history included schizophrenia and bipolar disorder. In addition, needle puncture marks in the victim's arms, indicative of drug abuse, were noted during autopsy.

In 2021 in Kansas City, Kansas, a 19-year-old male with a history of anxiety and depression was last observed by a roommate lying on his bed and reported to be ''snoring and sweaty.'' The autopsy did not reveal any significant anatomical abnormalities. Drug evidence at the scene was noted to be labeled as clonazolam, flubromazolam, *O*-desmethyltramadol (*O*-DSMT), and 2-methyl-AP–237. Toxicological analysis of whole blood from autopsy identified the following: 2-methyl AP–237 (379 ng/mL), detla-9 THC (56.8 ng/mL), 11-nor-9-carboxy-delta-9–THC (141 ng/mL), 8-aminoclonazolam (4.6 ng/mL), *O*-DSMT (10.9 ng/mL), and mitragynine (2.7 ng/mL). 7-Amino clonazepam, diphenhydramine, fluoxetine, norfluoxetine, trazodone, and propranolol were also identified but not quantified.

As noted in Factor 5, counterfeit pills pressed to resemble tramadol may contain *O*-DSMT either alone or in combination with other substances. Clandestine manufacturers will commonly use legitimate markings when producing counterfeit pills. Should a user ingest a pill marked as tramadol that was surreptitiously produced with *O*-DSMT, the individual might experience serious adverse effects due to the stronger analgesic potential of *O*-DSMT as compared to tramadol.

As users obtain these drugs through unknown sources, the identity and purity of these substances is uncertain and inconsistent, thus posing significant adverse health risks to users. *O*-DSMT is being encountered on the illicit drug market in the United States, has no accepted medical use in the United States, and continues to be available and abused for its psychoactive properties. In summary, *O*-DSMT has been reported to cause serious adverse effects, including death, following its use.

Finding of Necessity of Schedule I Placement To Avoid Imminent Hazard to Public Safety

In accordance with 21 U.S.C. 811(h)(3), based on the available data and information summarized above, the uncontrolled manufacture, distribution, reverse distribution, importation, exportation, conduct of research and chemical analysis, possession, and abuse of *O*-DSMT poses an imminent hazard to public safety. *O*-DSMT has not been approved by the FDA and has not been marketed in the United States, and DEA is not aware of any currently accepted medical uses for *O*-DSMT in the United States. A substance meeting the statutory requirements for temporary scheduling, found in 21 U.S.C. 811(h)(1), may only be placed in schedule I. Substances in schedule I must have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Available data and information for *O*-DSMT indicate that this substance meets the three statutory criteria.

As required by 21 U.S.C. 811(h)(4), in a letter dated May 27, 2025, the previous Acting Administrator notified the previous Acting Assistant Secretary of DEA's intention to temporarily place *O*-DSMT in schedule I. In a letter dated June 11, 2025, the previous Acting Assistant Secretary did not object to the temporary placement of *O*-DSMT in schedule I. DEA subsequently published a NOI in the **Federal Register** on June 24, 2026.[15]

Conclusion

In accordance with 21 U.S.C. 811(h)(1) and (3), the Administrator considered available data and information, herein sets forth the grounds for his determination that it is necessary to temporarily schedule *O*-DSMT in schedule I of the CSA, and finds that placement of this substance in schedule I is necessary to avoid an imminent hazard to the public's safety.

The temporary placement of *O*-DSMT in schedule I of the CSA will take effect on the date the order is published in the

[15] *Schedules of Controlled Substances: Temporary Placement of O–DSMT in Schedule I,* 91 FR 37822 (June 24, 2026).

Federal Register and will remain in effect for two years, with a possible extension of one year, pending completion of the regular (permanent) scheduling process.[16]

The CSA sets forth specific criteria for scheduling drugs or other substances. Permanent scheduling actions in accordance with 21 U.S.C. 811(a) are subject to formal rulemaking procedures ''on the record after opportunity for a hearing'' conducted pursuant to the provisions of 5 U.S.C. 556 and 557.[17] The permanent scheduling process of formal rulemaking affords interested parties appropriate process and the government any additional relevant information needed to make a determination. Final decisions that conclude the permanent scheduling process of formal rulemaking are subject to judicial review.[18] Temporary scheduling orders are not subject to judicial review.[19]

Requirements for Handling

Upon the effective date of this temporary order, *O*-DSMT will be subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, possession of, and engagement in research and conduct of instructional activities or chemical analysis with, schedule I controlled substances, including but not limited to the following:

1. *Registration.* Any person who handles (possesses, manufactures, distributes, reverse distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with) or desires to handle, *O*-DSMT must be registered with DEA to conduct such activities, pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312, as of August 12, 2026. Any person who currently handles *O*-DSMT and is not registered with DEA must submit an application for registration and may not continue to handle *O*-DSMT as of August 12, 2026, unless DEA has approved that application for registration pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312.

Notwithstanding the foregoing, pursuant to 21 U.S.C. 822(h), if, on August 12, 2026, a person is conducting research on *O*-DSMT and is already registered to conduct research with another controlled substance in schedule I, the person may continue to conduct research on *O*-DSMT if they submit a completed application for registration or modification of existing registration, as applicable, to conduct research with *O*-DSMT not later than 90 calendar days after August 12, 2026. The person may continue to conduct such research until the person withdraws the application or the Administrator serves on the person an order to show cause proposing denial of the application pursuant to 21 U.S.C. 824(c) and in accordance with 21 CFR 1301.37. If the Administrator serves an order to show cause proposing denial of the application or modification, the person may not continue to conduct research with *O*-DSMT and may not receive or otherwise obtain additional *O*-DSMT. If an order to show cause is served and the person requests a hearing in accordance with 21 CFR 1301.37(d), the hearing shall be held in accordance with 21 CFR 1301.41–1301.46 on an expedited basis and not later than 45 calendar days after the request is made, except that the hearing may be held at a later time if so requested by the person. If the person sends a copy of the application to a manufacturer or distributor of *O*-DSMT, receipt of the copy by the manufacturer or distributor constitutes sufficient evidence that the person is authorized to receive *O*-DSMT pursuant to 21 U.S.C. 822(h)(4). Continuation of research under 21 U.S.C. 822(h) does not authorize any other handling (*e.g.,* distribution) of *O*-DSMT.

Retail sales of schedule I controlled substances to the general public are not allowed under the CSA. Possession of any quantity of *O*-DSMT in a manner not authorized by the CSA on or after August 12, 2026 is unlawful, and those in possession of any quantity of *O*-DSMT may be subject to prosecution pursuant to the CSA.

2. *Disposal of stocks.* Any person who does not desire or is unable to obtain a schedule I registration to handle *O*-DSMT must surrender all currently held quantities of this substance.

3. *Security. O*-DSMT is subject to schedule I security requirements and must be handled in accordance with 21 CFR 1301.71–1301.93, as of August 12, 2026.

4. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of *O*-DSMT must comply with 21 U.S.C. 825 and 958(e) and 21 CFR part 1302. Current DEA registrants will have 30 calendar days from August 12, 2026 to comply with all labeling and packaging requirements.

5. *Inventory.* Every DEA registrant who possesses any quantity of *O*-DSMT on the effective date of this order must take an inventory of all stocks of this substance on hand pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. Current DEA registrants will have 30 calendar days from the effective date of this order to comply with all inventory requirements. After the initial inventory, every DEA registrant must take an inventory of all controlled substances (including *O*-DSMT) on hand on a biennial basis pursuant to 21 U.S.C. 827 and 958 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records.* All DEA registrants must maintain records with respect to *O*-DSMT pursuant to 21 U.S.C. 827 and 958(e) and in accordance with 21 CFR parts 1304, 1312, and 1317, and section 1307.11. Current DEA registrants authorized to handle *O*-DSMT shall have 30 calendar days from the effective date of this order to comply with all recordkeeping requirements.

7. *Reports.* All DEA registrants must submit reports with respect to *O*-DSMT pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304, 1312, and 1317, and sections 1301.74(c) and 1301.76(b), as of August 12, 2026. Manufacturers and distributors must also submit reports regarding *O*-DSMT to the Automation of Reports and Consolidated Order System pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304 and 1312.

8. *Order Forms.* All DEA registrants who distribute *O*-DSMT must comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305 as of August 12, 2026.

9. *Importation and Exportation.* All importation and exportation of *O*-DSMT must be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312 as of August 12, 2026.

10. *Quota.* Only DEA-registered manufacturers may manufacture *O*-DSMT in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303, as of August 12, 2026.

11. *Liability.* Any activity involving *O*-DSMT not authorized by or in violation of the CSA, occurring as of August 12, 2026, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

The CSA provides for expedited temporary scheduling actions where necessary to avoid an imminent hazard to public safety. Under 21 U.S.C.

[16] 21 U.S.C. 811(h)(1) and (2).

[17] 21 U.S.C. 811.

[18] 21 U.S.C. 877.

[19] 21 U.S.C. 811(h)(6).

811(h)(1), the Administrator, as delegated by the Attorney General, may, by order, temporarily place substances in schedule I. Such orders may not be issued before the expiration of 30 days from: (1) the publication of a notice in the **Federal Register** of the intent to issue such order and the grounds upon which such order is to be issued, and (2) the date that notice of the proposed temporary scheduling order is transmitted to the Assistant Secretary, as delegated by the Secretary of HHS.[20]

Inasmuch as section 811(h) directs that temporary scheduling actions be issued by order (as distinct from a rule) and sets forth the procedures by which such orders are to be issued, DEA believes the notice-and-comment requirements the Administrative Procedure Act (APA) at 5 U.S.C. 553, which are applicable to rulemaking, do not apply to this temporary scheduling order. The APA expressly differentiates between orders and rules, as it defines an ''order'' to mean a ''final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency *in a matter other than rule making.*'' [21] This contrasts with permanent scheduling actions, which are subject to formal rulemaking procedures done ''on the record after opportunity for a hearing,'' and final decisions that conclude the scheduling process and are subject to judicial review.[22] The specific language chosen by Congress indicates its intent that DEA issue *orders* instead of proceeding by rulemaking when temporarily scheduling substances. Given that Congress specifically requires the Administrator (as delegated by the Attorney General) to follow rulemaking procedures for *other* kinds of scheduling actions,[23] it is noteworthy that, in section 811(h)(1), Congress authorized the issuance of temporary scheduling actions by order rather than by rule.

Even assuming that this action is subject to the notice-and-comment requirements of the APA, the Administrator finds that there is good cause to forgo these requirements pursuant to 5 U.S.C. 553(b)(B), as any further delays in the process for issuing temporary scheduling orders would be impracticable and contrary to the public interest given the manifest urgency to avoid an imminent hazard to public safety.

Although DEA believes this temporary scheduling order is not subject to the notice-and-comment requirements of the APA, DEA notes that in accordance with 21 U.S.C. 811(h)(4), the Administrator took into consideration comments submitted by the Acting Assistant Secretary in response to the notices that DEA transmitted to the Acting Assistant Secretary pursuant to such subsection.

Further, DEA believes that this temporary scheduling action is not a ''rule'' as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act (RFA). The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, DEA is not required by the APA or any other law to publish a general notice of proposed rulemaking. Therefore, in this instance, since DEA believes this temporary scheduling action is not a ''rule,'' it is not subject to the requirements of the RFA when issuing this temporary action.

In accordance with the principles of Executive Orders (E.O.) 12866 and 13563, this action is not a significant regulatory action. E.O. 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). E.O. 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in E.O. 12866. E.O. 12866, sec. 3(f), provides the definition of a ''significant regulatory action,'' requiring review by the Office of Management and Budget. Because this is not a rulemaking action, this is not a significant regulatory action as defined in Section 3(f) of E.O. 12866. In addition, DEA scheduling actions are not subject to either E.O. 14192, Unleashing Prosperity Through Deregulation, or E.O. 14294, Fighting Overcriminalization in Federal Regulations.

This action will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13132, it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. In § 1308.11:

■ a. Remove and reserve paragraph (h)(65); and

■ b. Add paragraph (h)(88).

The addition reads as follows:

§ 1308.11 Schedule I

* * * * *

(h) * * *

* * * * * * *

(88) *O*-Desmethyltramadol (other names: *O*-DSMT; desmetramadol; 3-[(1*R*,2*R*)-2-[(dimethylamino)methyl]-1-hydroxycyclohexyl]phenol)	9667

* * * * *

Signing Authority

This document of the Drug Enforcement Administration was signed on August 6, 2026, by DEA Administrator Terrance C. Cole. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in

[20] 21 U.S.C. 811(h)(1).

[21] 5 U.S.C. 551(6) (emphasis added).

[22] 21 U.S.C. 811(a) and 877.

[23] *See* 21 U.S.C. 811(a).

electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2026–16413 Filed 8–11–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG –2026–0994]

RIN 1625–AA08

Special Local Regulation; Daugherty Creek, Crisfield, MD

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation (SLR) for certain waters of Daugherty Creek, off Wellington Beach, near Crisfield, MD. This action is necessary to provide for the safety of life on these navigable waters during a power boat racing event on September 5, 2026. In the event of inclement weather, the event will take place on September 6, 2026. This regulation prohibits persons and vessels from entering the regulated area unless specifically authorized by the Captain of the Port Sector Maryland-National Capital Region or their designated representative.

DATES: This rule is effective from 12:30 p.m. on September 5, 2026, through 3 p.m. on September 6, 2026. It will only be subject to enforcement, however, between 12:30 p.m. and 3 p.m. on September 5 unless the event is postponed due to inclement weather. In that case, the rule will be enforced 12:30 p.m. to 3 p.m. on September 6.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact MST1 Zachary Rudy, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2596, or email Sector Maryland-National Capital Region at *SectorMD-NCR-SCC@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

On March 23, 2026, the Coast Guard received an application, under 33 CFR 100.15, from the Smith Island Crab Skiff Association for a Marine Event Permit to host Historic Smith Island Crab Skiff races. The event will be held from 1 p.m. through 2:30 p.m. on September 5, 2026, in and around Crisfield, MD. The power boat race will consist of three heats (preliminary qualifying races) with approximately seven 22-foot-long boats in each race, competing on a designated, marked course.

The Captain of the Port, Sector Maryland-National Capital Region is issuing this Special Local Regulation (SLR) under the authority in 46 U.S.C. 70041. The COTP has determined that potential hazards associated with the power boat race, such as the risk of collisions, would be a safety concern for anyone intending to participate in this event and for non-participant vessels that operate within the specified waters of Daugherty Creek. The purpose of this rule is to protect event participants, non-participants, including transiting vessels, before, during, and after the scheduled event.

The Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable to publish an NPRM, consider and respond to comments, and publish a final rule by September 5, 2026, to protect personnel, vessels, and the marine environment. For the same reasons, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Discussion of the Rule

This rule establishes a temporary SLR which will be subject to enforcement from 12:30 p.m. through 3:00 p.m. on September 5, 2026. Alternatively, and in the event of inclement weather, the SLR will only be subject to enforcement from 12:30 p.m. through 3:00 p.m. on September 6. The SLR will cover certain waters of Daugherty Creek near Crisfield, Maryland. The coordinates of these waters are provided in the rule text, at the end of this document. No vessel or person other than those that are registered with the host as participants will be permitted to enter the regulated area without obtaining permission from the COTP or their designated representative.

IV. Regulatory Analyses

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

A. Impact on Small Entities

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

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

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

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

D. Unfunded Mandates Reform Act

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

E. Environment

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

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

■ 2. Add § 100.T599–0994 to read as follows:

§ 100.T599–0994 Special Local Regulation; Daugherty Creek, Crisfield, MD.

(a) *Location.* This special local regulation applies to the following regulated area:

(1) *Regulated Area.* All waters of Daugherty Creek, from surface to bottom, encompassed by a line connecting the following points beginning at 37°59′6452″ N, 075°51′4341″ W., thence to 37°59′6269″ N, 075°51′3556″ W., thence to 37°59′4437″ N, 075°51′4381″ W., thence to 37°59′4762″ N, 075°51′5845″ W. and back to the point of origin. These coordinates are based on the World Geodetic System (WGS 84)

(2) *Race Area.* This area is bounded by a line commencing at position 37°59′6321″ N 075°51′4319″ W, thence to 37°59′6243″ N 075°51′3887″ W, thence to 37°59′4665″ N 075°51′4606″ W, thence to 37°59′4797″ N 075°51′5568″ W, and back to the point of origin.

(3) *Buffer zone.* The buffer zone surrounds the entire race area and is bounded by a line commencing at position 37°59′6452″ N, 075°51′4341″ W., thence to 37°59′6269″ N, 075°51′3556″ W., thence to 37°59′4437″ N, 075°51′4381″ W., thence to 37°59′4762″ N, 075°51′5845″ W. and back to the point of origin.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Maryland-National Capital region (COTP) in the enforcement of the regulated area. *Participant* means all persons and vessels registered with the event sponsor as a participant in the race.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (410) 576–2525. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period[s].* This section will be enforced from 12:30 p.m. to 3 p.m. on September 5, 2026. Alternatively, and in the event the race is postponed due to inclement weather, enforcement will occur from 12:30 p.m. through 3 p.m. on September 06, 2026.

Patrick C. Burkett,

Captain, U.S. Coast Guard, Captain of the Port Maryland—National Capital Region.

[FR Doc. 2026–16426 Filed 8–11–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2026–0734]

RIN 1625–AA08

Special Local Regulation; Casco Bay, Flotilla To Fight Cancer, Long Island, ME

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for the navigable waters of Casco Bay, in the vicinity of Cow Island, in the Town of Long Island, ME, to support an offshore concert with spectator vessels. This regulation is needed to protect spectators and mariners from safety risks associated with a large gathering on the water. The regulation will temporarily establish a spectator area and two safe access lanes for transit and emergency response while also prohibiting swimming and creating a speed restriction/no wake zone.

DATES: This rule is effective from 12:30 p.m. on August 15, 2026, through 5:30 p.m. on August 16, 2026. It will only be enforced, however, from 12:30 p.m. until 5:30 p.m. on August 15, 2026, unless the event is delayed because of weather conditions, in which case it will be subject to enforcement during those same hours on August 16, 2026.

ADDRESSES: To view available documents mentioned in this preamble, go to *https://www.regulations.gov,* type USCG–2026–0734 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email LT Amanda Barnett, Sector Northern New England, U.S. Coast Guard; telephone: 207–808–9137, email: *NNEWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port, Northern New England
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
SLR Special local regulation
TFR Temporary final rule
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On March 4, 2026, the event sponsor of the annual ''Flotilla to Fight Cancer Benefit Concert'' submitted an application under 33 CFR 100.15 to conduct the event. The offshore concert will take place in Casco Bay, on the Falmouth side of Cow Island, in the town of Long Island, ME for approximately five hours on August 15, 2026, with a rain date of August 16, 2026. The concert is a ''regatta or marine parade,'' an organized water event of limited duration which is conducted according to a prearranged schedule,'' 33 CFR 100.05(a). The sponsor submitted the application under 33 CFR 100.15 because the event, by its nature, circumstances or location, will introduce extra or unusual hazards to the safety of life on the surrounding navigable waters.

After approving an application for a regatta or marine parade within his or her district or zone, the Captain of the Port (COTP) is authorized to promulgate such special local regulations (SLR) as he or she deems necessary to ensure safety of life on the navigable waters immediately prior to, during, and immediately after the approved regatta or marine parade. 33 CFR 100.35. Due to the high-profile nature of the offshore concert event, it is anticipated that sufficient spectator vessels and support craft will be present and to have the potential to cause vessel congestion in Casco Bay. The COTP, Sector Northern New England has therefore determined that potential hazards associated with the offshore concert, such as collisions or bottlenecks in case of emergency evacuation, would be a safety concern for anyone within the concert area and adjacent navigable waters, and is therefore establishing these SLRs.

The Coast Guard is issuing this temporary rule without prior notice and comment. As authorized by 5 U.S.C. 553(b)(B), the Coast Gurd finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable to process the event application, publish an NPRM, respond to comments, and publish a final rule by August 15, 2026 to protect spectators and mariners at the event.

For the same reasons, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule by 30 days is impracticable because the rule will expire in less than 30 days.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The COTP has determined that this rule is needed to protect spectators, mariners, vessels, and the marine environment from the hazards associated with the offshore concert event.

IV. Discussion of the Rule

The Coast Guard is establishing a temporary SLR from 12:30 p.m. on August 15, 2026, through 5:30 p.m. on August 16, 2026. It will only be enforced, however, from 12:30 p.m. until 5:30 p.m. on August 15, 2026, unless the event is delayed because of weather conditions, in which case it will be subject to enforcement during those same hours on August 16, 2026. The regulated area, as shown below, in figure 1, starts at the point in position at 43°41′27″ N, 070°11′31″ W; then down to the Northwest point of Cow Island; then East along the coast of the Falmouth side of Cow Island to the Northeast Point; then North to a point in position of 43°41′49″ N, 070°11′9″ W; then Northwest to a point in position of 43°41′53″ N, 070°11′18″ W; then Southwest to a point in position of 43°41′34″ N, 070°11′41″ W; and then to point of origin 43°41′27″ N, 070°11′31″ W. These coordinates are expressed in Degrees (°) Minutes (′) Seconds (″) (DMS) based on North American Datum 1983 (NAD 83).

The regulated area will mainly serve as a spectator zone but will also include two transit areas where stopping, fishing, mooring, anchoring, or loitering is always prohibited, except when mooring to the existing mooring balls located in the areas. The first transit area will run between the Northwest and Northeast points of Cow Island and extend to two separate points: 43°41′27″ N, 070°11′31″ W and 43°41′49″ N, 070°11′9″ W. The concert stage barge will be positioned at the center of this area. For clarity, the area behind the concert stage barge is included within this transit area, and stopping, fishing, mooring, anchoring, or loitering is strictly prohibited throughout. The second transit area will run down the center of the spectator area, perpendicular to the concert stage barge, with a width of 240 feet. These transit areas will allow vessels to enter and exit the spectator zone from all sides and provide access for emergency vessels.

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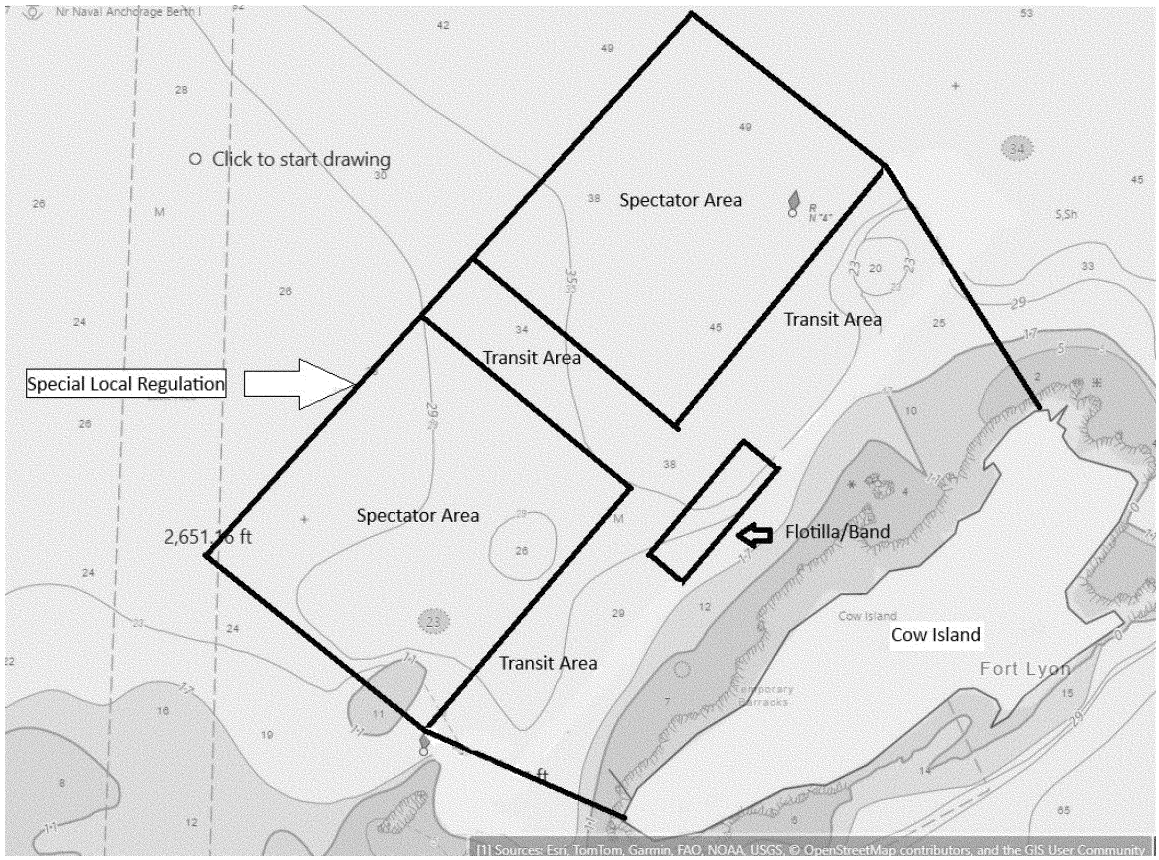

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The temporary SLR will prohibit swimming in the entire regulated area. Additionally, all vessels must follow a ''Slow-No Wake'' speed limit, meaning they cannot create a wake and cannot exceed speeds of five (5) knots unless a higher speed is needed to maintain control. This regulation is in place to ensure the safety of vessels and people before, during, and after the concert.

V. Regulatory Analyses

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

A. Impact on Small Entities

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

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

D. Unfunded Mandates Reform Act

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

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and

Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule establishes a special local regulation for the duration of an event that qualifies as a regatta or marine parade. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

■ 2. Add § 100.T199–0734 to read as follows:

§ 100.T199–0734 Special Local Regulation; Casco Bay, Flotilla to Fight Cancer, Long Island, ME

(a) *Regulated Area.* All navigable waters of Casco Bay near the Falmouth side of Cow Island, Long Island, ME, within a polygon bounded by the following: originating at the point in position at 43°41′27″ N, 070°11′31″ W; then down to the Northwest point of Cow Island; then East along the coast of the Falmouth side of Cow Island to the Northeast Point; then North to a point in position of 43°41′49″ N, 070°11′9″ W; then Northwest to a point in position of 43°41′53″ N, 070°11′18″ W; then Southwest to a point in position of 43°41′34″N, 070°11′41″ W; and then to point of origin 43°41′27″ N, 070°11′31″ W. These coordinates are based on World Geodetic System (WGS 84)/North American Datum 83 (NAD 83).

(1) *Spectator area.* All navigable waters of Casco Bay near the Falmouth side of Cow Island, Long Island, ME, as described in paragraph (a) of this section.

(2) *Transit areas.* As shown in figure 1, two transit areas will be established within the spectator area. The first transit area will run between the Northwest and Northeast points of Cow Island and extend to two separate points: 43°41′27″ N, 070°11′31″ W and 43°41′49″ N, 070°11′9″ W, with the concert stage barge located in the center. The area behind the concert stage barge is designated as part of this transit area. The second transit area will run down the center of the spectator area, perpendicular to the concert stage barge, with a width of 240 feet. These transit areas will allow vessels to enter and exit the spectator zone from all sides and provide access for emergency vessels.

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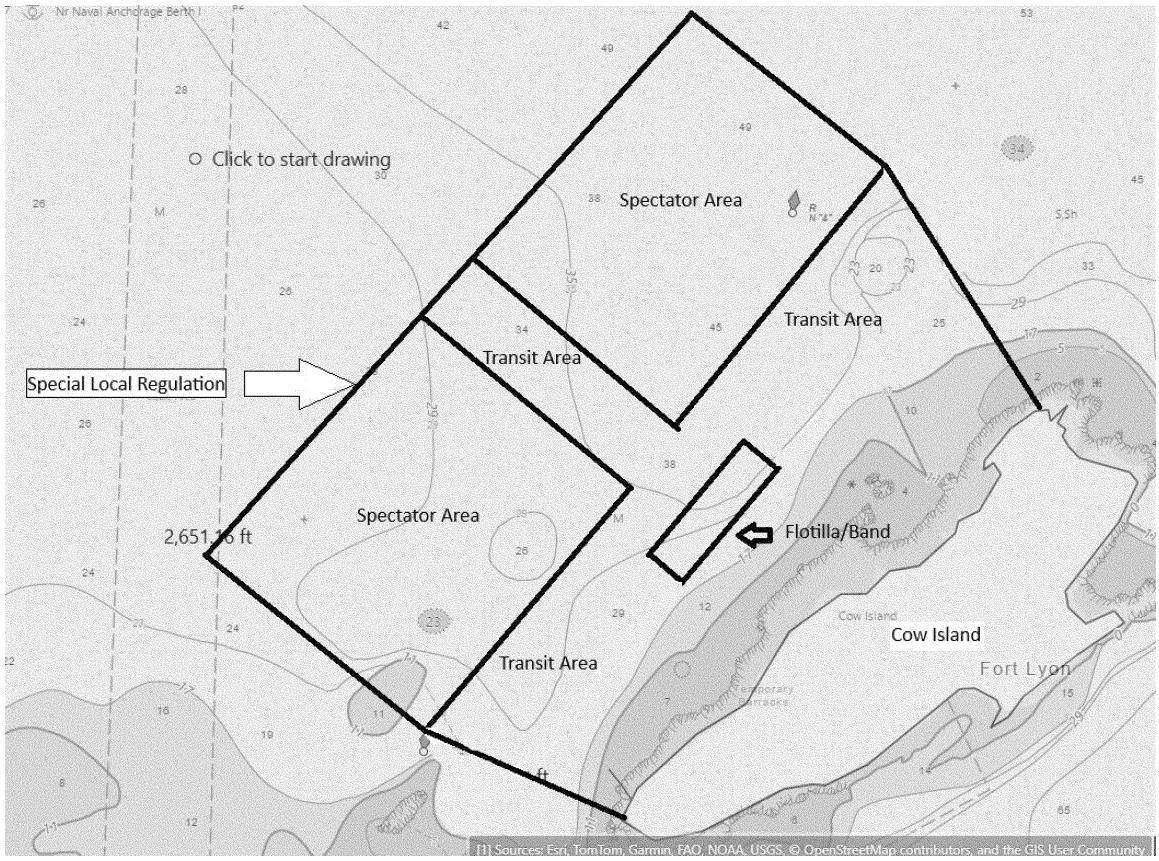

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(b) *Definitions.* As used in this section—

(1) *Captain of the Port Representative or COTP Representative* means a commissioned, warrant, or petty officer of the Coast Guard designated by name

by the Captain of the Port to verify an event's compliance with the conditions of its approved permit.

(2) *Event Patrol Commander or Event PATCOM* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the respective Coast Guard Sector—Captain of the Port to enforce the regulations in paragraph (d) of this section.

(3) *Official patrol vessel or official patrol* means any vessel assigned or approved by the respective Captain of the Port with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign, or any state or local law enforcement vessel approved by the Captain of the Port in accordance with current local agreements.

(4) *Spectator area* means an area bound by coordinates provided in latitude and longitude within the regulated area that outlines the boundary of an area reserved for spectator vessels watching the concert.

(5) *Transit area* means a designated lane within the regulated area described in paragraph (a) of this section where vessels are allowed to travel through safely.

(c) *Patrol of the marine event.* The COTP may assign one or more official patrol vessels, as described in § 100.40, to the regulated event. The Event PATCOM will be designated to oversee the patrol. The patrol vessel and the Event PATCOM may be contacted on VHF–FM Channel 16. The Event PATCOM may terminate the event at any time if deemed necessary for the protection of life or property.

(d) *Regulations.* (1) All persons are prohibited from swimming in the regulated area described in paragraph (a) of this section.

(2) Any vessel transiting through a transit area must make a direct passage. No vessel may stop, fish, moor, anchor, or loiter within a transit area at any time except when mooring to the existing mooring balls located in the areas.

(3) Entry and movement within the regulated area is subject to a ''Slow-No Wake'' speed limit. All vessels may not produce a wake and may not attain speeds greater than five (5) knots unless a higher minimum speed is necessary to maintain bare steerageway.

(4) Persons or vessels seeking to deviate from the restrictions described must request authorization from the COTP or the COTP's designated representative via VHF–FM marine channel 16 or by contacting the Coast Guard Sector Northern New England Command Center at (833) 449–2407. Those within the regulated area must comply with all lawful orders or directions given to them by the COTP or official patrol vessel.

(e) *Enforcement period.* This section is in effect from 12:30 p.m. on August 15, 2026, through 5:30 p.m. on August 16, 2026. It will only be enforced, however, from 12:30 p.m. until 5:30 p.m. on August 15, 2026, unless the event is delayed because of weather conditions, in which case it will be subject to enforcement during those same hours on August 16, 2026.

Dated: August 6, 2026.

Matthew S. Baker,

Captain, U.S. Coast Guard, Captain of the Port, Sector Northern New England.

[FR Doc. 2026–16428 Filed 8–11–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–0220]

RIN 1625–AA00

Safety Zone; T/V DENISE FOSS (O.N. 1254223), Honolulu, HI

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 500-yard radius of the T/V DENISE FOSS (O.N. 1254223) and its tow, FOSS 3612 (O.N. 1255436). The moving safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with the transportation of three ship-to-shore cranes. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Honolulu, or their designated representative.

DATES: This rule is effective from 6 a.m. on August 13, 2026, until 9 a.m. on August 17, 2026.

ADDRESSES: To view available documents go to *https://www.regulations.gov* and search for USCG–2026–0220.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact MST1 Brad Snyder, Sector Honolulu Waterways Management Division, U.S. Coast Guard; telephone 800–552–6458, or email *William.a.snyder@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

The Coast Guard received notification on August 3, 2026, that Pasha Hawaii will ship three ship-to-shore cranes from Los Angeles, CA to Honolulu, HI, via tug and barge, with a scheduled arrival date of August 14, 2026. The day and time of this safety zone enforcement will depend on the arrival, but enforcement may start as soon as 6 a.m. on August 13, 2026. Hazards from this shipment include but are not limited to the tug and barge being restricted in its ability to maneuver, which creates hazards for the public on the water. The Captain of the Port (COTP) Honolulu has determined that potential hazards associated with the shipment of the three ship-to-shore cranes are a safety concern for anyone while the tug and barge are transiting in Mamala Bay on its approach to Honolulu Harbor. Therefore, the COTP is issuing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone.

Because of these potential hazards, the Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard was notified of this event on August 3, 2026, but we must establish this safety zone by August 13, 2026, to protect personnel, vessels, and the marine environment while the vessel is approaching Honolulu Harbor. Therefore, we do not have enough time to solicit and respond to comments.

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

III. Discussion of the Rule

This rule establishes a moving safety zone that will be enforced from August 13, 2026 through August 17, 2026. The day and time of enforcement will depend on the arrival of T/V DENISE FOSS (O.N. 1254223) and its tow, FOSS 3612 (O.N. 1255436), entering Mamala Bay in the vicinity of Diamond Head and will be announced to the public in

advance. The safety zone will cover all navigable waters within a 500 yard radius of the T/V DENISE FOSS (O.N. 1254223) and its tow, FOSS 3612 (O.N. 1255436). Vessels and persons will not be allowed to enter the zone during this time, unless authorized by the Captain of the Port. An image of the vessel is available in the docket on *regulations.gov* by searching docket number USCG–2026–0220.

IV. Regulatory Analyses

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

A. Impact on Small Entities

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

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

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

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

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

D. Unfunded Mandates Reform Act

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

E. Environment

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

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T14–0220 to read as follows:

§ 165.T14–0220 Safety Zone; T/V DENISE FOSS (O.N. 1254223), Honolulu, HI

(a) *Location.* The following area is a safety zone: All navigable waters within a 500-yard radius around the T/V DENISE FOSS (O.N. 1254223) and its tow, FOSS 3612 (O.N. 1255436), in Mamala Bay in the vicinity of Diamond Head on its approach to Honolulu Harbor.

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

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

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (800) 552–6458. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be subject to enforcement from 6 a.m. on August 13, 2026, through 9 a.m. on August 17, 2026. The section will be enforced until the T/V DENISE FOSS (O.N. 1254223) and its tow, FOSS 3612 (O.N. 1255436), enter the Honolulu Harbor Security Zone.

N.S. Worst,

Captain, U.S. Coast Guard, Captain of the Port Sector Honolulu.

[FR Doc. 2026–16407 Filed 8–11–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1, 2, and 4

[NPS–WASO–DTS#NPS0041947; PPWOVPADU0, PPMPRLE1Y.Y00000]

RIN 1024–AE79

Powered Micromobility Devices

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service finalizes a management framework for the use of powered micromobility devices within the National Park System. The final rule defines powered micromobility devices separately from motor vehicles, traditional bicycles, electric bicycles, and human powered coasting devices, and creates rules for where and how they may be used in units of the National Park System.

Examples of powered micromobility devices include electric scooters (e-scooters), hoverboards, and Segways.

DATES: This rule is effective September 11, 2026.

ADDRESSES: Comments received on the proposed rule are available on *https://www.regulations.gov* in Docket No. NPS–2025–0001.

FOR FURTHER INFORMATION CONTACT: Jay Calhoun, Division of Regulations, Jurisdiction and Special Park Uses, National Park Service; phone: (202) 281–0734; email: *waso_regulations@nps.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

Powered micromobility devices, such as e-scooters, hoverboards and Segways, are appearing on lands administered by the National Park Service (NPS) with greater frequency, especially in urban locations. Units of the National Park System, such as the National Mall and Memorial Parks in Washington, DC, are filled with e-scooters on a daily basis as visitors use them to access, leave, and travel through the park, including on sidewalks and paths that are shared with pedestrians. Other System units with considerable use of e-scooters and other powered micromobility devices include Golden Gate National Recreation Area, San Antonio Missions National Historical Park, Mississippi National River and Recreation Area, and Cape Cod National Seashore. The U.S. Department of Transportation (DOT) Federal Highway Administration provides a fact sheet with an overview on micromobility, along with links to additional resources.[1] U.S. DOT also funds the Pedestrian and Bicycle Information Center (PBIC), which has a website containing a volume of information about active transportation, including micromobility devices. The information in this Background section of the final rule contains a basic overview of powered micromobility devices that is found on the PBIC website. Please visit *https://www.pedbikeinfo.org/* for more information.

The U.S. DOT and PBIC classify traditional and electric bicycles as micromobility devices; however, the NPS has promulgated general regulations addressing the use of traditional and electric bicycles in park areas in 36 CFR 4.30. As a result, this rule does not address traditional and electric bicycles. As used in this Background section of the final rule, the term ''powered micromobility devices'' does not refer to traditional bicycles, nor does it refer to electric bicycles, nor to human powered coasting devices such as roller skates and skateboards, which are governed by NPS regulations at 36 CFR 2.20. It does refer to electric standing or sitting scooters (e-scooters) and devices such as electric skateboards, electric skates, and one-wheeled or two-wheeled electric self-balancing devices (*e.g.,* balance wheels, hoverboards and Segways).

According to the PBIC, powered micromobility devices share three common characteristics.[2] First, powered micromobility devices are motorized. They can be fully motorized or motor-assisted, in which the rider can provide some human-powered propulsion, such as by kicking. They usually involve a battery-powered electric motor that provides 750 watts of maximum power. Second, powered micromobility devices are operated at low speed. Most powered micromobility devices are designed to travel at or below 20 miles per hour (mph), although some can reach 30 mph.[3] Others may be regulated to lower maximum speeds, such as 8 mph or less, to be compatible with sidewalk use. Third, powered micromobility devices are small in size. Most powered micromobility devices are three feet wide or less to fit within the standard width of a bike lane or sidewalk. Most powered micromobility devices weigh less than 50 pounds. Due to their weight and size, most powered micromobility devices are designed to be used by single riders.

Users can own or rent powered micromobility devices. Rentals account for the majority of use in urban areas due to the deployment of shared fleets by private companies such as Uber, Lyft, Bird, and Lime. Shared fleets provide users with on-demand access to powered micromobility devices, which operators typically unlock using a smartphone application. Powered micromobility devices that are part of shared fleets are most commonly parked in public rights-of-way, such as sidewalks. In some cases, parking areas or docks may exist for grouping devices when they are not in use. Powered micromobility devices are mostly used in cities and serve a variety of transportation and public health goals. Shared powered micromobility devices provide communities with healthy, affordable, and low- or no-emission transportation options.[4] Powered micromobility devices can help close first- and last-mile gaps to transit and offer individuals greater access to jobs, health care, and other services.[5] This may be particularly true for underserved communities.[6] Powered and adaptive micromobility devices may increase mobility for older adults or individuals with disabilities because they are less strenuous to operate than traditional bicycles or scooters.[7] Powered micromobility devices serve the NPS's objective to provide alternatives to existing transportation options to address visitor needs.[8] They also serve the NPS's objectives to improve connections to neighboring communities, reduce traffic congestion, and ease parking shortages.[9] Shared powered micromobility devices continue to become more prevalent and popular. The North American Bikeshare and Scootershare Association estimates that 84.9 million trips on e-scooters were taken in North America in 2024.[10]

Existing Regulatory Framework

The safety of powered micromobility devices, like other products sold in the United States, is regulated by the Consumer Product Safety Commission (CPSC) under the Consumer Product Safety Act. 15 U.S.C. 2051–2090. The CPSC does not regulate who may use powered micromobility devices and where they may be used.

The NPS has broad authority to regulate activities that occur within units of the National Park System. See

[1] U.S. Department of Transportation, Federal Highway Administration, Fact Sheet on Micromobility.

[2] Sandt, L. (October 2019). The basics of micromobility and related motorized devices for personal transport. Pedestrian and Bicycle Information Center: Chapel Hill, NC.

[3] The Society of Automotive Engineers classifies powered micromobility devices as those with a top speed of less than 30 mph. See Taxonomy and Classification of Powered Micromobility Vehicles J3194_201911 issued November 20, 2019. Revised version released February 25, 2025 (J3194_202502).

[4] U.S. Department of Transportation, Federal Highway Administration, Shared Micromobility and Equity Primer.

[5] U.S. Department of Transportation, Federal Highway Administration, Fact Sheet on Micromobility.

[6] Id. See also U.S. Department of Transportation, Federal Highway Administration, Shared Micromobility and Equity Primer.

[7] U.S. Department of Transportation, Federal Highway Administration, Fact Sheet on Micromobility.

[8] National Transportation Strategy, NPS (2025).

[9] Id.

[10] NABSA 2024 Shared Micromobility State of the Industry Report.

54 U.S.C. 100101 and 100751. Human powered coasting devices, such as roller skates and skateboards, are governed by regulations in 36 CFR 2.20. NPS general regulations addressing the use of motor vehicles, traditional bicycles, and electric bicycles are found in 36 CFR part 4.[11] Each of these devices is defined separately in 36 CFR 1.4 and has its own regulatory framework in 36 CFR part 4 that is tailored to the characteristics of each device and how they are used. Motor vehicles are defined in 36 CFR 1.4 as ''every vehicle that is self-propelled and every vehicle that is propelled by electric power, but not operated on rails or water, except an electric bicycle, a snowmobile, and a motorized wheelchair.'' This definition is broad enough to include powered micromobility devices. As a result, powered micromobility devices fall within the NPS's existing regulatory framework for motor vehicles, even though powered micromobility devices are lighter, smaller, and used differently by visitors. The differences between traditional motor vehicles and powered micromobility devices are numerous, but to highlight one that relates to the potential to cause impacts to resources and visitors in System units, the average weight of an automobile is 4,303 pounds while most powered micromobility devices weigh less than 50 pounds.[12]

Due to concerns about impacts to resources and visitors, NPS regulations at 36 CFR 4.10 generally limit motor vehicle use to public roads and parking areas within System units.[13] See 52 FR 10679 (April 2, 1987). The NPS may allow off-road motor vehicle (ORV) use in national recreation areas, national seashores, national lakeshores and national preserves, but only after it completes a rulemaking process that designates routes and areas for ORV use in special regulations that apply to the System unit. ORV use is not allowed in national parks or other types of System units (*e.g.,* national monuments) that are managed by the NPS but not identified in 36 CFR 4.10.

Despite obvious differences in design, capability, and the potential to cause impacts to resources and visitors, current NPS regulations apply to powered micromobility devices and traditional motor vehicles in the same way. This has led to an undesired outcome where (1) NPS transportation strategies to identify and implement new technologies that improve visitor access and enhance visitor experience;[14] (2) visitor expectations; and (3) on-the-ground use of powered micromobility devices are not served by outdated regulations meant to address a different type of visitor use within System units. On the one hand, NPS motor vehicle regulations are too limiting with respect to where powered micromobility devices may be used off park roads and parking areas, especially in System units located in or near cities. In these System units, visitors use powered micromobility devices, such as e-scooters and Segways, on paved and gravel sidewalks and paths in a manner that causes impacts to resources and visitors that are much less significant than would be caused by traditional motor vehicles (*e.g.,* cars, trucks and vans) used in the same locations. On the other hand, NPS motor vehicle regulations are too lenient with respect to the use of powered micromobility devices on roads and parking areas. The existing regulations allow powered micromobility devices by default on all roads open to public motor vehicle use, many of which are not designed or suited to be shared with faster and heavier traditional motor vehicles. Roads without infrastructure that separates users who are not protected by an enclosed vehicle or safety restraints (such as seatbelts), which includes the vast majority of users of powered micromobility devices, can lead to user conflicts and increase the risk of injury.

Another existing regulation that is relevant to the use of shared powered micromobility devices in System units is the NPS regulation at 36 CFR 5.3 (''Business operations.''), which prohibits anyone from conducting a business in a System unit except in accordance with a permit, contract or other written agreement with the United States.[15] Companies that want to operate shared fleets of e-scooters (*e.g.,* Uber, Lyft, Bird, Lime) within System units must obtain written authorization to do so under this regulation. The NPS has several types of instruments that it uses to authorize business operations in System units, which contain terms and conditions governing how the business may be operated in System units, including commercial use authorizations (CUAs) and concession contracts (the latter which are further governed by NPS regulations at 36 CFR part 51). To the extent the NPS determines the operation of a shared fleet of scooters may occur in a particular System unit, the NPS will manage such operation through the laws and policies that apply to those instruments, and the terms and conditions of those instruments when they are issued to the business. By comparison, this final rule establishes rules governing the use of a powered micromobility device by the operator in the same way, whether the device is owned by the operator or rented from a company authorized to do business in the System unit.

Final Rule

This final rule defines powered micromobility devices separately from motor vehicles, bicycles, electric bicycles, and human powered coasting devices. This final rule establishes a distinct management framework for where powered micromobility devices are allowed in System units. This framework provides flexibility to superintendents who believe that powered micromobility devices can be used by visitors and managed by the NPS in certain locations.

The final rule defines a ''powered micromobility device'' as a human-operated, self-propelled device with a curb weight of less than 150 pounds and without an internal combustion engine. The definition states that powered micromobility devices do not include an electric bicycle, motorized wheelchair, snowmobile, vessel, or motor vehicle (as those terms are defined in 36 CFR 1.4), or a non-bicycle coasting device that is solely human powered (as that term is defined by this final rule). The NPS intends the definition to include devices that are capable of self-propulsion even if they also may be propelled with human power. For example, the NPS intends the definition to include e-scooters that are primarily moved by an electric motor, even if they also may be propelled by kicking. The definition has a higher maximum weight (150 pounds) than the typical weight for powered micromobility devices (less than 50 pounds) in order to include heavier devices such as Segways and adaptive devices designed for individuals with disabilities.[16] Even though they are

[11] Special regulations in 36 CFR parts 7 and 13 govern motor vehicle and bicycle use in specific System units. U.S. Department of the Interior regulations in 43 CFR 36.11 implement section 1110(a) (16 U.S.C. 3170) of the Alaska National Interest Lands Conservation Act (ANILCA) and govern the use of motor vehicles and nonmotorized surface transportation in System units located in Alaska.

[12] The 2022 EPA Automotive Trends Report. EPA–420–R–23–033 December 2023.

[13] Additional allowances apply to the use of motor vehicles in System units in Alaska under regulations implementing ANILCA. See 43 CFR 36.11.

[14] National Transportation Strategy, NPS (2025).

[15] NPS regulations in 36 CFR part 13, subpart E address visitor services provided within park areas in Alaska and have a similar requirement for prior written authorization.

[16] Although the definition of powered micromobility devices is designed to include these devices, this rule does not directly address or have

heavier than most powered micromobility devices, these devices are typically smaller and slower than traditional motor vehicles and are used similarly to lighter powered micromobility devices. One hundred and fifty pounds is well within range of the definition established by the Society of Automotive Engineers for powered micromobility vehicles, which includes devices weighing up to 500 pounds.[17] If powered micromobility devices above a certain weight would cause unacceptable impacts to resources or visitors, the final rule authorizes the superintendent to limit the maximum weight of powered micromobility devices below 150 pounds if necessary.

The definition excludes all devices with an internal combustion engine. In practice, most devices with an internal combustion engine would not qualify under the definition because they weigh more than 150 pounds. Even the lightest versions, such as golf carts and mopeds, weigh at least 200 pounds and some can weigh more than 1,000 pounds.[18] Although most devices with internal combustion engines are excluded from the definition due to weight, the final rule excludes all such devices from the definition due to their potential to cause adverse impacts to resources, including wildlife, caused by engine noise and exhaust.[19]

Under the definition, powered micromobility devices have a weight limit but no size limit. This gives superintendents the flexibility to allow larger than normal powered micromobility devices in locations that can accommodate their use. Neither does the definition limit powered micromobility devices by maximum capable speed. The final rule states that the regulations in 36 CFR 4.21 apply to the use of powered micromobility devices. These regulations set baseline speed limits on roads and apply to motor vehicles, traditional bicycles, and electric bicycles, but also give the superintendent the discretion to designate different speed limits if the baseline limits are unreasonable, unsafe, or inconsistent with the purposes of the System unit. Under this final rule, superintendents also have the authority to establish speed limits for powered micromobility devices off roads that are suitable for each designated location as a condition of use.

The NPS believes that defining powered micromobility devices by weight and engine type is sufficient because these characteristics are strongly correlated to potential for the device to cause impacts to resources and visitors. Weight and speed are the primary factors that determine the amount of kinetic energy transferred in a collision, which correlates to the severity of injuries caused by the collision;[20] and internal combustion engines produce engine noise and exhaust that have the potential to cause adverse impacts to resources, including wildlife.

The final rule prohibits the use of powered micromobility devices in System units except in designated locations. The final rule requires rulemaking before powered micromobility devices are allowed in locations that have never been improved by artificial or processed materials. Artificial or processed materials include gravel, asphalt, concrete, steel rail lines, wood boards, soil cement, and resin-based material. Other locations that now or in the past have been improved by artificial or processed materials, such as park roads, parking areas, administrative roads, natural surface trails on old rail lines, and paved and gravel sidewalks and paths, can be designated by the superintendent after notice is provided using one or more of the methods listed in 36 CFR 1.7, including by listing all designated locations in the superintendent's compendium for the System unit. The superintendent's compendium is a written compilation of management actions about visitor use in a System unit that must be made available to the public. Superintendents can designate these other locations without rulemaking, except that rulemaking is required if the designation would be highly controversial or otherwise significant using the criteria in paragraph (b) of 36 CFR 1.5.[21] The rulemaking requirements in this rule would ensure public involvement in decision-making that has more potential for impacts to park resources, values, and visitors, or when stakeholders such as gateway communities have strong viewpoints about potential designations.

Except for administrative actions taken by the NPS in limited circumstances, the Wilderness Act prohibits mechanical transport in wilderness areas designated by Congress. 16 U.S.C. 1133(c). Accordingly, the final rule prohibits possessing a powered micromobility device in a wilderness area established by Federal statute, unless otherwise allowed under Federal law. The same prohibition applies to bicycles and electric bicycles under NPS regulations at 36 CFR 4.30. Superintendents do not have the authority to override this prohibition by designating locations in wilderness using the superintendent's compendium.

The final rule authorizes the superintendent to establish restrictions, conditions, and closures for the use of powered micromobility devices in designated locations. Superintendents can tailor these actions to the characteristics of the designated locations to minimize impacts to resources and other visitors. For example, superintendents can limit the size of powered micromobility devices on narrow sidewalks or require users to park powered micromobility devices in locations away from sensitive resources or public rights-of-way. As another example, superintendents can limit the speed of powered micromobility devices to help reduce the number of crashes. And as a final example, superintendents can decide that only certain types of micromobility devices (*e.g.,* e-scooters) are allowed in certain locations.

The final rule states that the use of powered micromobility devices is governed by State and local law unless addressed by regulations in the final rule or by restrictions, conditions, or closures established by the Superintendent. State and local laws address topics such as time of use, age limits, speed limits, helmets, and driver's license requirements.[22] Adopting non-conflicting State law promotes consistency with rules promulgated by State and local governments for the use of powered micromobility devices in their jurisdictions. At the same time, the NPS has the authority to preempt State or local laws in order to maintain responsibility for the management of

any effect on the applicability of Federal law and policy governing the use of mobility aids and devices by people with disabilities. Current NPS policy addressing this topic is found in Director's Order #42: Accessibility of National Park Service Facilities, Programs, Services, and Activities.

[17] Society of Automotive Engineers Taxonomy and Classification of Powered Micromobility Vehicles J3194_201911 issued November 20, 2019.

[18] Sandt, L. (October 2019). The basics of micromobility and related motorized devices for personal transport. Pedestrian and Bicycle Information Center: Chapel Hill, NC.

[19] See Glen Canyon National Recreation Area Off-road Vehicle Management Plan/Final Environmental Impact Statement, Chapter 3: Affected Environment, January 2017.

[20] Kumfer, *et al.* Speed, Kinetic Energy, and the Safe Systems Approach to Safer Roadways, ITE Journal, April 2019.

[21] Rulemaking is required for an action ''which is of a nature, magnitude and duration that will result in a significant alteration in the public use pattern of the park area, adversely affect the park's natural, aesthetic, scenic or cultural values, require a long-term or significant modification in the resource management objectives of the unit . . . .'' 36 CFR 1.5(b).

[22] Blickstein, S. *et al.* (December 2019). E-Scooter Programs: Current State of Practice in US Cities.

System units in accordance with Federal laws and policies.

The final rule states that the use of powered micromobility devices is subject to certain existing regulations that apply to the use of bicycles and electric bicycles. These regulations appear in §§ 4.12 (Traffic control devices), 4.13 (Obstructing traffic), 4.20 (Right of way), 4.21 (Speed limits), 4.22 (Unsafe operation), 4.23 (Operating under the influence of alcohol or drugs), and 4.30(h)(3) through (5) (Operating during periods of low visibility, abreast of another bicycle, and with an open container of alcohol).

Finally, the final rule defines the term ''coasting device'' and revises 36 CFR 2.20 to clarify that the regulations in section 2.20 apply to roller skates, skateboards, roller skis, scooters, or similar wheeled devices that are propelled solely by human power, except a bicycle. This eliminates any potential for confusion about whether powered micromobility devices are subject to the regulations in § 2.20.

Summary of Public Comments

The NPS published a proposed rule in the **Federal Register** on January 16, 2025 (90 FR 4701). The NPS accepted public comments for 60 days via themail, hand delivery, and the Federal eRulemaking Portal at *https://www.regulations.gov.* Comments were accepted through March 17, 2025. The NPS received 63 comments on the proposed rule. Some commenters expressed support for the use of powered micromobility devices on public roads and parking areas and concerns about safety, environmental impacts, and diminished visitor enjoyment if they are allowed in other locations. Several commenters supported the rule conditioned upon superintendents carefully evaluating appropriate locations for the use of powered micromobility devices. These commenters also highlighted the need for strong enforcement of rules governing the use of powered micromobility devices to protect visitors and resources. Several commenters, including companies that rent fleets of powered micromobility devices and accessibility advocates, stated that the rule had potential to reduce car traffic and emissions, enhance accessibility, and provide sustainable transportation options in urban park areas. After considering public comments and additional review of the proposed rule, the NPS did not make any substantive changes in the final rule. Revisions have clarified that this rule (36 CFR 4.32) is the operative authority for designating locations for the use of powered micromobility devices, and for the superintendent to establish restrictions, conditions, and closures. Another revision has clarified that rulemaking is not required for terrain that now or in the past has been improved by artificial or processed materials, including materials derived from natural products, such as wood planks or resin-based soil. Rulemaking is not required even for locations that have a natural surface at present, but in the past were altered or improved artificial materials, such as a trail located on top of an old rail line. A summary of the pertinent issues raised by commenters and NPS responses are provided below:

1. *Comment:* Several commenters asked the NPS to limit the discretion given to superintendents to determine where powered micromobility devices may be used. Below are some of the ways these commenters proposed the NPS should categorically manage the use of powered micromobility devices:

- Ban all use.
- Prohibit recreational use; allow use only by persons with disabilities to enhance accessibility.
- Limit use to roads or bicycle lanes on roads.
- Limit use to hardened surfaces.
- Prohibit use in pedestrian areas and on hiking trails.
- Limit use to pathways open to bicycle use.
- Limit use to trails designated exclusively for their use.
- Limit use to sufficiently wide, paved paths.
- Limit use to frontcountry and developed areas.

NPS Response: The varied and diverse approaches suggested by the commenters demonstrates how difficult it would be to establish categorical rules at the national level for where powered micromobility devices may be used. This rule establishes a regulatory framework for making such decisions on a case-by-case basis. This will allow the NPS to consider the unique circumstances of each proposed use case. National Park System units vary significantly in terms of the criteria that will influence decisions about the use powered micromobility devices. These criteria include the System unit's enabling legislation, its resources and values, and conditions affecting visitor enjoyment and safety. Unless they are prohibited by Federal statute, categorically banning powered micromobility devices in certain circumstances or locations could prevent visitors from using these devices to access and enjoy park areas without any opportunity for the NPS to evaluate whether such use is appropriate. This rule creates two pathways for allowing the use of powered micromobility devices that are tailored to the potential for impacts to resources and visitors. Superintendents should understand park conditions, visitor use patterns, and the perspective of gateway communities and other stakeholders and therefore are in the best position to determine whether and where powered micromobility devices should be allowed. This rule requires an additional level of public engagement before powered micromobility devices are allowed in locations that have never been improved by artificial or processed materials, where resource impacts and risks to visitor safety could be greater than in other locations. Rulemaking also will be required if decisions to allow powered micromobility devices in a particular locations would be highly controversial or otherwise significant using the criteria in 36 CFR 1.5(b).

2. *Comment:* Several commenters raised safety concerns and highlighted the potential for visitor conflicts if powered micromobility devices are allowed on overcrowded walkways in popular areas of a park.

NPS Response: The NPS appreciates these concerns about visitor safety and conflict, particularly in high-use areas and among vulnerable populations such as children, seniors, and individuals with disabilities. The NPS is committed to ensuring that visitors safely enjoy park areas. The NPS strives to maintain an atmosphere that is open, inviting, and accessible to all American citizens. In order to ensure that potential impacts to visitors are considered in every case, this rule requires superintendents or the NPS through rulemaking to make an affirmative decision to allow powered micromobility devices in any location. This will ensure that powered micromobility devices will not be allowed without consideration of whether their use would be inappropriate or unsafe, including in crowded areas or on trails and pathways not designed or capable of handling them alongside pedestrians and other user groups. In locations where they are allowed, superintendents may establish restrictions, conditions, and closures for the use of powered micromobility devices to promote visitor safety, such as limiting speed, size, or weight, or restricting use to certain times of day or seasons. In general, the NPS can manage visitor use conflicts through zoning that separates conflicting uses, temporal restrictions to reduce congestion, visitor education and signage to promote safe and respectful behavior, and monitoring and adaptive management to evaluate impacts and adjust strategies as needed.

These tools can be applied to the use of powered micromobility devices if appropriate.

3. Comment: One commenter asked the NPS to prohibit powered micromobility devices on natural terrain backcountry areas.

NPS Response: The NPS understands that risks to visitor safety and resources may be greater when powered micromobility devices are used on natural terrain, particularly in backcountry areas that are more primitive and remote. This rule requires rulemaking before powered micromobility devices can be allowed in locations that have never been improved by artificial or processed materials, within developed areas or not. This will allow the NPS to make an informed decision about whether use in these locations would cause unacceptable impacts to visitors or resources. Distinguishing frontcountry and developed areas from backcountry and undeveloped areas can be difficult, especially for System units without current land management use maps. A regulatory framework dependent upon making those distinctions could result in inconsistent decision-making about where powered micromobility devices are prohibited.

In general, the NPS does not expect this rule to result in significant changes to where and how powered micromobility devices are used in park areas compared to current conditions. Use of e-scooters and other powered micromobility devices is largely concentrated in System units located in urban areas with active e-scooter rental systems. Although superintendents will need to reconsider it under this rule, the NPS expects that many will decide to continue to allow existing or similar levels of use. This expectation is supported by the regulatory analysis of this rule referred to below.

4. Comment: Several commenters asked the NPS to prohibit the possession of powered micromobility devices in areas identified as ''potential wilderness'' through a formal planning process or study, even if those areas have not been established as wilderness by Federal statute. These commenters referred to NPS Management Policies Section 6.3.1 that requires the NPS to manage potential wilderness as wilderness and to take no action that would diminish the wilderness eligibility of an area possessing wilderness characteristics until the legislative process of wilderness designation has been completed.

NPS Response: The approach taken in this rule is consistent with how the NPS manages the use of traditional bicycles and electric bicycles in 36 CFR 4.30, which prohibits the possession of those devices in wilderness areas established by Federal statute. These provisions follow the text of the Wilderness Act, which prohibits mechanical transport in wilderness areas designated by Congress. 16 U.S.C. 1133(c). As such, this rule and the bicycle regulations are based upon the best reading of the underlying statutory prohibition, consistent with the direction given to Federal agencies in Executive Order 14219, ''Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative.'' This rule requires rulemaking before powered micromobility devices can be allowed in locations that have never been improved by artificial or processed materials. This will provide ample opportunity for the NPS to consider the potential impacts of powered micromobility devices on wilderness character in accordance with applicable policy

5. Comment: One commenter suggested the rule require the preparation of an environmental assessment (EA) or an environmental impact statement (EIS) under the National Environmental Policy Act (NEPA) before a superintendent can designate natural surface trails for powered micromobility use.

NPS Response: NEPA requires all Federal agencies, including the NPS, to evaluate the potential environmental impacts of major Federal actions before carrying out those actions. As an alternative to the preparation of an EA or EIS, a Federal agency can determine that the proposed action falls within a category of actions that normally does not have a significant effect on the human environment, eliminating the need for an EA or EIS. This is referred to as a categorical exclusion (CE). This rule does not address what form of NEPA compliance (EIS, EA, or CE) is required before a superintendent can designate natural surface trails for powered micromobility use, and therefore allows the NPS to comply with NEPA using any allowable method, including a CE when appropriate. This approach will allow the NPS to manage its resources and allocate taxpayer funds more efficiently and will streamline the approval of new opportunities for public access and recreation in compliance with Federal law. By contrast, requiring the NPS to prepare an EA or EIS before a superintendent can designate natural surface terrain for powered micromobility use would preclude the NPS from using a valid compliance pathway under NEPA. This could lead to unnecessary delays and reviews that are disproportionate to the potential environmental impacts of allowing powered micromobility devices on natural surface trails within a park area. Allowing the NPS to apply NEPA as Congress intended makes this rule consistent with the direction given to Federal agencies in Executive Order 14219, ''Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative'' to ensure that regulations are based on the best reading of the underlying statutory authority or prohibition.

6. Comment: One commenter stated the term ''micromobility device'' can be misleading by suggesting that powered micromobility devices are designed primarily for people with mobility impairments. This commenter suggested a different term, such as ''micro-transport devices,'' to better reflect their purpose and avoid confusion.

NPS Response: The term ''micromobility'' is recognized and used in transportation and regulatory contexts to describe small, lightweight, typically low-speed devices, such as e-scooters, that are used by the general population and not exclusively or primarily by persons with disabilities. The definition of a ''powered micromobility device'' in this rule does not refer to user groups or types of operators, reflecting the use of these devices by the general population for a variety of purposes.

While these devices can improve accessibility, the term powered micromobility device in this rule does not have the same meaning as the term ''other power-driven mobility device'' (OPDMD) as that term is used by the U.S. Department of Justice in guidance implementing the Americans with Disabilities Act of 1990. This rule does not address whether the NPS must allow persons with disabilities to use OPDMDs in NPS facilities within park areas, which requires an evaluation of whether the OPDMD cannot be accommodated due to legitimate safety requirements. Superintendents will make these determinations on a case-by-case basis with assistance from the NPS Accessibility Program, which can be reached by email at *accessibility@nps.gov.* Further guidance about accessibility within park areas can be found in Director's Order #42: Accessibility of National Park Service Facilities, Programs, Services, and Activities for NPS, available on the NPS policy website at *https://www.nps.gov/policy.*

7. Comment: One commenter asked whether emerging over-the-snow electric propulsion technologies such as

electric-skis (e-skis) fall within the scope of the rule.

NPS Response: Snowmobiles are defined separately in NPS regulations under 36 CFR 1.4 and are explicitly excluded from the scope of this rule in the definition of ''powered micromobility device.'' This rule will apply to other over-the-snow devices powered by electric propulsion, including electric skis, provided their characteristics meet the requirements in the definition of ''powered micromobility device.''

8. Comment: One commenter asked the NPS clarify the applicability of this rule to non-federal lands.

NPS Response: The applicability and scope of NPS regulations are defined in 36 CFR 1.2, which explains the circumstances in which NPS regulations apply on non-federal lands within park areas.

9. Comment: One commenter asked the NPS to modify its permitting processes and standards for shared fleet services to be consistent with those used by the District of Columbia Department of Transportation (DDOT) and to harmonize rules for the operation of powered micromobility devices to be consistent between jurisdictions.

NPS Response: The NPS will continue to follow Federal statutory authorities and implementing regulations and guidance for the authorization of business operations in park areas when considering whether to authorize the operation of shared fleets of powered micromobility devices in a park area. The NPS works closely with DDOT to address emerging transportation trends and innovations with the District of Columbia. Shared information and strategies can help inform requests for proposals, permitting and contracting decisions, and applicable terms and conditions for business operations consistent with Federal law. Unless addressed by NPS regulations or restrictions, conditions, or closures established by the superintendent, this rule adopts state law for the use of powered micromobility devices in park areas. Adopting non-conflicting state law promotes a consistent regulatory framework that makes it easier for the public to understand what rules apply to the use of these devices across different jurisdictions.

10. Comment: Several commenters expressed concern about the management of shared powered micromobility devices within park areas, in particular the need to address improper parking, abandonment when batteries lose charge (especially in remote areas), and negative impacts to scenic views and the visitor experience.

NPS Response: Businesses operating fleets of shared powered micromobility devices in park areas must do so pursuant to the terms and conditions of a written authorization from the NPS, such as a concession contract or CUA. These terms and conditions can be crafted to mitigate potential impacts to visitors and resources within park areas. The NPS can require business operators to submit detailed operations plans covering equipment maintenance, inspection schedules, and safe handling of batteries. The NPS can require immediate reporting of incidents involving powered micromobility devices, such as crashes, battery leaks, or charging issues. The NPS can identify corrals where e-scooters can be parked to keep sidewalks and trails clear. The NPS can require business operators to establish geofences that restrict the use of devices in certain locations, penalize users for parking or abandoning devices outside of defined areas, and use fee structures to incentivize users to return their devices to corrals. While NPS manages business operators through the terms and conditions of written instruments, this rule establishes requirements that apply to the users of powered micromobility devices and allows the superintendent to establish restrictions, conditions, and closures on their use, all of which can mitigate impacts to resources and visitors.

11. Comment: One commenter raised concerns about installing charging stations for powered micromobility devices in natural areas.

NPS response: Although charging infrastructure may be necessary to support the use of powered micromobility devices, installing such facilities is outside the scope of this rule. If it becomes necessary, the installation of a charging station within a park area will be subject to established planning, environmental compliance, and permitting processes to ensure that installations are carefully evaluated for potential impacts to natural resources.

12. Comment: One commenter recommended the NPS pursue concession contracts or CUAs with business that operate fleets of powered micromobility devices whenever powered micromobility devices are allowed within a System unit.

NPS Response: National Park System units are guided by foundation documents and a planning portfolio, which include a range of tools such as visitor use studies and Commercial Services Strategies (CSS). These tools help the NPS assess current and future visitor needs and determine the appropriate role of commercial operators in meeting those needs. The CSS process, in particular, allows the NPS to evaluate whether existing management plans support new or expanded services and to conduct market research to inform decisions about commercial visitor services in park areas. Statutory and regulatory criteria also inform these decisions. See, *e.g.,* 54 U.S.C. 101911–24 and 36 CFR part 51 for concession contracts and 54 U.S.C. 101925 for CUAs. The NPS will use these processes and applicable legal frameworks to determine whether the use of powered micromobility devices should be offered as a commercial visitor service in a System unit.

The NPS continuously works to improve visitor services in park areas in order to enhance the visitor experience. On September 9, 2025, the NPS published a request for information (RFI) in the **Federal Register** (90 FR 43472), seeking comments and information from the public to identify improvements that could be made to visitor services in parks, including more efficient ways to deliver and manage those services. The comment period for the RFI closed on October 9, 2025. This RFI was part of the Department of the Interior's implementation of Executive Order 14314, which directs the Secretary of the Interior to take steps to improve services for U.S. residents visiting National Park System units. The NPS will consider the comments received from the RFI as it continues to find ways to promote meaningful experiences for park visitor through greater understanding, access, and enjoyment of America's natural, cultural, historical, and recreational treasures.

13. Comment: Several commenters questioned the NPS's ability to effectively regulate the speed of powered micromobility devices, with one commenter suggesting a 20 mph speed limit on roads and a 10 mph speed limit on paved paths.

NPS Response: This rule allows superintendents to establish speed limits for powered micromobility devices that are reasonable, safe, and consistent with the purposes of the System unit. See 36 CFR 4.21. In addition to establishing and enforcing speed limits, the design and capability of powered micromobility devices and other technology can mitigate potential impacts from unsafe speed. Most powered micromobility devices are designed to travel at or below 20 mph, and many rental and shared fleets are equipped with speed governors or geofencing capabilities that automatically disengage the motor when certain speeds are reached.

14. Comment: Some commenters expressed concerns about the potential environmental impacts of powered micromobility devices on park resources, in particular, impacts to the soundscape, increased trail erosion, and wildlife disturbance.

NPS Response: Preserving park resources for the enjoyment of this and future generations of American citizens is the central mission of the NPS. The framework of this rule is designed to ensure the NPS considers potential impacts to resources before powered micromobility devices are allowed in any location. This rule requires increased levels of public engagement for decisions about use of powered micromobility devices that have more potential for adverse impacts to resources. If superintendents choose to allow the use of powered micromobility devices, they have authority to establish restrictions, conditions, and closures to mitigate potential and observed impacts to resources. Decisions to allow use will be subject to compliance with applicable laws including NEPA. These factors will work together to ensure that the use of powered micromobility devices will not cause unacceptable impacts to park resources, while creating opportunities for access, recreation, and enjoyment for the American public.

15. Comment: One commenter suggested the NPS require users of powered micromobility devices to alert others upon approach to prevent accidents.

NPS Response: This rule applies several requirements to the use of powered micromobility devices that apply to the use of motor vehicles and bicycles (including e-bikes), all of which will help ensure safe and responsible use of shared facilities such as roads, paths, and trails. These include requirements to (1) yield the right of way to pedestrians and saddle animals (36 CFR 4.20); (2) avoid operation without due care or at an unreasonable speed (36 CFR 4.22); (3) have functioning white and red lights or reflectors when operating at night (36 CFR 4.30(h)(3)); and (4) avoid operation abreast of another device except where authorized by the superintendent (36 CFR 4.30(h)(4)). The rule allows the superintendent to establish other restrictions and conditions designed to prevent conflicts among user groups, which might include a requirement to alert others when approaching.

16. Comment: One commenter proposed categorizing powered micromobility devices by width, weight, or maximum speed, to help superintendents determine where each category should be allowed.

NPS Response: Unlike e-bikes, for example, which had an industry-accepted classification system prior to the NPS regulations, there is no such system in place for powered micromobility devices. This rule gives superintendents the discretion to determine whether specific types of powered micromobility devices may be used based upon appropriate criteria, such as resource conditions, facility design and capability, and visitor use patterns. Superintendents may decide to limit the types of powered micromobility devices that can be used in specific locations based upon size or maximum speed if that would be appropriate given the circumstances.

Compliance With Other Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 14192)

This rule has been determined to be not significant for purposes of Executive Order 12866. This rule is an E.O. 14192 deregulatory action. The NPS prepared a cost-benefit analysis for this rule that concluded cost savings will exceed quantified costs. This report may be viewed in the docket for this rulemaking action by visiting *https://www.regulations.gov/* and searching for ''RIN 1024–AE79''. The cost-benefit analysis in that report remains valid for the final rule because no substantive changes were made from the proposed rule to the final version.

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

This final rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the economic analyses found in the report entitled ''Regulatory Analysis of the Powered Micromobility Devices at National Park System Units Proposed Rule.'' The report may be viewed in the docket for this rulemaking action by visiting *https://www.regulations.gov/* and searching for ''RIN 1024–AE79''. The certification in that report remains valid for the final rule because no substantive changes were made from the proposed rule to the final version.

Congressional Review Act

This final rule is not a major rule under 5 U.S.C. 804(2). This final rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(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.

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

This final 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 final rule does not have a significant or unique effect on State, local, or Tribal governments, or the private sector. It addresses public use of lands administered by the NPS and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

This final rule does not effect a taking of private property or otherwise have takings implications under E.O. 12630. A takings implication assessment is not required.

Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, the final rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This final rule only affects the use of federally administered lands. It has no direct effects on other areas. A federalism summary impact statement is not required.

Civil Justice Reform (E.O. 12988)

This final rule complies with the requirements of E.O. 12988. This final rule:

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

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

Consultation With Indian Tribes (E.O. 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-

governance and Tribal sovereignty. The NPS has evaluated this final rule under the criteria in E.O. 13175 and under the Department's Tribal consultation policy and has determined that Tribal consultation is not required because the final rule will have no substantial direct effect on federally recognized Indian Tribes.

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

This final rule contains no new information collections. All information collections require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The NPS may not conduct or sponsor, and you are not required to respond to a collection of information, unless it displays a currently valid Office of Management and Budget (OMB) control number.

National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 et seq.)

This final rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the final rule is covered by a categorical exclusion. The final rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA. The NPS has determined the final rule is categorically excluded under DOI NEPA Handbook (February 2026), Appendix 2, 12.5 D.4, which covers minor changes in programs and regulations pertaining to visitor use activities. The NPS has documented the application of this CE to this final rule.

Compared to the existing regulations, including regulations in 36 CFR 4.10 that apply to motor vehicles (and to powered micromobility devices at present), this final rule makes four changes to existing regulations. As explained below, however, not all of these changes will result in environmental effects, and the changes that will result will be minor.

First, the final rule changes the default rules for the use of powered micromobility devices on park roads and parking areas. The rule allows superintendents to open park roads and parking areas to the use of powered micromobility devices, but only if they designate such locations for the use of powered micromobility devices in the superintendent's compendium. Under the existing regulations that apply to motor vehicles, by contrast, powered micromobility devices are allowed on park roads and parking areas by default.

Second, the final rule creates regulatory pathways by which the NPS can decide to allow powered micromobility devices off roads and parking areas in any System unit. The existing regulations that apply to motor vehicles do not have a regulatory pathway to allow powered micromobility devices off roads and parking areas in System units other than national recreation areas, national seashores, national lakeshores and national preserves. This change does not by itself result in any immediate environmental effects, but rather establishes procedures by which the NPS can take action in future, following appropriate review.

Third, on terrain that now or in the past has been improved by artificial or processed materials in situations that do not meet the criteria for rulemaking in 36 CFR 1.5(b), the final rule confers on superintendents discretion to allow powered micromobility devices by designation in the superintendent's compendium, without rulemaking. Under the existing regulations that apply to motor vehicles, superintendents have no authority to allow powered micromobility devices off roads and parking areas because such actions require notice-and-comment rulemaking. The scope of this change is limited, however, by application of the criteria in 36 CFR 1.5(b) to discretionary actions taken by the superintendent under this final rule, with the result that notice-and-comment rulemaking will be required for actions that are highly controversial or meet other regulatory criteria. To the extent that designating artificially improved surfaces for the use of powered micromobility devices would trigger this rulemaking requirement, then the procedural result would be the same as baseline conditions which require rulemaking in every case. Even where this requirement is not triggered, however, this change does not by itself result in any immediate environmental effects, but rather establishes procedures by which superintendents can take action in future, following appropriate review.

Fourth, the final rule defines coasting devices for clarity. This change results in no changes to visitor use under existing regulations.

As explained in the CE documentation prepared for this rule, these changes are minor, and do not have the potential to result in significant environmental effects. The first of these four changes, prohibiting by default the use of powered micromobility devices on park roads and parking areas, may result in minor shifts in use of the devices in these locations where they have been allowed, until and unless superintendents complete the required process to allow such use. This immediate change in use will be minor because most users of powered micromobility devices in urban areas (where the majority of such use occurs in System units) prefer to ride on sidewalks or in protected bicycle lanes, rather than on roads that are used by motor vehicles. The remaining changes in regulations described above would not result in immediate changes in the use of powered micromobility devices, but rather, would create procedures by which such use could be authorized in future. Such future authorizations would depend on separate actions taken by the NPS, and would be subject to separate NEPA and other compliance. Any effects from these future actions are outside the scope of this rulemaking for NEPA purposes.

Effects on the Energy Supply (E.O. 13211)

This final rule is not a significant energy action under the definition in E.O. 13211; the final rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the final rule has not otherwise been designated by the Administrator of Office of Information and Regulatory Affairs as a significant energy action. A statement of energy effects is not required.

List of Subjects

36 CFR Part 1

National parks, Penalties, Reporting and recordkeeping requirements, Signs and symbols.

36 CFR Part 2

Environmental protection, National parks, Reporting and recordkeeping requirements.

36 CFR Part 4

National Parks, Traffic regulations.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR parts 1, 2, and 4 as set forth below:

PART 1—GENERAL PROVISIONS

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

Authority: 54 U.S.C. 100101, 100751, 320102.

■ 2. Amend § 1.4 in paragraph (a) by:

■ a. Adding, in alphabetical order, the definition for ''Coasting device'';

■ b. Revising the definition for ''Motor vehicle'';

■ c. Adding, in alphabetical order, the definition for ''Powered micromobility device''.

The additions and revision read as follows:

§ 1.4 What terms do I need to know?

(a) * * *

Coasting devices means roller skates, skateboards, roller skis, scooters, or similar wheeled devices that are propelled solely by human power, except a bicycle.

* * * * *

Motor vehicle means every vehicle that is self-propelled and every vehicle that is propelled by electric power, but not operated on rails or water, except an electric bicycle, a snowmobile, a powered micromobility device, and a motorized wheelchair.

* * * * *

Powered micromobility device means a human-operated, self-propelled device with a curb weight of less than 150 pounds and without an internal combustion engine. This definition does not include an electric bicycle, motorized wheelchair, snowmobile, vessel, motor vehicle, or coasting device.

* * * * *

PART 2—RESOURCE PROTECTION, PUBLIC USE AND RECREATION

■ 3. The authority citation for part 2 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102.

■ 4. Revise § 2.20 to read as follows:

§ 2.20 Skating, skateboards, and similar devices.

Using coasting devices is prohibited, except in designated areas.

PART 4—VEHICLES AND TRAFFIC SAFETY

■ 5. The authority citation for part 4 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102.

■ 6. Add § 4.32 to read as follows:

§ 4.32 Powered micromobility devices.

(a) Operating a powered micromobility device is prohibited except in designated locations. Locations must be designated by rulemaking in the **Federal Register** when the designation would meet the criteria in paragraph (b) of § 1.5 of this chapter. Rulemaking in the **Federal Register** also is required before powered micromobility devices are allowed in locations that have never been improved by artificial or processed materials. Artificial or processed materials include, but are not limited to, gravel, asphalt, concrete, steel rail lines, wood boards, soil cement, and resin-based material. Other locations, such as park roads, parking areas, administrative roads, and paved and gravel sidewalks and paths, may be designated by the superintendent after notice is provided using one or more of the methods listed in § 1.7 of this chapter.

(b) A superintendent may restrict or impose conditions on powered micromobility use, or may close any location to powered micromobility use, after:

(1) Taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives; and

(2) Notifying the public using one or more methods listed in § 1.7 of this chapter.

(c) Unless addressed by regulations in this section or by restrictions, conditions, or closures established by the Superintendent, the use of powered micromobility devices is governed by State and local law.

(d) A person operating a powered micromobility device is subject to the following sections of this part that apply to bicycles and electric bicycles: §§ 4.12, 4.13, 4.20, 4.21, 4.22, 4.23, and 4.30(h)(3) through (5).

(e) Possessing a powered micromobility device in a wilderness area established by Federal statute is prohibited, unless otherwise allowed by Federal law.

Kevin J. Lilly,

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

[FR Doc. 2026–16388 Filed 8–11–26; 8:45 am]

BILLING CODE 4312–52–P

Proposed Rules

Federal Register
Vol. 91, No. 154
Wednesday, August 12, 2026

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–7234; Project Identifier AD–2026–00344–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 supersede Airworthiness Directive (AD) 2022–15–01, which applies to certain The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. AD 2022–15–01 requires inspecting certain vertical fin tension bolt holes; reviewing the bolt sealant application installation procedure in the existing maintenance or inspection program, as applicable; checking maintenance records to determine the replacement status of vertical fin tension bolts; and doing applicable on-condition actions. Since the FAA issued AD 2022–15–01, the FAA has determined that optional sealant types allowed by that AD may not provide sufficient time to complete all bolt installations. The FAA has also received additional reports of corrosion that, in some cases, was more severe than expected. As a result, the FAA has determined that the compliance times for certain actions must be reduced. This proposed AD would, for certain airplanes, continue to require certain actions required by AD 2022–15–01 with reduced compliance times. For certain airplanes, this proposed AD would also require reviewing maintenance records to determine whether a correct sealant application method was used and performing 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 28, 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–2026–7234; 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 98198. 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–2026–7234.

FOR FURTHER INFORMATION CONTACT: Joseph Hodgin, Aviation Safety Engineer, FAA, 2200 South 216th St, Des Moines, WA 98198; phone: 206–231–3962; email: *Joseph.J.Hodgin@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–2026–7234; Project Identifier AD–2026–00344–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 Joseph Hodgin, Aviation Safety Engineer, FAA, 2200 South 216th St, Des Moines, WA 98198; phone: 206–231–3962; email: *Joseph.J.Hodgin@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2022–15–01, Amendment 39–22120 (87 FR 43395, July 21, 2022) (AD 2022–15–01), for certain The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. AD 2022–15–01 was prompted by a report that during a C-check, corrosion was found in the vertical fin tension bolt hole located in the aluminum crown frames at Section 48. AD 2022–15–01

requires inspecting certain vertical fin tension bolt holes; reviewing the bolt sealant application installation procedure in the existing maintenance or inspection program, as applicable; checking maintenance records to determine the replacement status of vertical fin tension bolts; and doing applicable on-condition actions. The agency issued AD 2022–15–01 to address undetected corrosion which could lead to the structure falling below residual strength requirements and the loss of the vertical fin, and result in loss of control of the airplane.

Actions Since AD 2022–15–01 Was Issued

Since the FAA issued AD 2022–15–01, the FAA has determined that Boeing Alert Service Bulletin B787–81205–SB550010–00, Issue 001, dated May 24, 2021 (which is specified as guidance material in AD 2022–15–01), allowed optional sealant types that may not provide sufficient time to complete all bolt installations. This could damage the sealant during fastener installation, rendering the actions in that service information ineffective. In addition, corrosion damage was found during the incorporation of Boeing Alert Requirements Bulletin B787–81205–SB550010–00 RB, Issue 001, dated May 24, 2021 (which is required by AD 2022–15–01), that, in some cases, was more severe than expected. The FAA determined that certain compliance times need to be reduced and that, for airplanes on which those optional sealant types may have been used, a review of maintenance records to determine the sealant application method used and applicable on-condition actions is needed.

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 Alert Requirements Bulletin B787–81205–SB550010–00 RB, Issue 002, dated March 11, 2026. This material specifies, depending on configuration, procedures for a detailed inspection of vertical fin tension bolt holes (16 locations) in the aluminum crown frame, composite deck, and root fittings for corrosion and finish degradation; a review of the existing maintenance or inspection program, as applicable, related to the vertical fin tension bolt installation procedure to determine if the sealant application is correct; a review of maintenance records to determine if a vertical fin tension bolt has been replaced and to determine the sealant application procedure used; a review of maintenance records to determine if a correct sealant application method was used; and applicable on-condition actions.

On-condition actions include applying sealant and finish; installing new vertical fin tension bolts and barrel nuts; revising the existing maintenance or inspection program as applicable, to include the minimum requirement for the correct vertical fin tension bolt sealant application procedure; a detailed inspection of the affected vertical fin tension bolt holes in the aluminum crown frame, composite deck, and root fittings for, depending on configuration, corrosion, finish degradation, and existing repairs; and repair.

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

Proposed AD Requirements in This NPRM

This proposed AD would retain certain of the requirements of AD 2022–15–01, with reduced compliance times. For certain airplanes, this proposed AD would also require reviewing maintenance records to determine whether a correct sealant application method was used and performing applicable on-condition actions. This proposed AD would also 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–2026–7234.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 116 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection sealant application, and bolt/nut installation.	6 work-hours × $85 per hour = $510	$37,750	$38,260	Up to $4,438,160.
Maintenance program review	1 work-hour × $85 per hour = $85	0	85	$9,860
Records review (bolt replacement and sealant procedure).	1 work-hour × $85 per hour = $85	0	85	$9,860
Records review (sealant application)	1 work-hour × $85 per hour = $85	0	85	$9,860

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on the results of the proposed actions. The agency has no way of determining the number of aircraft that might need these actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Inspection, sealant application, and bolt/nut installation.	6 work-hours × $85 per hour = $510	$37,750	$38,260
Maintenance records check	1 work-hour × $85 per hour = $85	0	85
Inspection for corrosion, finish degradation, repairs	1 work-hour × $85 per hour = $85	0	85

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the FAA estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

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

The FAA has included all known costs in its cost estimate. According to the 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:

■ a. Removing Airworthiness Directive (AD) 2022–15–01, Amendment 39–22120 (87 FR 43395, July 21, 2022), and

■ b. Adding the following new AD:

The Boeing Company: Docket No. FAA–2026–7234; Project Identifier AD–2026–00344–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by September 28, 2026.

(b) Affected ADs

This AD replaces AD 2022–15–01, Amendment 39–22120 (87 FR 43395, July 21, 2022) (AD 2022–15–01).

(c) Applicability

This AD applies to The Boeing Company Model 787–8, 787–9, and 787–10 airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin B787–81205–SB550010–00 RB, Issue 002, dated March 11, 2026.

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Unsafe Condition

This AD was prompted by a report that during a C-check, corrosion was found in the vertical fin tension bolt hole located in the aluminum crown frames at Section 48, and by additional findings of corrosion damage during accomplishment of AD 2022–15–01, which, in some cases, was more severe than expected. This AD was also prompted by a determination that an optional sealant type may not provide sufficient time to complete all bolt installations, possibly leading to damage to the sealant. The FAA is issuing this AD to address undetected corrosion, which could lead to the structure falling below residual strength requirements and the loss of the vertical fin, and result in loss of control 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 Alert Requirements Bulletin B787–81205–SB550010–00 RB, Issue 002, dated March 11, 2026, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin B787–81205–SB550010–00 RB, Issue 002, dated March 11, 2026.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin B787–81205–SB550010–00, Issue 003, dated March 11, 2026, which is referred to in Boeing Alert Requirements Bulletin B787–81205–SB550010–00 RB, Issue 002, dated March 11, 2026.

(h) Exceptions to Requirements Bulletin Specifications

(1) Where the Compliance Time columns of the tables in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin B787–81205–SB550010–00 RB, Issue 002, dated March 11, 2026, refer to the Issue 002 date of Requirements Bulletin B787–81205–SB550010–00 RB, this AD requires using the effective date of this AD.

(2) Where Boeing Alert Requirements Bulletin B787–81205–SB550010–00 RB, Issue 002, dated March 11, 2026, specifies contacting Boeing for repair instructions and doing the repair, this AD requires doing the repair using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(3) Where the columns of the tables in the Accomplishment Instructions of Boeing Alert Requirements Bulletin B787–81205–SB550010–00 RB, Issue 002, dated March 11, 2026, specify to refer to listed procedures in ''SB B787–81205–SB550010–00, Issue 001'', this AD requires replacing that text with ''SB B787–81205–SB550010–00, Issue 002''.

(i) Alternative Methods of Compliance (AMOCs)

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

(j) Additional Information

(1) For more information about this AD, contact Joseph Hodgin, Aviation Safety Engineer, FAA, 2200 South 216th St, Des Moines, WA 98198; phone: 206–231–3962; email: *Joseph.J.Hodgin@faa.gov.*

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

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin B787–81205–SB550010–00 RB, Issue 002, dated March 11, 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 98198. 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 August 5, 2026.

Brian Knaup,

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

[FR Doc. 2026–16389 Filed 8–11–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–0763]

RIN 1625–AA87

Security Zone; U.S. Coast Guard Base, Los Angeles Harbor Main Channel, Los Angeles, CA

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a permanent security zone extending 40 yards into the navigable waters of the main channel of Los Angeles Harbor including the entire perimeter of the Coast Guard Base on Terminal Island. This action is necessary for the security of military service members on vessels, and military members and government property on Terminal Island. All persons and vessels would be prohibited from entering, transiting through, or anchoring in the proposed security zone unless authorized by the Captain of the Port Los Angeles-Long Beach. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before September 11, 2026.

ADDRESSES: To submit comments and view available documents, go to *https://www.regulations.gov* and search for USCG–2026–0763.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rule, contact LCDR Anthony Solares, Sector Los Angeles—Long Beach Waterways Management Division, U.S. Coast Guard; telephone 310–521–3860, email *D11-SMB-SectorLALB-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

In the past, a variety of activities directly adjacent to or subsurface in the vicinity of Coast Guard assets have required immediate response actions to safeguard the personnel and property of U.S. Coast Guard Base Los Angeles-Long Beach on Terminal Island within the main channel of Los Angeles Harbor. The Captain of the Port (COTP) Los Angeles-Long Beach has identified a need to create a permanent security zone to address safety and security risks for personnel and property. Therefore, the COTP is proposing this rule under the authority in 46 U.S.C. 70051 and 70124, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the security zone.

III. Discussion of the Rule

This proposed rule would establish a security zone on October 1, 2026. The security zone would cover all navigable waters within 40 yards of the Coast Guard Base on Terminal Island. No vessel or person would be permitted to enter the security zone without obtaining permission from the COTP 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. 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 within the main channel. This regulation will only impact a small area around the Coast Guard Base. In addition, the Coast Guard will issue a Local Notice to Mariners (LNM) and Marine Safety Information Bulletin (MSIB) which will notify entities of the security zone and allows vessels to request permission to enter the regulated area from the COTP.

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

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

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

B. Collection of Information

This 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 security 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–2026–0763 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 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T11–243 to read as follows:

§ 165.T11–243 Security Zone; U.S. Coast Guard Base, Los Angeles Harbor Main Channel, Los Angeles, CA.

(a) *Location.* The following area is a security zone: All waters of Los Angeles Harbor Main Channel, from surface to bottom, encompassed by a line connecting the following points beginning at 33°43.730′ N 118°16.220′ W; thence to 33°43.304′ N 118°16.062′ W; thence to 33°43.314′ N 118°16.013′ W; thence to 33°43.284′ N 118°16.000′ W; thence to 33°43.271′ N 118°16.078′ W; thence to 33°43.722′ N 118°16.262′ W; thence to and along the shoreline back to the beginning point. These coordinates are based on the World Geodetic System (WGS 84).

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

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

(2) To request permission to enter this security zone, contact United States Coast Guard Sector Los Angeles—Long Beach Command Center at 310–521–3801. Those in the security zone must comply with all lawful orders or directions given to them by the COTP or Designated Representative.

(d) *Enforcement period.* This section will be enforced starting on October 1, 2026.

Stacey L. Crecy,

Captain, U.S. Coast Guard, Captain of the Port Los Angeles—Long Beach.

[FR Doc. 2026–16406 Filed 8–11–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1356

RIN 0970–AC23

Adoption and Foster Care Analysis and Reporting System

AGENCY: Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Proposed rule; withdrawal.

SUMMARY: This document withdraws a proposed rule that was published in the

Federal Register on January 11, 2008. The proposed rule would have amended the Adoption and Foster Care Analysis and Reporting System (AFCARS) regulations at 45 CFR 1355.40 and the appendices to Part 1355 to modify the requirements for States to collect and report data to ACF on children in out-of-home care and in subsidized adoption or guardianship arrangements with the State. This document also withdraws the provision of the 2008 proposed rule that implemented the AFCARS penalty requirements of the Adoption Promotion Act of 2003 (Pub. L. 108–145).

DATES: The proposed rule published January 11, 2008 (73 FR 2082) is withdrawn effective August 12, 2026.

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

SUPPLEMENTARY INFORMATION: ACF published a notice of proposed rulemaking (NPRM) related to AFCARS in the **Federal Register** on January 11, 2008. The proposed rule would have amended the Adoption and Foster Care Analysis and Reporting System (AFCARS) regulations at 45 CFR 1355.40 and the appendices to Part 1355 to modify the requirements for States to collect and report data to ACF on children in out-of-home care and in subsidized adoption or guardianship arrangements with the State. The 2008 proposed rule would also have implemented the AFCARS penalty requirements of the Adoption Promotion Act of 2003 (Pub. L. 108–145).

ACF does not intend to publish a final rule following the publication of this NPRM on January 11, 2008. This decision was made due to the fact that the NPRM was published nearly 20 years ago by a prior Administration, and its continued existence on the **Federal Register** serves to only confuse the public. There have been multiple Administrations spanning this timeframe, with none seeking to finalize this proposed rulemaking. This withdrawal represents good governance and will ease the understandability of current Administration priorities for the public.

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

[FR Doc. 2026–16414 Filed 8–11–26; 8:45 am]

BILLING CODE 4184–01–P

Notices

Federal Register
Vol. 91, No. 154
Wednesday, August 12, 2026

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

Pacific Northwest National Laboratory et al; Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before September 1, 2026. Address written comments to Statutory Import Programs Staff, Room 40005, U.S. Department of Commerce, Washington, DC 20230. Please also email a copy of those comments to *SIPS-Florence@trade.gov.*

Docket Number: 26–105. *Applicant:* Pacific Northwest National Laboratory, 790 6th Street Richland, WA 99354. *Instrument:* Nu Sapphire. *Manufacturer:* Nu Instruments, United Kingdom. *Intended Use:* The instrument is intended to measure isotopic ratio of elements. *Justification for Duty-Free Entry:* According to the applicant, there are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* December 1, 2025.

Docket Number: 26–109. *Applicant:* UChicago Argonne LLC, 9700 S Cass Avenue, Lemont, Illinois 60439. *Instrument:* CVD Diamond Windows. *Manufacturer:* Diamond Materials GmbH & Co. KG, Germany. *Intended Use:* The instrument is intended to be used in research to absorb heat from X-ray source. *Justification for Duty-Free Entry:* According to the applicant, there are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* November 25, 2025.

Docket Number: 26–136. *Applicant:* UChicago Argonne LLC, 9700 S Cass Avenue, Lemont, Illinois 60439. *Instrument:* RF Power Amplifier. *Manufacturer:* SEOCAL Incorporated (dba CORNES Technologies USA), Japan. *Intended Use:* The instrument is intended to be used to study material properties for use in material science and biomedical applications. *Justification for Duty-Free Entry:* According to the applicant, there are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* October 28, 2025.

Docket Number: 26–139. *Applicant:* UChicago Argonne LLC, 9700 S Cass Avenue, Lemont, Illinois 60439. *Instrument:* Electron Bean Evaporator. *Manufacturer:* SPECS GmbH, BU FOCUS, Germany. *Intended Use:* The instrument is intended to be used to evaporate materials for thin film studies. *Justification for Duty-Free Entry:* According to the applicant, there are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* October 6, 2025.

Dated: August 7, 2026.

Lana Nigro,

Acting Director, Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2026–16447 Filed 8–11–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

UChicago Argonne LLC et al; Notice of Decision on Application for Duty-Free Entry of Scientific Instruments

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). On July 8, 2026, the Department of Commerce published a notice in the **Federal Register** requesting public comment on whether instruments of equivalent scientific value, for the purposes for which the instruments identified in the docket(s) below are intended to be used, are being manufactured in the United States. *See Application(s) for Duty-Free Entry of Scientific Instruments,* 91 FR 42175, July 8, 2026. We received no public comments.

Comments: None received. *Decision:* Approved. We know of no instrument of equivalent scientific value to the foreign instrument described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order.

Docket Number: 26–034. *Applicant:* UChicago Argonne LLC, 9700 South Cass Avenue, Lemont, Illinois 60439. *Instrument:* Taylor Reactor. Manufacturer: Laminar Co. Ltd., Republic of Korea. *Intended Use:* The instrument is intended to obtain the precursors (pCAM) of lithium-ion and sodium-ion battery cathode materials.

Docket Number: 26–042. *Applicant:* Lawrence Berkeley National Laboratory, One Cyclotron Road, Berkeley, CA 94720. *Instrument:* LS Spectrometer. *Manufacturer:* LS Spectrometer, Switzerland. *Intended Use:* The instrument is intended to be used to study battery electrolyte solutions, liquid crystals, and non-equilibrium ion transport.

Docket Number: 26–047. *Applicant:* Lawrence Berkeley National Laboratory, One Cyclotron Road, Berkeley, CA 94720. *Instrument:* JIB–4700F Multi-Beam System. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument is intended to study macromolecular organization within a cell.

Docket Number: 26–052. *Applicant:* Iowa State University, Ames National Laboratory, 2408 Pammel Drive, Ames, IA 50011. *Instrument:* Gyrotron and DNP Probe. *Manufacturer:* Bruker AG, Switzerland. *Intended Use:* The instrument is intended to be used to upgrade an existing nuclear magnetic resonance (NMR) spectrometer into a dynamic nuclear polarization NMR spectrometer.

Docket Number: 26–057. *Applicant:* UChicago Argonne LLC, 9700 South Cass Avenue, Lemont, IL 60439. *Instrument:* Cryoprobe. *Manufacturer:* Bruker Biospin Corporation, Switzerland. *Intended Use:* The instrument is intended to advance the sensitivity of the spectroscopy and to study diamagnetic or paramagnetic

materials appropriate for nuclear magnetic resonance spectroscopy.

Docket Number: 26–072. *Applicant:* UChicago Argonne LLC, 9700 South Cass Avenue, Lemont, IL 60439. *Instrument:* Laser Rack System. *Manufacturer:* Toptica Photonics, Germany. *Intended Use:* The instrument is intended to be used to study the residence time or age of groundwater via isotopic analysis of gas extracted from the water.

Docket Number: 26–077. *Applicant:* UChicago Argonne LLC, 9700 South Cass Avenue, Lemont, IL 60439. *Instrument:* High Energy Small Pixel Detector. *Manufacturer:* PI-Tecnologia Ltda, Brazil. *Intended Use:* The instrument is intended to be used to study high-energy X-ray interactions with various materials and phenomena including advanced materials and nanostructures, biological and soft matter systems.

Docket Number: 26–078. *Applicant:* Lawrence Berkeley National Laboratory, 1 Cyclotron Road, Berkeley, CA 94720. *Instrument:* JEM–3300 CRYO Arm (Electron Miscroscope usable at cryogenic conditions). *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument is intended to be used to study the structure of biological samples and material systems at high-resolutions down to the atomic scale.

Docket Number: 6–084. *Applicant:* UChicago Argonne LLC, 9700 South Cass Avenue, Lemont, IL 60439. *Instrument:* Control Platform and Accessories. Manufacturer: Imperix Ltd., Switzerland. *Intended Use:* The instrument is intended to be used to assemble a microgrid power hardware in the loop simulation to enhance reliability and resilience of the electric power grid.

Dated: August 7, 2026.

Lana Nigro,

Acting Director, Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2026–16448 Filed 8–11–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Steel Import License

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on May 15, 2026, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: International Trade Administration, Commerce.

Title: Steel Import License.

OMB Control Number: 0625–0245.

Form Number(s): ITA–4141P.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 4,250.

Average Hours per Response: Less than 10 minutes.

Burden Hours: 78,820 hours, including 416 burden hours for low-value licenses.

Needs and Uses: In order to monitor steel imports in real-time and to provide the public with real-time data, the Department of Commerce must collect and provide timely aggregated summaries about these imports. The Steel Import License is the tool used to collect the necessary information. The Census Bureau currently collects import data and disseminates aggregate information about steel imports. However, the time required to collect, process, and disseminate this information through Census can take up to 45 days after importation of the product, giving interested parties and the public far less time to respond to injurious sales.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

Legal Authority: 13 U.S.C. 301(a) and 302.

This information collection x may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0625–0245.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2026–16445 Filed 8–11–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–890]

Wooden Bedroom Furniture From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) continues to determine that 11 companies under review did not establish their entitlement to a separate rate and are thus part of the People's Republic of China (China)-wide entity and subject to the China-wide entity rate. The period review (POR) is January 1, 2024, through December 31, 2024.

DATES: Applicable August 12, 2026.

FOR FURTHER INFORMATION CONTACT: Krisha Hill, 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) 482–4037.

SUPPLEMENTARY INFORMATION:

Background

On April 13, 2026, Commerce published in the **Federal Register** the preliminary results of the administrative review of the order.[1] Because no parties commented on the *Preliminary Results,* we have adopted the *Preliminary Results* as the final results of the review.

Scope of the Order [2]

The product covered by the *Order* is wooden bedroom furniture from China. A full description of the scope of the *Order* is provided in the *Preliminary Results* at Appendix I.

[1] *See Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2024,* 91 FR 18825 (April 13, 2026) (*Preliminary Results*).

[2] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture from the People's Republic of China,* 70 FR 329 (January 4, 2005) (*Order*).

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213. We have adopted the *Preliminary Results* in these final results of review and thus, no decision memorandum accompanies this notice.

Final Results of Review

The following companies are part of the China-wide entity and subject to the China-wide rate: (1) Fine Furniture (Shanghai) Ltd.; (2) Jiangmen Kinwai Furniture Decoration Co., Ltd.; (3) Jiangmen Kinwai International Furniture Co., Ltd ; (4) Nathan International Ltd., Nathan Rattan Factory; (5) Rui Feng Woodwork Co., Ltd., Rui Feng Lumber Development Co., Ltd., Dorbest Ltd.; (6) Shenyang Shining Dongxing Furniture Co., Ltd.; (7) Wanvog Furniture (Kunshan) Co., Ltd.; (8) Yeh Brothers World Trade Inc.; (9) Zhangzhou Guohui Industrial & Trade Co. Ltd.; (10) Zhongshan Fookyik Furniture Co., Ltd. and (11) Shenzhen New Fudu Furniture Co., Ltd.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce has determined, 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. No earlier than 35 days after the date of publication of this notice in the **Federal Register**, Commerce intends to instruct CBP to liquidate any entries of subject merchandise from the companies listed above at the China-wide rate. If a timely summons is filed at the U.S. Court of International Trade, we will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice in the **Federal Register** for all shipments of subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided by section 751(a)(2)(C) of the Act: (1) for any previously investigated or reviewed China or non-China exporter that has a separate rate, the cash deposit rate will continue to be the exporter's existing cash deposit rate; (2) for all China exporters of subject merchandise that do not have a separate rate, including those exporters that failed to establish their eligibility for a separate rate in this review, the cash deposit rate will be equal to the dumping margin assigned to the China-wide entity, which is 216.01 percent; [3] and (3) for all non-China exporters of subject merchandise that do not have a separate rate, the cash deposit rate will be equal to the dumping margin applicable to the China exporter(s) that supplied that non-China exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

This notice also serves as the only reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

We are issuing and publishing the final results of this review in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h)(2) and 351.221(b)(5).

Dated: August 6, 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. 2026–16446 Filed 8–11–26; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See Preliminary Results,* 91 FR at 18827.

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket Number: 260805–0401]

XRIN 0693–XC139

Request for Information (RFI) on Modernizing the National Vulnerability Database in the Age of Artificial Intelligence

AGENCY: Information Technology Laboratory (ITL), National Institute of Standards and Technology (NIST), U.S. Department of Commerce.

ACTION: Notice; Request for Information (RFI).

SUMMARY: The National Institute of Standards and Technology (NIST) established and operates the National Vulnerability Database (NVD), which provides the U.S. government repository of standards-based vulnerability management data. NIST seeks stakeholder input on opportunities, challenges, and priorities for modernizing the NVD in an evolving cybersecurity landscape increasingly shaped by artificial intelligence (AI) and machine-consumable security data. NIST's goal is to improve the NVD's scalability, automation, interoperability, transparency, and utility.

DATES: Comments in response to this notice must be received on or before October 13, 2026, at 11:59 p.m. Eastern Time. Submissions received after that date may not be considered.

ADDRESSES: Comments must be submitted electronically via the Federal e-Rulemaking Portal.

1. Go to *www.regulations.gov* and enter NIST–2026–0100 in the search field;

2. Click the ''Comment Now!'' icon, complete the required fields, including the relevant document number and title in the subject field; and

3. Enter or attach your comments.

Additional information on the use of *regulations.gov,* including instructions for accessing agency documents, submitting comments, and viewing the docket is available at: *www.regulations.gov/faq.* If you require an accommodation or cannot otherwise submit your comments via *regulations.gov,* please contact NIST using the information in the **FOR FURTHER INFORMATION CONTACT** section below.

NIST will not accept comments for this notice by postal mail, fax, or email. To ensure that NIST does not receive duplicate copies, please submit your comments only once. Comments

containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials.

All relevant comments received by the deadline will be posted at: *https://www.regulations.gov* under docket number NIST–2026–0100 without change or redaction, so commenters should not include information they do not wish to be posted publicly (*e.g.,* personal or confidential business information).

FOR FURTHER INFORMATION CONTACT: For questions about this RFI contact: Cristina Ritfeld, *NVD-RFI@nist.gov.* Direct media inquiries to NIST's Communications and Outreach Office at (301) 975–2762. Users of telecommunication devices for the deaf, or a text telephone may call the Federal Relay Service toll free at 1–800–877–8339. NIST will make the RFI available in alternate formats, such as Braille or large print, upon request by persons with disabilities.

SUPPLEMENTARY INFORMATION: The National Vulnerability Database (NVD), established and operated by NIST, provides the U.S. government repository of standards-based vulnerability management data. The NVD is a foundational resource for vulnerability management, software security, compliance automation, and cybersecurity risk analysis across the public and private sectors. It provides standardized vulnerability enrichment and associated metadata consumed by a broad ecosystem of security tools and operational workflows. It is a part of the broader vulnerability management ecosystem that encompasses processes, standards, and tools involved in one or more phases of the vulnerability lifecycle of identifying, validating, disclosing, disseminating, prioritizing, and remediating software and system vulnerabilities.

Today, the NVD ingests Common Vulnerabilities and Exposures (CVE) records [1] within approximately an hour of publication using automated processes. NVD analysts then enrich CVE records with additional information and analysis such as severity scores and affected product versions. Users and security tools can access the enriched CVE records through the NVD's web interface or through automated mechanisms.

Today's vulnerability management ecosystem is rapidly evolving and is characterized by AI-enabled cyber tools and accelerated technology delivery cycles. Malicious actors may seek to leverage AI systems to discover and exploit vulnerabilities at scale and to support post-exploitation activities. The inadequacies of traditional vulnerability management approaches, which center on periodic scanning, static prioritization, and manual remediation, are increasingly apparent. Several trends present both challenges and opportunities for modernization, including the growth in the volume and complexity of disclosed vulnerabilities; a range in the quality of data; increased reliance on automation and machine-readable security data; the expansion of technology security risk management practices; the emergence of AI-assisted vulnerability discovery, triage, exploitation, and remediation; demand for near real-time vulnerability enrichment; and resource constraints associated with scaling vulnerability analysis and enrichment activities.

The advancement of AI presents an opportunity to transform the vulnerability management ecosystem. This requires input from across the community to ensure this ecosystem is effective, scalable, and resilient in the face of emerging threats. NIST plays a key role in this ecosystem, which also relies on other organizations and individuals, including those who identify, evaluate, provide, and implement solutions to manage cybersecurity risks. NIST intends to support a future-ready vulnerability management ecosystem that is continuous, contextual, and automated, while enabling cybersecurity practices to respond appropriately to real-world threats and business priorities.

NIST is using this RFI to give the broader community an opportunity to identify forward-looking perspectives, practical recommendations, and innovative models to help shape the NVD moving forward. Responses are intended to inform future strategic planning, technical architecture decisions, standards and best practices development, data governance approaches, and community collaborations related to the continued evolution of the NVD.

NIST seeks stakeholder perspectives on how the NVD can grow to better support cybersecurity outcomes while maintaining trust, transparency, accuracy, and broad accessibility.

Request for Information

This RFI provides the broader community an opportunity to identify forward-looking perspectives, practical recommendations, and innovative models to help shape the NVD. Respondents are encouraged to address any or all of the following questions.

(1) Vulnerability Management Process

a. Where in today's vulnerability management lifecycle (*e.g.,* identifying, validating, disclosing, disseminating, prioritizing, remediating) are the biggest bottlenecks that could be improved with greater AI-enabled automation?

b. Which tasks are most appropriate for AI-enabled automation? Which tasks should require human review? For tasks requiring human review, what information is needed, and how can reviews be arranged to both minimize time spent and avoid over-reliance on AI?

c. What are the novel governance and risk management considerations that should be taken into account in modernizing the vulnerability management ecosystem?

d. What other actions could NIST and others involved in the vulnerability management process take to improve vulnerability management processes?

(2) Vulnerability Information Dissemination

a. What capabilities, products, and processes, AI or otherwise, are needed to improve the responsible and timely dissemination of vulnerability information to technology developers and the broader community of affected stakeholders?

b. What existing standards and technical guidelines are most helpful for disseminating vulnerability information? What gaps in standards and guidelines exist? How should addressing those gaps be prioritized?

c. What other actions could NIST and others involved in the vulnerability management process take to improve vulnerability information dissemination?

(3) Risk Assessment and Prioritization

a. How can the use of AI or other automated mechanisms improve contextual risk prioritization? What data sources and information should be considered by NIST to inform prioritization decisions?

b. How might transparency and auditability in AI-driven prioritization decisions be enhanced?

c. What data and system context is needed by organizations to prioritize vulnerabilities accurately in production environments?

d. How can the NVD improve interoperability and integration with other vulnerability management ecosystem components (*e.g.,* vulnerability disclosure programs, vendor advisories, threat intelligence providers, asset management platforms, security tool vendors, remediation

[1] *https://www.cve.org/Downloads.*

workflows) to enable more timely, accurate, actionable and contextual vulnerability management?

e. What other actions could NIST and others involved in the vulnerability management process take to improve risk assessment and prioritization?

(4) Remediation Development, Deployment, and Monitoring

a. What new mechanisms, standards, and procedures may be necessary for automated vulnerability remediation? What role, if any, should AI systems have in automated vulnerability remediation?

b. What organizational structures, policies, processes, and frameworks are needed for organizations and open-source projects to manage AI-generated remediations?

c. What controls and safeguards are needed to prevent erroneous AI-generated remediations?

d. What are the biggest barriers to stakeholders (*e.g.,* users, developers, organizations) remediating vulnerabilities after they receive prompt and comprehensive vulnerability information?

e. What process and organizational dependencies (*e.g.,* discovery and asset inventory) are prerequisites for organizations to more fully operationalize automated vulnerability remediation?

f. What other actions could NIST and others involved in the vulnerability management process take to improve vulnerability remediation development, deployment, and monitoring?

(5) Vulnerability Data and Standards

a. What changes are needed in organizational structures, processes, procedures, standards, and specifications to improve the quality of vulnerability data?

b. Are existing standards, context, and specifications for vulnerability data, including vulnerability identifiers, product naming schemes, and severity scoring systems, sufficient for improving actionable prioritization of vulnerabilities in the AI era? If so, please describe.

c. What gaps are there in existing standards and specifications?

d. What information is needed for organizations to efficiently and effectively manage the increasing number of identified vulnerabilities, including vulnerability prioritization and product identification?

e. What changes are needed to improve machine-readable vulnerability data (*e.g.,* data in the NVD) to improve vulnerability prioritization and contextualization?

f. What other actions could NIST and others involved in the vulnerability management process take to improve vulnerability data and standards?

(6) Development Processes

a. How can organizations effectively integrate AI-enabled tools into technology development processes to proactively identify, reduce, and remediate security vulnerabilities, and to enhance overall vulnerability management practices throughout the system lifecycle? What changes, if any, are needed to processes, procedures, standards, and specifications to enable this integration.

(7) Vision for the NVD

a. What has been the value of the NVD to organizations? To the extent practicable, please describe how organizations may use the NVD and what activities or decisions the NVD informs.

b. What capabilities and services can be integrated into the NVD to increase its impact over the next five years?

c. What emerging cybersecurity trends relevant to the vulnerability management should the NVD anticipate over the next five years?

d. What capabilities and services will enhance the NVD's utility for vulnerability analysts, technology developers, researchers, and policymakers?

e. What metrics should be considered to track and evaluate the success of the NVD and any modernization efforts?

Authority: 15 U.S.C. 272(b), (c) and 278g–3.

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2026–16371 Filed 8–11–26; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF953]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of hybrid meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Groundfish Plan Teams will meet September 08, 2026, through September 11, 2026.

DATES: The meetings will be held on Tuesday, September 08, 2026 through Thursday, September 11, 2026, from 8 a.m. to 4 p.m., Alaska Time (9 a.m. to 5 p.m., Pacific time).

ADDRESSES: These meetings will be hybrid meetings. The in-person component of the meetings will be held at the Alaska Fisheries Science Center (AFSC), in the Traynor Room 2076 and Room 2079, 7600 Sand Point Way NE, Building 4, Seattle, WA 98115. If you plan to attend in person, you must notify Sara Cleaver (*scleaver@npfmc.org*) or Diana Stram (*dstram@npfmc.org*) at least 2 days prior to the meeting (or 2 weeks prior if you are a foreign national). You will also need a valid U.S. Identification Card. If you are attending virtually, join the meeting online through the links at *https://meetings.npfmc.org/Meeting/Details/5140.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Suite 400, Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Sara Cleaver, Council staff; email: *scleaver@npfmc.org* or Diana Stram, Council staff; email *dstram@npfmc.org.*

For technical support, please contact our administrative staff; email: *support@npfmc.org,* or telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

Tuesday, September 08, 2026, Through Thursday, September 11, 2026

The Bering Sea and Aleutian Islands (BSAI) and Gulf of Alaska (GOA) Groundfish Plan Teams will meet to review and discuss issues of importance to both Plan Teams, including but not limited to: An Ecosystem Status Report climate preview, preliminary survey information, updates on model progress for stock assessments to be presented in November, and proposed harvest specifications for some stocks. Additionally, at this meeting final stock assessment documents will be reviewed for Bogoslof pollock, GOA arrowtooth flounder, GOA skates, GOA rex sole, and all stocks with harvest projections. For these stocks, final groundfish OverFishing Limits (OFLs) and Acceptable Biological Catches (ABCs) will be recommended for 2027/2028. The agenda is subject to change, and more information as well as the latest version of the agenda will be posted at *https://meetings.npfmc.org/Meeting/*

Details/5140 prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smartphone; or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/5140.* For technical support, please contact our administrative staff; email: *support@npfmc.org,* or telephone: (907) 271–2809.

Public Comment

Public comment letters should be submitted electronically via the electronic agenda at *https://meetings.npfmc.org/Meeting/Details/5140.*

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

Dated: August 7, 2026.

Anna Michelle Harrison,

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

[FR Doc. 2026–16424 Filed 8–11–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Implementation of Vessel Speed Restrictions To Reduce the Threat of Ship Collisions With North Atlantic Right Whales

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before October 13, 2026.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–0580 in the subject line of your comments. All comments received are part of the public record and will generally be posted on *https://www.regulations.gov* without change. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Meghan Gahm, NOAA Fisheries Office of Protected Resources, 1315 East-West Highway, 13th Floor, Silver Spring, MD 20910; (301) 427–8494; *meghan.gahm@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS) is requesting renewal of a currently approved collection of information. On October 10, 2008, NMFS published a final rule with regulations (0648–AS36) implementing seasonal speed restrictions along the east coast of the United States. to reduce the incidence and severity of vessel collisions with endangered North Atlantic right whales (73 FR 60173). The final rule contained a mandatory collection-of-information requirement subject to the Paperwork Reduction Act (PRA). Specifically, 50 CFR 224.105(c) requires a logbook entry to document that a deviation from the speed limit was necessary for safe maneuverability under certain conditions.

On November 18, 2021, the information collection was revised to include a voluntary survey of vessel operators to evaluate their ability and willingness to: (1) comply with North Atlantic right whale mandatory speed restrictions, and (2) cooperate with voluntary speed reduction efforts to protect North Atlantic right whales, which are promoted through NMFS outreach efforts. NOAA collects information from two types of vessels (pleasure yachts and large ocean-going vessels) in two different areas of the North Atlantic right whales' range using voluntary online surveys and small focus groups. The surveys collect information about vessel operators' time spent on the water, experience and knowledge about large whales, knowledge of North Atlantic vessel strike reduction efforts, opinions about these whales and conservation efforts, and their preferred means of receiving information. Results from this information collection will be used to develop effective outreach to these vessel communities, with the long-term goal of improving the communities' compliance with mandatory measures and cooperation with voluntary measures that support North Atlantic right whale vessel strike reduction conservation efforts.

On January 25, 2026, the information collection was extended, without revision, and expires January 31, 2027. This notice requests another extension without revisions to the currently approved information collection.

II. Method of Collection

Vessel logbook entries are required from vessel operators if an exception to the vessel speed restriction is invoked and the speed limit exceeded. Typically, paper logbooks are not routinely submitted to a federal agency and remain entirely on individual vessels. However, logbooks may be requested by federal authorities if questions arise regarding the circumstances under which the deviation was invoked. Voluntary survey effort information is collected in three ways: (1) electronically; (2) in-person focus groups; or (3) virtual focus groups.

III. Data

OMB Control Number: 0648–0580.

Form Number(s): None.

Type of Review: Regular submission [extension of a current information collection].

Affected Public: Individuals or households; Business or other for-profit organizations.

Estimated Number of Respondents: 3,624.

Estimated Time per Response: Five minutes for safety deviation logbook entry; one hour for electronic survey; two hours and 30 minutes for focus groups.

Estimated Total Annual Burden Hours: 674 hours.

Estimated Total Annual Cost to Public: $0.00.

Respondent's Obligation: Logbook entries are required to lawfully deviate from the speed regulations; survey is voluntary.

Legal Authority: Endangered Species Act, 16 U.S.C. 1531 *et seq.;* and Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*

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 information collection request. 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. 2026–16395 Filed 8–11–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; NOAA Diving Program

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce 2.

ACTION: Notice of Information Collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before October 13, 2026.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–0822 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to NOAA Diving Center Executive Officer, NOAA Diving Program, 7600 Sand Point Way NE, Building 8, Seattle, WA 98115, 206–526–6460.

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for extension of an approved collection of information.

The NOAA Diving Program (NDP) is administered by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), and is headquartered at the NOAA Western Regional Center (WRC) in Seattle, Washington. The NDP provides the guidelines, policy, and training for all NOAA Divers, which includes all NOAA employees who dive, as well as contractors and volunteers, among others, who conduct diving operations.

With more than 300 divers, NOAA has the largest complement of divers of any civilian federal agency. NOAA Divers conduct operations in our nation's waters and beyond in support of NOAA's scientific research and operations. They are called upon to work in various conditions ranging from the warm, clear waters of a marine sanctuary, to the cold, murky waters of a commercial harbor. The tasks NOAA Divers complete are as varied as the waters they dive in, with most divers supporting projects and research of the National Ocean Service (NOS), the National Marine Fisheries Service (NMFS), and the Office of Marine and Aviation Operations (OMAO).

NOAA Divers are required to maintain a high level of proficiency, both in practice (in the water) and in theoretical understanding (academic learning) in order to continue to dive at NOAA. In addition, NOAA Divers must maintain medical fitness to dive and are required to send their diving equipment out for maintenance as scheduled. If requirements are not met, divers may become unauthorized to dive or suspended. In order to become NOAA Divers, candidates must first submit a diving physical to the NOAA Diving Medical Officers to determine if they are medically fit to dive. After that, divers must complete medical documentation annually to maintain authorization to dive. To maintain fitness to dive, it is imperative that divers recognize the need for a continual and aggressive exercise program that exceeds basic health maintenance standards.

II. Method of Collection

Information will be collected electronically via email.

III. Data

OMB Control Number: 0648–0822.

Form Number(s): None.

Type of Review: Regular submission [extension of an approved collection].

Affected Public: Individuals.

Estimated Number of Respondents: 141.

Estimated Time per Response: The time for response varies depending on the collection instrument. The response times range from one minute to two hours.

Estimated Total Annual Burden Hours: 336.

Estimated Total Annual Cost to Public: $ 11,700 This is an upper bound estimate that assumes that respondents providing a Report of Examination and Medical History—Diver do not have private insurance. If all respondents have private insurance, the estimated annual cost would be approximately $1,750 which assumes a $35 co-pay.

Respondent's Obligation: Required to Obtain or Retain Benefits.

Legal Authority: 29 CFR Subpart T, Commercial Diving Operations.

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. 2026–16394 Filed 8–11–26; 8:45 am]

BILLING CODE 3510–12–P

COMMODITY FUTURES TRADING COMMISSION

Renewal of the Innovation Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of renewal.

SUMMARY: The Commodity Futures Trading Commission (CFTC or Commission) is publishing this notice to announce the renewal of the Innovation Advisory Committee (IAC). The Commission has determined that the renewal of the IAC is necessary and in the public's interest.

FOR FURTHER INFORMATION CONTACT: Michael Passalacqua, Senior Advisor to Chairman Michael S. Selig and IAC Designated Federal Officer, at 202–418–5052 or *MPassalacqua@cftc.gov.*

SUPPLEMENTARY INFORMATION: In accordance with section 9(a)(2) of the Federal Advisory Committee Act (FACA), 5 U.S.C. 1008, and 41 CFR 102–3.65, the CFTC is announcing the IAC's renewal and providing the below Commission-approved public interest determination. The IAC's objectives and scope of activities are to assist the Commission by providing advice on the impact and implications of technological innovation in the financial services markets. The IAC will also provide advice on the application and utilization of new technologies in the financial services markets, as well as by market professionals and market users. The IAC may further provide advice to the Commission on the appropriate level of investment in technology at the Commission to meet its surveillance and enforcement responsibilities, and inform the Commission's consideration of technology-related issues to support the Commission's mission of ensuring the integrity of the markets and achievement of other public interest objectives. The IAC will operate for two years from the date of renewal unless the Commission directs that the IAC terminate on an earlier date. A copy of the renewal charter will be posted on the CFTC's website at *www.cftc.gov.*

Public Interest Determination

Pursuant to 41 CFR 102–3.60(a), to establish, renew, reestablish, or merge a discretionary (agency discretion) advisory committee, an agency must first consult with the General Services Administration's Committee Management Secretariat (the Secretariat) and, as part of the consultation, provide a written public interest determination approved by the head of the agency to the Secretariat with a copy to the Office of Management and Budget. In addition, pursuant to 41 CFR 102–3.35, an agency shall follow the same consultation process and document in writing the same determination of need before creating a subcommittee under a discretionary committee that is not made up entirely of members of a parent advisory committee.

Information on the following factors for the committee is provided to the Secretariat to demonstrate that renewing the committee is in the public interest:

1. Annual budget: The estimated annual operating cost for supporting the IAC is $83,581.88 and includes:

a. Federal personnel on a full-time equivalent (FTE) basis: .50.

b. Other Federal internal costs: $6,636.27.

c. Proposed payments to members: The CFTC does not compensate IAC members for their services. However, there are government costs (salary and benefits) for Federal members which are estimated at $2,071.00.

d. Proposed number of members: Approximately 40–45.

e. Reimbursable Costs: $811.11.

2. If applicable, the total dollar value of grants expected to be recommended during the fiscal year: N/A.

3. Criteria for selecting members to ensure the committee has the necessary expertise and fairly balanced membership: IAC members are selected to represent a balance of viewpoints that reflect the groups and entities potentially affected by or interested in the IAC's recommendations, and are necessary to effectively address the issues to be considered by the IAC. The IAC will consist of members who reflect a wide array of background and have the technical expertise and qualifications to share their experiences and views on the opportunities and risks that may be associated with technological innovation, including in the derivatives and commodities markets, and ways that the Commission can utilize innovative technologies in carrying out its mission.

4. List of all other Federal advisory committees of the agency:

In addition to the IAC, the CFTC has one statutory committee that Congress has exempted from the FACA and one discretionary FACA committee:

(a) Agricultural Advisory Committee (discretionary)

(b) Energy and Environmental Markets Advisory Committee (statutory)

5. Justification that the information or advice provided by the Federal advisory committee or subcommittee is not available from another Federal advisory committee, another Federal Government source, or any other more cost-effective and less burdensome source: The IAC is the most efficient and thorough means of obtaining advice on issues related to: the impact and implications of technological innovation in the financial services markets; the application and utilization of new technologies in the financial services markets, as well as by market professionals and market users; and the appropriate level of investment in technology at the Commission to meet its surveillance and enforcement responsibilities, and inform the Commission's consideration of technology-related issues to support the Commission's mission of ensuring the integrity of the markets and achievement of other public interest objectives—issues that are not addressed by the CFTC's other advisory committees. Innovations that may significantly impact our markets include those involving blockchain technologies, artificial intelligence, machine learning, prediction markets, and cybersecurity innovations and evolution in approaches to cyber threats. Technological innovation and change in the derivatives and commodities markets is continuous and can only be addressed by a permanent committee comprised of a broad cross-section of representatives of the public, including, for example, market participants, CFTC registrants, financial technology providers, market infrastructure firms, self-regulatory organizations, public interest groups, and academics—they cannot be properly addressed by the CFTC, or by ad hoc roundtables, public hearings, or other means of public engagement, all of which are better suited to responding to specific, time-limited events and idiosyncratic concerns rather than ongoing, long-term issue. The IAC is the most cost-effective way to access input and information, particularly since the

Commission does not compensate members and does not provide for members' travel expenses and accommodations for meetings.

6. If the consultation is a committee renewal, a summary of the previous accomplishments of the committee and the reasons it needs to continue: Historically, the IAC has served as a forum in which representatives from segments of the financial industry, regulatory bodies, financial technology providers, public interest groups, academia, and market infrastructure firms have provided the CFTC with their varying perspectives and advice on technology-related issues within the agency's jurisdiction and where issues of mutual interest to the Commission and representatives can be aired. For example, in FY 2024, the Committee approved five recommendations relating to artificial intelligence, and six recommendations on Decentralized Finance (DeFi). In FY 2021, the Committee approved a recommendation that the Commission provide guidance on how it reviews highly sensitive cybersecurity artifacts and sensitive intellectual property.

The Commission has determined that it is necessary to obtain advice on issues directly impacting those affected by the regulation of the financial markets. The IAC provides a forum to facilitate interaction with and communications between the Commission and the diverse representation on the IAC.

7. Explanation of why the committee/subcommittee is essential to the conduct of agency business: The CFTC has critical regulatory responsibilities over the swaps and futures markets in an era where technology is a vital component of these markets. These derivatives markets are becoming increasingly digitized and fast-paced, especially with the increasing use of blockchain-based infrastructure, which introduces complexities and potential risks.

The CFTC has statutory anti-fraud and anti-manipulation authority over commodities, which includes certain crypto assets and environmental-based products. These markets are experiencing accelerating technological change and pose a number of complex or novel public interest issues, opportunities, and risks. The rapid innovation in technology will continue to drive market structure changes in the coming years. Further, market structure changes are also likely to occur as U.S. and non-U.S. regulatory frameworks continue to evolve. These technological changes in market structure and development of innovative asset classes will have significant implications for the CFTC's mission of ensuring the integrity of the derivatives markets, including its surveillance and enforcement responsibilities.

In order for the CFTC to carry out its mission, it must understand the impact and implications of technological innovation in the derivatives and commodities markets and on market participants. Accordingly, the IAC will continue to assist the CFTC by providing advice to the Commission on the impact and implications of technological innovation in the financial services markets. The IAC will also continue to provide advice on the application and utilization of innovative technologies in the financial services markets, as well as by market professionals and market users. Through its advice and recommendations, the IAC will continue to assist the CFTC in being able to adapt to the technology-driven evolution in the derivatives and commodities markets.

In conclusion, this public interest determination documents that renewing the committee is in the public interest, essential to the conduct of agency business, and that the information to be obtained is not already available through another advisory committee or source within the Federal Government.

Dated: August 10, 2026.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2026–16423 Filed 8–11–26; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26–14–000]

Mountain Valley Pipeline, LLC; Notice of Availability of the Environmental Assessment for the Proposed Mountain Valley Pipeline Boost Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Mountain Valley Pipeline Boost Project (Project), proposed by Mountain Valley Pipeline, LLC (Mountain Valley) in the above-referenced docket.[1] Mountain Valley requests authorization to construct, modify, and operate facilities along its existing pipeline system in West Virginia and Virginia to provide about 600,000 dekatherms per day of incremental natural gas service on the existing Mountain Valley Mainline.

Any person wishing to comment on the EA may do so. To ensure consideration of your comments on the proposal prior to making a decision on the Project, it is important that the Commission receive your comments on or before 5:00 p.m. Eastern Time on September 8, 2026. Instructions for filing comments are provided on page 3.

FERC is the lead federal agency for authorizing interstate natural gas transmission facilities under the Natural Gas Act of 1938 (NGA) and the lead federal agency for preparation of the EA. The EA assesses the potential environmental effects of the Project in accordance with the requirements of the National Environmental Policy Act (NEPA)[2] and the Commission's implementing regulations.[3] The principal purposes of the EA are to: identify and assess the potential effects on the natural and human environment; describe and evaluate reasonable alternatives; identify and recommend mitigation measures; and facilitate public involvement in the environmental review process. The EA concludes that approval of the Project would not constitute a major federal action significantly affecting the quality of the human environment.

The U.S. Army Corps of Engineers (USACE) Huntington District participated as a cooperating agency in the preparation of the EA. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis. The USACE has authority under section 404 of the Clean Water Act to regulate the discharge of dredged or fill materials into Waters of the United States, as well as sections 10 and 14 of the Rivers and Harbors Act.[4] Although the cooperating agency provided input to the conclusions and recommendations presented in the EA, the agency will present its own conclusions and recommendations in its respective Record of Decision for the Project.

[1] For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1767605403.

[2] National Environmental Policy Act of 1969, as amended (Public Law [Pub. L.] 91–190. 42 United States Code [U.S.C.] 4321–4347, as amended by Pub. L. 94–52, July 3, 1975; Pub. L. 94–83, August 9, 1975; Pub. L. 97–258, 4(b), September 13, 1982; Pub. L. 118–5, June 3, 2023; Pub. L. 119–21, July 4, 2025).

[3] 18 Code of Federal Regulations (CFR) 380.

[4] The USACE's regulations for permits under section 10 of the Rivers and Harbors Act (33 U.S.C. 403) can be found at 33 CFR 322, while regulations for permits under section 404 of the Clean Water Act are at 33 CFR 323 and processing of permits is at 33 CFR 325.

The EA addresses the potential environmental effects of the construction and operation of the following Project facilities:

- installation of one additional natural gas turbine and auxiliary facilities to increase capacity by 23,470 horsepower (hp) at the existing Bradshaw Compressor Station (CS) in Wetzel County, West Virginia;
- relocation of existing blowdown silencers and installation of one additional natural gas turbine and auxiliary facilities to increase capacity by 52,500 hp and restaging of two existing natural gas turbines at the existing Harris CS in Braxton County, West Virginia;
- relocation of existing blowdown silencers, installation of two additional natural gas turbines and auxiliary facilities, and upgrades to two existing natural gas turbines to increase capacity by 52,880 hp at the existing Stallworth CS in Fayette County, West Virginia; and
- construction of a new compressor station (Swann CS) with three natural gas turbines totaling 136,900 hp; 0.2 mile-long, 42-inch-diameter dual lay natural gas suction and discharge facilities; a pig launcher and receiver; [5] a mainline valve; and auxiliary facilities in Montgomery County, Virginia.

The Commission mailed a copy of the *Notice of Availability of the Environmental Assessment for the Mountain Valley Pipeline Boost Project* to federal, state, and local government representatives and agencies; elected officials; Native American tribes; environmental and public interest groups; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the Project area. The EA is available only in electronic format. It may be viewed and downloaded from FERC's website (*www.ferc.gov*) on the natural gas environmental documents page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). In addition, the EA may be accessed by using the eLibrary link on FERC's website. Click on the eLibrary link (*https://elibrary.ferc.gov/eLibrary/search*), select ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.,* CP26–14). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The EA is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Under section 7(c) of the NGA, the Commission determines whether interstate natural gas transportation facilities are in the public convenience and necessity and, if so, grants a Certificate of Public Convenience and Necessity to construct and operate them. The Commission bases its decisions on both economic issues, including need, and environmental effects.

Your comments should focus on the EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental effects. The more specific your comments, the more useful they will be. For your convenience, there are three methods you can use to file your comments with the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded:

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the Project docket number (CP26–14–000) in your letter. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. At this point in this proceeding, the timeframe for filing timely intervention requests has expired. Any person seeking to become a party to the proceeding must file a motion to intervene out-of-time pursuant to Rule 214(b)(3) and (d) of the Commission's Rules of Practice and Procedures (18 Code of Federal Regulations 385.214(b)(3) and (d)) and show good cause why the time limitation should be waived. Motions to intervene are more fully described at *https://www.ferc.gov/how-intervene.*

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.* Additional information about the Project is available from the FERC website (*www.ferc.gov*) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription, which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

(Authority: 18 CFR 2.1)

Dated: August 7, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–16435 Filed 8–11–26; 8:45 am]

BILLING CODE 6717–01–P

[5] A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–967–003.

Applicants: Covanta Fairfax, LLC.

Description: Refund Report: Refund Report Under ER22–967–000 to be effective N/A.

Filed Date: 8/7/26.

Accession Number: 20260807–5188.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER22–2190–007; ER22–2191–007; ER22–2192–005; ER24–1339–003; ER24–1340–003; ER14–1594–010; ER14–1596–010; ER14–1934–011; ER14–1935–011; ER15–1020–009; ER25–154–005; ER20–245–008; ER20–242–008; ER13–1816–031; ER19–1109–002.

Applicants: Windhub Solar A, LLC, Sustaining Power Solutions LLC, Sunshine Valley Solar, LLC, Sun Streams, LLC, Sandrini BESS Storage LLC, Rising Tree Wind Farm III LLC, Rising Tree Wind Farm II LLC, Rising Tree Wind Farm LLC, Lone Valley Solar Park II LLC, Lone Valley Solar Park I LLC, EDPR Scarlet II BESS LLC, EDPR Scarlet II LLC, EDPR Scarlet I LLC, EDPR CA Solar Park II LLC, EDPR CA Solar Park LLC.

Description: Notice of Change in Status of EDPR CA Solar Park LLC, et al.

Filed Date: 7/30/26.

Accession Number: 20260730–5228.

Comment Date: 5 p.m. ET 8/20/26.

Docket Numbers: ER24–2179–004; ER25–3136–002; ER24–1941–005; ER24–1832–005; ER25–3183–002; ER24–2824–005; ER25–960–003; ER22–2030–008; ER22–2031–009.

Applicants: Sonoran West Solar Holdings 2, LLC, Sonoran West Solar Holdings, LLC, RE Papago PV LLC, RE Papago LLC, RE Desert Bloom LLC, North Fork Solar Project, LLC, Liberty County Solar Project, LLC, Blue Moon Energy LLC, Bayou Galion Solar Project, LLC.

Description: Notice of Change in Status of Bayou Galion Solar Project, LLC, et al.

Filed Date: 7/30/26.

Accession Number: 20260730–5229.

Comment Date: 5 p.m. ET 8/20/26.

Docket Numbers: ER26–2841–001.

Applicants: Atlas Solar II, LLC.

Description: Tariff Amendment: Certificate of Concurrence—LGIA–CTA to be effective 5/26/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5125.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER26–2843–001.

Applicants: Atlas Solar IV, LLC.

Description: Tariff Amendment: Certificate of Concurrence LGIA–CTA to be effective 5/26/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5122.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER26–2844–001.

Applicants: Atlas BESS IV, LLC.

Description: Tariff Amendment: Certificate of Concurrence for LGIA–CTA to be effective 5/26/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5132.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER26–3094–001.

Applicants: Entergy Louisiana, LLC.

Description: Tariff Amendment: ELL–1803 Elec Coop Transmission Interconnection Agreement to be effective 7/3/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5143.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER26–3458–000.

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: 2026–08–07_SA 3064 Ameren IL–RECC 1st Rev UCA to be effective 10/7/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5139.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER26–3459–000.

Applicants: Entergy Louisiana, LLC.

Description: 205(d) Rate Filing: ELL–SLEMCO Transmission Interconnection Agreement to be effective 8/8/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5141.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER26–3460–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to Service Agreement No. 7584; Project Identifier No. AG1–047 to be effective 10/7/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5145.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER26–3461–000.

Applicants: WM Renewable Energy, L.L.C.

Description: Initial Rate Filing: Application for Market-Based Rate Authority—WM Renewable Energy, L.L.C. to be effective 10/7/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5184.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER26–3462–000.

Applicants: WM Illinois Renewable Energy, L.L.C.

Description: Initial Rate Filing: Application for Market-Based Rate Authority—WM IL Renewable Energy, L.L.C. to be effective 10/7/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5187.

Comment Date: 5 p.m. ET 8/28/26.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern Time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: August 7, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–16417 Filed 8–11–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5698–026]

Triton Power Company; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New License.

b. *Project No.:* 5698–026.

c. *Date Filed:* July 24, 2026.

d. *Applicant:* Triton Power Company (Triton Power).

e. *Name of Project:* Chateaugay High Falls Hydroelectric Project.

f. *Location:* On the Chateaugay River in Franklin County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Daniel Sailler, General Manager, Triton Power Company, 10777 Barkley Street, Suite 140, Overland Park, Kansas 66211;

telephone at (913) 231–8400; email at *Daniel.Sailler@renewhydro.energy.*

i. *FERC Contact:* Arash Barsari, Project Coordinator, Great Lakes Branch, Division of Hydropower Licensing; telephone at (202) 502–6207; email at *Arash.JalaliBarsari@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should 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 the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* on or before 5:00 p.m. Eastern Time on September 22, 2026.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status 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, please send a paper copy via U.S. Postal Service to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Chateaugay High Falls Hydroelectric Project (P–5698–026).

m. The application is not ready for environmental analysis at this time.

n. *Project Description:* The Chateaugay High Falls Project includes an 87.6-foot-long, 63.7-foot-high dam, known as the High Falls Dam, that consists of an 85.6-foot-long spillway with a crest elevation of 962.7 feet National Geodetic Vertical Dam of 1929 (NGVD 29) and a 2-foot-long east abutment. The dam creates an impoundment that has a surface area of 2.9 acres at 962.7 feet NGVD 29.

From the impoundment, water flows through an intake structure located on the eastern shoreline of the impoundment approximately 180 feet upstream of the dam that is equipped with a 16-foot-long intake opening with trashracks with 1-inch clear bar spacing and a 5-foot-long slide gate. From the intake structure, water flows through a 480-foot-long penstock to a 50-foot-wide, 40-foot-long powerhouse that contains a 1,260-kilowatt (kW) horizontal Francis turbine-generator unit and a 450-kW vertical Byron Jackson turbine-generator unit, for a total installed capacity of 1,710 kW. Water is discharged from the powerhouse to a 38-foot-long tailrace. The project creates an approximately 250-foot-long bypassed reach.

The project includes a downstream fish passage facility adjacent to the intake structure that consists of a fish collection box and a series of pipes that lead to a plunge pool located approximately 100 feet downstream of the dam.

Electricity generated at the powerhouse is transmitted to the electric grid via a 1,110-foot-long, 4.16-kilovolt transmission line.

Triton Power proposes to: (1) continue operating the project in a run-of-river mode such that project outflow approximates inflow to the impoundment and the normal maximum surface elevation of the impoundment is maintained at 962.7 feet NGVD 29; (2) develop and implement an operation compliance monitoring plan in consultation with the New York State Department of Environmental Conservation (New York DEC) and U.S. Fish and Wildlife Service (FWS); and (3) develop and implement an invasive species management plan in consultation with New York DEC and FWS. Triton Power states it that it is currently engaged in ongoing consultation with the resource agencies to finalize its proposed measures related to the minimum flow regime and downstream fish passage.

o. A copy of the application 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 (P–5698). For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the following address: Chateaugay Memorial Library, 4 John Street, Chateaugay, New York 12920.

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.

p. 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.*

q. *Procedural Schedule and Final Amendment:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Issue Notice of Acceptance	January 2027.
Issue Scoping Notice	January 2027.
Scoping Comments Due	February 2027.
Issue Notice of Ready for Environmental Analysis	February 2027.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

(Authority: 18 CFR 2.1)

Dated: August 7, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–16431 Filed 8–11–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2735–104]

Pacific Gas and Electric Company; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for a new license to continue to operate and maintain the Helms Pumped Storage Project No. 2735. The existing 1,080-megawatt (MW) project is located North Fork Kings River and Helms Creek in Fresno and Madera Counties, approximately 50 miles northeast of the City of Fresno. The project currently occupies 3,346.6 acres of federal land in the Sierra National Forest managed by the U.S. Forest Service, 28.36 acres of federal land managed by the U.S. Bureau of Reclamation, and 0.07 acre of federal land managed by the U.S. Bureau of Land Management. Commission staff has prepared an Environmental Assessment (EA) for the project.

The EA contains staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The Commission provides all interested persons with an opportunity to view and/or print the EA via the internet through the Commission's Home Page (*http://www.ferc.gov/*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field (*i.e.,* P–2735), to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or at (866) 208–3676 (toll-free), or (202) 502–8659 (TTY).

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.

Any comments should be filed with the Commission by 5:00 p.m. Eastern Time on Tuesday, September 8, 2026.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–2735–104.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

For further information, contact Evan Williams at (202) 502–8462 or at *Evan.Williams@ferc.gov.*

(Authority: 18 CFR 2.1)

Dated: August 7, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–16421 Filed 8–11–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26–560–000]

Dauphin Island Gathering Partners; Notice of Application and Establishing Intervention Deadline

Take notice that on July 31, 2026, Dauphin Island Gathering Partners (Dauphin Island), Post Office Box 1396, Houston, Texas 77251, filed an application under section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations requesting authorization for its Dauphin Island System Abandonment Project (Project). The Project consists of the abandonment of Dauphin Island's entire offshore and onshore system, which consists of approximately 119.33 miles of 20- and 24-inch-diameter natural gas pipelines and associated appurtenances, extending from the Main Pass Block 164 and the Main Pass Block 225 in federal offshore waters, through Alabama state waters to the Mobile Bay Processing Plant and metering facilities near Coden in Mobile County, Alabama (Dauphin Island System). Dauphin Island also requests the Commission approval to abandon the services provided through the Dauphin Island System under firm and interruptible transportation service agreements. The Project will allow Dauphin Island to abandon its entire offshore gathering and transportation system due to the depletion of attached reserves and the resulting operational and economic infeasibility of continued service. Dauphin Island estimates the total cost of the project to be $47.1 million, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

Any questions regarding the proposed project should be directed to Travis Beach, Regulatory Analyst, Dauphin Island Gathering Partners, Post Office Box 1396, Houston, Texas 77251, by phone at (346) 439–0447 or by email at *Travis.Beach@Williams.com.*

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or

[1] 18 CFR 157.9.

issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file comments on the project, you can protest the filing, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on October 6, 2026. How to file protests, motions to intervene, and comments is explained below.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation (OPP) at (202) 502–6595 or *OPP@ferc.gov.*

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be.

Protests

Pursuant to sections 157.10(a)(4)[2] and 385.211[3] of the Commission's regulations under the NGA, any person[4] may file a protest to the application. Protests must comply with the requirements specified in section 385.2001[5] of the Commission's regulations. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

To ensure that your comments or protests are timely and properly recorded, please submit your comments on or before 5:00 p.m. Eastern Time on October 6, 2026.

There are three methods you can use to submit your comments or protests to the Commission. In all instances, please reference the Project docket number CP26–560–000 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments or protests electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments or protests by mailing them to the following address below. Your written comments must reference the Project docket number (CP26–560–000).

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852, Rockville, Maryland 20852.

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,[6] has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure[7] and the regulations under the NGA[8] by the intervention deadline for the project, which is 5:00 p.m. Eastern Time on October 6, 2026. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP26–560–000in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Intervention.'' The eFiling feature includes a document-less intervention option; for more information, visit *https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf.;* or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below. Your motion to intervene must reference the Project docket number CP26–560–000.

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Secretary, Federal

[2] 18 CFR 157.10(a)(4).

[3] 18 CFR 385.211.

[4] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[5] 18 CFR 385.2001.

[6] 18 CFR 385.102(d).

[7] 18 CFR 385.214.

[8] 18 CFR 157.10.

Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail at: Travis Beach, Regulatory Analyst, Dauphin Island Gathering Partners, Post Office Box 1396, Houston, Texas 77251, or by email (with a link to the document) at *Travis.Beach@Williams.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed [9] motions to intervene are automatically granted by operation of Rule 214(c)(1).[10] Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.[11] A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from OPP at (202) 502–6595 or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Intervention Deadline: 5:00 p.m. Eastern Time on October 6, 2026.

(Authority: 18 CFR 2.1)

Dated: August 7, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–16436 Filed 8–11–26; 8:45 am]

BILLING CODE 6717–01–P

[9] The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

[10] 18 CFR 385.214(c)(1).

[11] 18 CFR 385.214(b)(3) and (d).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD26–8–000]

Reliability Technical Conference; Supplemental Notice of Reliability Technical Conference

As separately announced in the Notice of Technical Conference issued in this proceeding on June 11, 2026, the Federal Energy Regulatory Commission (Commission) will convene its annual Commissioner-led Reliability Technical Conference in the above-referenced proceeding on Wednesday, October 21, 2026, from approximately 10:00 a.m. to 2:40 p.m. Eastern Time, to discuss policy issues related to the reliability and security of the Bulk-Power System. The conference will be held in-person at the Commission's headquarters at 888 First Street NE, Washington, DC 20426 in the Kevin J. McIntyre Commission Meeting Room.

The preliminary agenda for the technical conference is attached to this Supplemental Notice. Additional supplemental notice(s) will be issued prior to the conference with further details regarding the agenda. Information on this technical conference will also be posted on the Calendar of Events on the Commission's website, *www.ferc.gov,* prior to the event. The Commission provides technical support for the free webcasts. Please call 202–502–8680 or email *customer@ferc.gov* if you have any questions.

The conference will be open for the public to attend, and there is no fee for attendance. Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–8659 (TTY) or send a fax to 202–208–2106 with the required accommodations.

For more information about this conference, please contact Lodie White at *Lodie.White@ferc.gov* or (202) 502–8453, or Michael Gildea at *Michael.Gildea@ferc.gov* or (202) 502–8420.

Dated: August 7, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–16422 Filed 8–11–26; 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: EC26–75–000.

Applicants: Tonopah Solar Energy, LLC.

Description: Notice of Consummation of Tonopah Solar Energy, LLC.

Filed Date: 7/30/26.

Accession Number: 20260730–5222.

Comment Date: 5 p.m. ET 8/20/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2437–027.

Applicants: Arizona Public Service Company.

Description: Notice of Change in Status of Arizona Public Service Company.

Filed Date: 7/30/26.

Accession Number: 20260730–5225.

Comment Date: 5 p.m. ET 8/20/26.

Docket Numbers: ER10–3080–001; ER10–3046–002.

Applicants: Camp Grove Wind Farm LLC, Benton County Wind Farm LLC.

Description: Notice of Non-Material Change in Status of Benton County Wind Farm LLC, et al.

Filed Date: 7/30/26.

Accession Number: 20260730–5220.

Comment Date: 5 p.m. ET 8/20/26.

Docket Numbers: ER12–1470–022; ER10–3026–020; ER16–1833–019.

Applicants: Sempra Gas & Power Marketing, LLC, Termoelectrica U.S., LLC, Energia Sierra Juarez U.S., LLC.

Description: Notice of Non-Material Change in Status of Energia Sierra Juarez U.S., LLC, et al. under ER12–1470, et al.

Filed Date: 7/30/26.

Accession Number: 20260730–5218.

Comment Date: 5 p.m. ET 8/20/26.

Docket Numbers: ER19–1280–010; ER24–560–005; ER23–1582–006; ER24–563–003; ER25–151–002; ER24–1737–004; ER10–2405–019; ER23–1583–005; ER10–2407–014; ER23–1584–005; ER10–2425–016; ER25–152–004; ER17–

1316–012; ER24–1738–005; ER10–2424–014; ER13–1816–030; ER18–1186–011; ER24–1739–003.

Applicants: Wolf Run Solar LLC, Turtle Creek Wind Farm LLC, Sustaining Power Solutions LLC, Rail Splitter Wind Farm, LLC, Ragsdale Solar, LLC, Quilt Block Wind Farm LLC, Pleasantville Solar Park LLC, Pioneer Prairie Wind Farm I, LLC, Pearl River Solar Park LLC, Lost Lakes Wind Farm LLC, Indiana Crossroads Wind Farm II LLC, High Prairie Wind Farm II, LLC, Hickory Solar LLC, Duff Solar Park LLC, Crooked Lake Solar II LLC, Crooked Lake Solar, LLC, Carpenter Wind Farm LLC, Broadlands Wind Farm LLC.

Description: Notice of Change in Status of Broadlands Wind Farm LLC, et al.

Filed Date: 7/30/26.

Accession Number: 20260730–5224.

Comment Date: 5 p.m. ET 8/20/26.

Docket Numbers: ER20–1604–006; ER10–2359–014.

Applicants: Sunrise Power Company, LLC, EF Oxnard LLC.

Description: Notice of Non-Material Change in Status of EF Oxnard LLC, et al.

Filed Date: 7/30/26.

Accession Number: 20260730–5227.

Comment Date: 5 p.m. ET 8/20/26.

Docket Numbers: ER24–1281–003; ER26–130–001; ER22–2424–007; ER23–2512–005; ER23–2513–005; ER22–2426–007; ER22–2428–007; ER19–53–010; ER25–3013–003; ER26–1789–002; ER26–1786–002; ER26–1788–002; ER26–1785–002.

Applicants: SR Tullahoma, LLC, SR Puryear, LLC, SR Middleton, LLC, Horus Kentucky 1, LLC, SR Millington II, LLC, SR Millington, LLC, SR McKellar Lessee, LLC, SR McKellar, LLC, SR Canadaville Lessee, LLC, SR Canadaville, LLC, SR Bell Buckle, LLC, SR Adamsville, LLC, Russellville Solar LLC.

Description: Notice of Non-Material Change in Status of Russellville Solar LLC, et al.

Filed Date: 7/29/26.

Accession Number: 20260729–5188.

Comment Date: 5 p.m. ET 8/19/26.

Docket Numbers: ER24–2033–004.

Applicants: GridLiance High Plains LLC.

Description: Compliance filing: Compliance Filing in Response to May 8, 2026 Letter Order (ER24–2033) to be effective 9/1/2024.

Filed Date: 8/7/26.

Accession Number: 20260807–5091.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER24–2034–004.

Applicants: GridLiance Heartland LLC.

Description: Compliance filing: Compliance Filing in Response to May 8, 2026 Letter Order (ER24–2034) to be effective 9/1/2024.

Filed Date: 8/7/26.

Accession Number: 20260807–5095.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER24–3032–002.

Applicants: Pacific Gas and Electric Company.

Description: Compliance filing: WDT: Order No. 2023 Third Compliance Filing to be effective 9/16/2024.

Filed Date: 8/7/26.

Accession Number: 20260807–5005.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER25–2043–003; ER25–3029–003; ER25–823–004; ER10–3310–020; ER18–140–019.

Applicants: Lackawanna Energy Center LLC, New Harquahala Generating Company, LLC, Painter Energy Storage, LLC, Tibbits Energy Storage LLC, Shallow Basket Energy, LLC.

Description: Notice of Change in Status of Shallow Basket Energy, LLC, et al.

Filed Date: 7/30/26.

Accession Number: 20260730–5223.

Comment Date: 5 p.m. ET 8/20/26.

Docket Numbers: ER26–2847–001.

Applicants: American Transmission Systems, Incorporated.

Description: Tariff Amendment: ATSI submits an amended SA No. 7681 to be effective 8/16/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5087.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER26–3451–000.

Applicants: Pacific Gas and Electric Company.

Description: Tariff Amendment: RS 94 : Notice of Termination of CDWR Pine Flat Agreement to be effective 7/24/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5002.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER26–3452–000.

Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: 4980 Kinsley Solar Surplus Interconnection GIA to be effective 10/7/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5034.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER26–3453–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Original NSA, Service Agreement No. 8030; AE2–306/AF1–285 to be effective 10/7/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5064.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER26–3454–000.

Applicants: Ameren Illinois Company, 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: 2026–08–07_SA 4833 Ameren Illinois-Crab Orchard Renewables E&P (J2267) to be effective 8/8/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5082.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER26–3455–000.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 4058R2 Missouri Electric Commission NITSA NOA Cancellation to be effective 6/1/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5083.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER26–3456–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to GIA, SA No. 7895; Project Identifier No. AG1–410/AG1–411 to be effective 10/7/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5092.

Comment Date: 5 p.m. ET 8/28/26.

Docket Numbers: ER26–3457–000.

Applicants: Stellar Wright BESS LLC.

Description: 205(d) Rate Filing: Stellar Wright BESS LLC MBR Tariff to be effective 9/15/2026.

Filed Date: 8/7/26.

Accession Number: 20260807–5101.

Comment Date: 5 p.m. ET 8/28/26.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern Time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as

interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov*.

Dated: August 7, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–16416 Filed 8–11–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL26–89–000]

NorthWestern Corporation; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On August 7, 2026, the Commission issued an order in Docket No. EL26–89–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation to determine whether NorthWestern Corporation's market-based rate authority is considered unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. *NorthWestern Corporation,* 196 FERC ¶ 61,113 (2026).

The refund effective date in Docket No. EL26–89–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL26–89–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2025), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. From FERC's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *mailto:ferconlinesupport@ferc.gov* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov*.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov*. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

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 *mailto:OPP@ferc.gov*.

Dated: August 7, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–16418 Filed 8–11–26; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 26–11]

The India Connection LLC, Complainant v. CMA CGM (America) LLC; Pridel Private Limited; and Eagle Maritime of America Inc., Respondents; Notice of Filing of Complaint and Assignment

Notice is given that a complaint has been filed with the Federal Maritime Commission (the ''Commission'') by The India Connection LLC (the ''Complainant'') against CMA CGM (America) LLC; Pridel Private Limited; and Eagle Maritime of America Inc. (the ''Respondents''). Complainant states that the Commission has jurisdiction over the complaint pursuant to the Shipping Act of 1984, as amended, 46 U.S.C. 40101 *et seq.*

Complainant is a limited liability company duly organized and existing under the laws of the state of California, with its headquarters and principal place of business in San Francisco, California.

Complainant identifies Respondent CMA CGM (America) LLC as a limited liability company organized and existing under the laws of the United States of America, with its headquarters in Norfolk, Virginia. Complainant states that the Commission has personal jurisdiction over CMA CGM (America) LLC as a common carrier, as that term is defined in 46 U.S.C. 40102(7).

Complainant identifies Respondent Pridel Private Limited as a company duly incorporated under the laws of India with its registered office in New Delhi, India. Complainant states that the Commission has personal jurisdiction over Pridel Private Limited as an ocean transportation intermediary and non-vessel-operating common carrier.

Complainant identifies Respondent Eagle Maritime of America Inc. as a corporation with its principal office in Hoboken, New Jersey. Complainant states that the Commission has personal jurisdiction over Eagle Maritime of America Inc. as an ocean transportation intermediary and a non-vessel-operating common carrier.

Complainant alleges that Respondents violated 46 U.S.C. 41102(c) and 41104(a)(14). Complainants alleges these violations arose from Respondents' continued assessment of detention charges during periods in which Complainant was unable to retrieve or return its containers due to circumstances beyond its control, failure to meaningfully consider requests for waiver or dispute resolution, and other acts or omissions of Respondents.

An answer to the complaint must be filed with the Commission within 25 days after the date of service.

The full text of the complaint can be found in the Commission's electronic Reading Room at *https://www2.fmc.gov/readingroom/proceeding/26-11/.* This proceeding has been assigned to the Office of Administrative Law Judges. The initial decision of the presiding judge shall be issued by August 9, 2027, and the final decision of the Commission shall be issued by February 23, 2028.

(Authority: 46 U.S.C. 41301; 46 CFR 502.61(c))

Served: August 7, 2026.

David Eng,

Secretary.

[FR Doc. 2026–16391 Filed 8–11–26; 8:45 am]

BILLING CODE 6730–02–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 11, 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. *PBI Holdings, Inc., Omaha, Nebraska;* to become a bank holding company by acquiring Premier Bancshares, Inc., and thereby indirectly acquiring Premier Bank National Association, both Omaha, Nebraska.

Board of Governors of the Federal Reserve System.

Erin Cayce,

Assistant Secretary of the Board.

[FR Doc. 2026–16410 Filed 8–11–26; 8:45 am]

BILLING CODE;P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–588]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by October 13, 2026.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically:* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. By *regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier: __/OMB Control Number: __, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Electronic Funds Transfer Authorization Agreement; Use: Section 1815(a) of the Social Security Act provides the authority for the Secretary of Health and Human Services to pay providers/suppliers of Medicare services at such time or times as the Secretary determines appropriate (but no less frequently than monthly). Under Medicare, CMS, acting for the Secretary, contracts with Fiscal Intermediaries and

Carriers to pay claims submitted by providers/suppliers who furnish services to Medicare beneficiaries. Under CMS' payment policy, Medicare providers/suppliers have the option of receiving payments electronically. The collection and verification of this information via Form CMS–588 protects our beneficiaries from illegitimate health care providers/suppliers. These procedures also protect the Medicare Trust Funds against fraud. *Form Number:* CMS–588 (OMB control number: 0938–0626); *Frequency:* Occasionally; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 59,662; *Total Annual Responses:* 59,662; *Total Annual Hours:* 41,293. (For policy questions regarding this collection contact Alisha Sanders at 410–786–0671.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026–16386 Filed 8–11–26; 8:45 am]

BILLING CODE 4169–69–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Assistance Listing Number: 93.600]

Announcement of the Intent To Award Sole-Source Awards to the Federated States of Micronesia and the Republic of the Marshall Islands

AGENCY: Office of Head Start (OHS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of intent to award sole-source awards.

SUMMARY: The ACF, OHS announces the intent to award two sole-source grants in the total amount of up to $7,200,000, or $3,600,000 each, to the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI) to support the establishment and provision of Early Head Start (EHS) and/or Head Start Preschool (HSP) services. These awards are made pursuant to new statutory authority and recent appropriations providing $8 million to extend Head Start eligibility and services in the Freely Associated States, as authorized under the Compacts of Free Association Amendments Act of 2024 (Division G, Title II of Public Law 118–42), and the Fiscal Year (FY) 2026 Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act.

DATES: The proposed period of performance is 60-months, subject to the availability of funds.

FOR FURTHER INFORMATION CONTACT: Shawna Pinckney, Acting Deputy Director, Office of Head Start, 330 C St. SW, Washington, DC 20201. Telephone: 866–763–6481; Email: *HeadStart@eclkc.info.*

SUPPLEMENTARY INFORMATION: Consistent with the Head Start Act and ACF grants administration requirements, OHS intends to fund these projects initially for 12-months and issue additional yearly funding as supplements, subject to the availability of funds, satisfactory recipient performance, and compliance with applicable federal requirements. Continued funding is also subject to the Head Start Designation Renewal System (DRS) requirements (45 CFR 1304.11) and recipients will not be subject to competition unless one or more DRS conditions are met, consistent with OHS policy and practice. To support initial program establishment and capacity building in these jurisdictions and consistent with the FY 2026 appropriations act, recipients of these awards will not be subject to DRS competition requirements for the first 24 months of their project period.

The Federated States of Micronesia and the Republic of the Marshall Islands are sovereign nations in free association with the United States under the Compacts of Free Association (COFA). Historically, residents of these nations have had limited access to federally funded early childhood programs such as Head Start within their home jurisdictions.

Amendments to the COFA agreements in March 2024, along with accompanying appropriations, establish eligibility for Head Start services and provide dedicated funding to support early childhood education, health, nutrition, and family support services in FSM and RMI.

The purpose of these sole-source awards is to:

- Plan, establish, and operate Early Head Start and/or Head Start Preschool programs in FSM and RMI;
- Provide comprehensive early childhood services to eligible children and families;
- Support school readiness and healthy development;
- Build local capacity for sustainable program implementation.

OHS is proposing to make these awards on a sole-source basis to the governments (or their designated entities) of FSM and RMI due to the following:

1. Unique Eligibility and Jurisdiction: FSM and RMI are the only jurisdictions eligible for these funds under the new statutory authority and COFA agreements.

2. Government-to-Government Relationship: The United States maintains a unique political and legal relationship with FSM and RMI under COFA, necessitating direct engagement with their national governments or designated entities.

3. Lack of Alternative Eligible Applicants: No other entities are authorized to receive these funds for the purposes described in the appropriations and statutory authority.

4. Need for Expedited Implementation: Timely obligation of funds is critical to begin services and fulfill congressional intent.

OHS announces the intent to award the following sole-source awards:

Recipient	Award amount
The Federated States of Micronesia	Up to $3,600,000.
The Republic of the Marshall Islands	Up to $3,600,000.

Statutory Authority: Head Start Act, as amended (42 U.S.C. 9831 *et seq.*), and the Compacts of Free Association Amendments Act of 2024 (Division G, Title II of Pub. L. 118–42), which implements the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands.

Elizabeth Leo,

Grants Policy Branch Chief, Office of Grants Policy, Office of Administration.

[FR Doc. 2026–16392 Filed 8–11–26; 8:45 am]

BILLING CODE 4184–40–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Newborn Screening Stakeholder Workgroup

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of supplemental funding.

SUMMARY: HRSA provides funding to support a national center for newborn screening systems known as the National Center for Newborn Screening Systems Excellence (NBS Excel). In fiscal year 2026, supplemental funding is being provided to NBS Excel to establish a national newborn screening stakeholder workgroup. This workgroup will be a pathway for conditions to be considered and recommended for inclusion in the Recommended Uniform Screening Panel (RUSP) and to discuss national-level issues related to newborn screening. Membership will include representatives from a wide range of newborn screening experts and stakeholders. The award recipient will convene the workgroup and develop findings, reports, and recommendations for HRSA's review and consideration. HRSA will then make recommendations to the Secretary of Health and Human Services, who has final decision-making authority on updates to the RUSP.

FOR FURTHER INFORMATION CONTACT: Please contact the Division of Services for Children with Special Health Needs, Maternal and Child Health Bureau, HRSA, at 301–443–0959 or *nbsprograms@hrsa.gov.*

SUPPLEMENTARY INFORMATION:

Intended Recipient(s) of the Award: Association of Public Health Laboratories.

Amount of Non-competitive award: $700,000; supplement funding for similar activities may be considered in fiscal year 2027, subject to the availability of funding for the activity and satisfactory performance of the recipient.

Project Period: July 1, 2023, to June 30, 2028.

Assistance Listing Number: 93.110.

Award Instrument: Supplement for Services.

Authority: 42 U.S.C. 300b–8 (Public Health Service Act § 1109, as amended).

TABLE 1—RECIPIENT(S) AND AWARD AMOUNT(S)

Grant No.	Award recipient name	City, state	Award amount
U22MC24078	Association of Public Health Laboratories	Silver Spring, MD	$700,000

Justification: Newborn screening is a successful public health program that saves lives and improves infants' health outcomes through early identification and treatment of heritable conditions. The newborn screening system relies on collaboration among families, state public health agencies, public health laboratories, and health care providers. States and territories screen over 3.6 million babies and identify approximately 12,900 infants with heritable conditions annually. Most states and territories screen for the majority of conditions on the RUSP, as recommended by the Secretary. As of May 2026, 85 percent of newborn screening programs screen for 35 out of 40 core RUSP conditions.

NBS Excel (HRSA–23–077) will establish a national newborn screening workgroup to support a new pathway for conditions to be considered for the RUSP. The RUSP is a national guideline that identifies conditions for which the Secretary recommends universal newborn screening. The RUSP contains 40 core conditions and 26 secondary conditions. Conditions listed on the RUSP are also part of the HRSA-supported preventive services guidelines for infants and children under section 2713 of the Public Health Service Act. As a result, non-grandfathered health plans are required to cover such screenings without patient cost-sharing beginning 1 year after the Secretary adopts a condition for screening. While states are not required to screen for every RUSP condition; the RUSP serves as a framework for state newborn screening programs. HRSA will focus on streamlining the review of candidate conditions to support a more efficient, timely and evidence-based process. To inform the recommendations for potential conditions, independent evidence-based reviews will be conducted (supported by HRSA) for multiple conditions.

The recipient will also convene the national workgroup to address national newborn screening issues, including genomic sequencing, data collection, and other emerging topics. Membership will include representatives from a wide range of stakeholders, including but not limited to state newborn screening programs, family organizations, clinicians, researchers, laboratorians, and public health experts. Membership applications will be publicly announced by the recipient. The workgroup is expected to meet at least three times a year and be open to the public. Meeting information, including agendas, will be announced publicly in advance.

Under this new pathway, the award recipient will convene the workgroup and develop findings, reports, and recommendations to HRSA for review and consideration. As appropriate, HRSA may publish **Federal Register** notices to solicit and consider additional public input and stakeholder feedback as part of the federal review process. Following review of public comments and the award recipient's submissions, HRSA will make recommendations to the Secretary on the inclusion of conditions to the RUSP. The Secretary retains final authority over all RUSP updates.

HRSA will award $700,000 to the recipient identified in Table I because the proposed activities directly align with the scope and objectives outlined in the Notice of Funding Opportunity for HRSA–23–077. The recipient currently serves as a national leader in newborn screening systems improvement by providing technical assistance, subject matter expertise, training, education, and quality improvement support to state newborn screening programs and stakeholders nationwide. The recipient has developed national resources and educational webinars that strengthen and support the newborn screening system. The recipient also convenes and leads expert workgroups focused on priority areas, including the use of health information technology and implementation of recently added RUSP conditions. This existing infrastructure, technical expertise, and national reach position the recipient to effectively lead

the proposed national workgroup and related activities. Providing supplemental funding is both timely and an efficient mechanism for advancing newborn screening activities at the national level.

Ann M. Sheehy,

Principal Deputy Administrator.

[FR Doc. 2026–16396 Filed 8–11–26; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Solicitation of Nominations for Membership on the National Vaccine Advisory Committee

AGENCY: Office of the Assistant Secretary for Health, Office of Infectious Disease and HIV/AIDS Policy, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice; solicitation of nominations for appointment to the National Vaccine Advisory Committee (NVAC).

SUMMARY: The Office of the Assistant Secretary for Health (OASH) is seeking nominations for membership on the National Vaccine Advisory Committee (referred to as NVAC and/or the Committee). The NVAC is a federal advisory committee within the U. S. Department of Health and Human Services (HHS). Management support for the activities of this Committee is the responsibility of the Office of the Assistant Secretary for Health (OASH). The qualified individuals will be nominated by the Assistant Secretary for Health (ASH) of the U.S. Department of Health and Human Services for appointment to the NVAC. The ASH serves as Director of the National Vaccine Program (NVP). Members of the Committee, including the Chair, are appointed by the ASH. Members are invited to serve for overlapping terms of up to four years. The NVAC was established to provide advice and make recommendations to the Director of the NVP on matters related to the Program's responsibilities. The functions of the Committee are solely advisory in nature. A copy of the NVAC charter that describes its structure and functions can be reviewed on the NVAC website at: *https://www.hhs.gov/vaccines/nvac/charter/index.html.*

DATES: Nominations for membership on the NVAC must be received no later than thirty days from publication. Packages received after this time will not be considered for the current membership cycle.

ADDRESSES: All nominations should be emailed in one email to *oidp@hhs.gov* with the subject line ''NVAC Application 2026.''

FOR FURTHER INFORMATION CONTACT: Acting Designated Federal Officer, U.S. Department of Health and Human Services, Office of the Assistant Secretary for Health, Office of Infectious Disease and HIV/AIDS Policy, Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201.

Email: oidp@hhs.gov.

SUPPLEMENTARY INFORMATION: Section 2105 of the Public Health Service (PHS) Act, as amended (42 U.S.C. 300aa–5) mandated that the Secretary of Health and Human Services (Secretary) establish a National Vaccine Program (NVP or Program) to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The Committee is governed by the provisions of the Federal Advisory Committee Act (5 U.S.C. Ch. 10). The functions of the Committee are solely advisory in nature. Membership will be balanced and includes a selection of public members who are engaged in gold standard science, vaccine safety or efficacy research, or who are physicians, scientists, members of parent organizations concerned with immunizations, representatives of state or local health agencies or public health organizations. The public members are classified as special government employees (SGEs). Committee members are appointed by the ASH. This announcement is to solicit nominations of qualified candidates to fill vacancies on the NVAC.

Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishments of NVAC's objectives. Federal employees will not be considered for membership. Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Committee members are considered Special Government Employees (SGEs), requiring the filing of financial disclosure reports at the beginning and annually during their terms. Individuals who are selected for appointment will be required to provide detailed information regarding their financial interests. Note that the need for different expertise varies from year to year and a candidate who is not selected for an open position may be reconsidered for a subsequent open position.

How to submit nominations: The following information should be included in the package of materials submitted for each nominee: (1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.,* specific attributes that qualify the nominee for service in this capacity) from a person(s) not employed by the U.S. Department of Health and Human Services; and a statement that the nominee is willing to serve as a member of the committee; (2) a letter of interest or personal statement from the nominee stating how their expertise would inform the work of NVAC; (3) a current copy of the nominee's curriculum vitae (no longer than 5 pages); and (4) a short biographical sketch (no more than 200 words). All documentation must be received in a legible font, such as Times New Roman 12 point, for a nomination to be considered.

Please note that nominees will not receive updates on the status of their nomination, and the nomination process can take many months. Information on nominees appointed to the committee will be posted to the NVAC website at *https://www.hhs.gov/vaccines/nvac/members/index.html.*

Individuals can nominate themselves for consideration of appointment to the committee. Incomplete nominations will not be processed. Federal employees should not be nominated for appointment to this committee.

Authority: Section 2105 of the Public Health Service (PHS) Act, as amended (42 U.S.C. 300aa–5). The NVAC is governed by the provisions of 5 U.S.C. Chapter 10, which sets forth standards for the formation and use of advisory committees.

Sarah McClelland,

Health advisor, Office of the Assistant Secretary for Health.

[FR Doc. 2026–16399 Filed 8–11–26; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government Owned Invention Available for License: Human Antibodies Targeting Beneficial Viral Peptide in Liver Cancer

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute (NCI) seeks research co-development partners and/or licensees to develop a collection of anti-CE1 antibodies for liver cancer treatment.

FOR FURTHER INFORMATION CONTACT: Inquiries related to this license opportunity should be directed to: Michael Pollack, Ph.D., Unit Supervisor, NCI, Technology Transfer Center, Email: *PollackM@mail.nih.gov* or Phone: 240–276–5519.

SUPPLEMENTARY INFORMATION: Liver cancer is the sixth most common and the third leading cause of cancer death worldwide. The most common liver cancer in adults is hepatocellular carcinoma (HCC), an aggressive malignancy with an increasing global incidence and mortality rate. The current methods for early detection, surveillance, and treatment are suboptimal. This is due to complex etiologies, demonstrating a need for more effective treatments.

Previously, NIH investigators identified a novel viral peptide antigen known as CE1. CE1 belongs to the rhinovirus and enterovirus families (NIH Ref: E–023–2024) producing a dominant humoral response associated with reduced incidence and mortality of HCC. Through phage display from a human single-chain fragment variable (scFv) phage library, NCI inventors isolated two human antibodies (B9 and B10) against the viral peptide, CE1. Human anti-CE1 B9 and B10 antibodies were constructed. These antibodies showed specific binding to liver cancer cell lines and clinical tumor tissues. They inhibited HCC tumor growth via inducting NK cell-mediated antibody-dependent cellular cytotoxicity *in vitro* and *in vivo.* These anti-CE1 antibodies have the potential as liver cancer therapeutics, either on their own or as the targeting domain of an immunoconjugate.

''This Notice is in accordance with 37 CFR 404.4 Authority to grant licenses.''

NIH Reference Number: E–021–2025.

Related Technologies: E–023–2024.

Product Type: Therapeutic.

Therapeutic Area(s): Gastroenterology | Oncology.

Development Stage: Pre-clinical (*in vivo* validation).

Publications: None.

Patents: Provisional Patent filed on August 8, 2025.

Potential Commercial Applications:

- Development of cancer therapeutics overcoming of PD–1/PD–L1 checkpoint blockade resistance.
- Development of alternative or combination immunotherapies for checkpoint-refractory tumors.
- Preclinical screening of alternative or combination immunotherapies for checkpoint-refractory tumors.
- Evaluation of cancer therapeutic strategies for cancers with defective antigen processing/presentation or loss of MHC–I expression.
- Companion model for comparing checkpoint-resistant MC38 B2m KO tumors against checkpoint-responsive wild-type MC38 tumors.

Competitive Advantages:

- Uniquely models a clinically relevant checkpoint-resistance mechanism.
- Uses the MC38 colon cancer model, which is well-established and regulatorily de-risked.
- Unique model permitting the interrogation of abrogated response to anti-PD–1 and anti-PD–1 treatment.

Collaboration Opportunity: Licensing.

Dated: August 7, 2026.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2026–16442 Filed 8–11–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: Development and Commercialization of BL–760 Dye for Intraoperative Fluorescence Imaging

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the patents and patent applications listed in the Supplementary Information section of this notice to OptoSurgical LLC (''OptoSurgical''), a company located in Columbia, Maryland, the United States of America.

DATES: Only written comments and/or applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before August 27, 2026 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, and comments relating to the contemplated Exclusive Patent License should be directed to: Lauren Nguyen-Antczak, Ph.D., J.D., Senior Technology Transfer Manager, NCI Technology Transfer Center, Telephone: (301)–624–8752; Email: *lauren.nguyen-antczak@nih.gov.*

SUPPLEMENTARY INFORMATION:

Intellectual Property

1. PCT Application No. PCT/US2014/064136 filed November 5, 2014, entitled ''A New Class of Stable Heptamethine Cyanine Fluorophores And Biomedical Applications Thereof'' [HHS Reference No. E–271–2014–0–PCT–01].
2. United States Patent No. 10,280,307 (Application No. 15/524,567) filed May 4, 2017, entitled ''A New Class of Stable Heptamethine Cyanine Fluorophores And Biomedical Applications Thereof'' [HHS Reference No. E–271–2014–0–US–02].
3. United States Patent No. 10,876,003 (Application No. 16/374,642) filed April 3, 2019, entitled ''A New Class of Stable Heptamethine Cyanine Fluorophores And Biomedical Applications Thereof'' [HHS Reference No. E–271–2014–0–US–03].
4. PCT Application No. PCT/US2019/018153 filed February 15, 2019, entitled ''A New Class of Stable Heptamethine Cyanine Fluorophores And Biomedical Applications Thereof'' [HHS Reference No. E–046–2019–0–PCT–01].
5. United States Patent No. 10,961,193 (Application No. 16/969,902) filed August 13, 2020, entitled ''A New Class of Stable Heptamethine Cyanine Fluorophores And Biomedical Applications Thereof'' [HHS Reference No. E–046–2019–0–US–06].
6. United States Patent No. 11,746,086 (Application No. 17/179,217) filed February 18, 2021, entitled ''A New Class of Stable Heptamethine Cyanine Fluorophores And Biomedical Applications Thereof'' [HHS Reference No. E–046–2019–0–US–07].
7. United States Patent Application No. 18/520,027 filed November 27, 2023, entitled ''A New Class of Stable Heptamethine Cyanine Fluorophores And Biomedical Applications Thereof'' [HHS Reference No. E–046–2019–1–US–01].
8. PCT Application No. PCT/US2019/018057 filed February 14, 2019, entitled ''Heptamethine Cyanines For Use As Fluorescent Markers Of The Biliary And Renal Systems'' [HHS Reference No. E–036–2018–0–PCT–01].
9. United States Patent Application No. 18/358,068 filed July 25, 2023, entitled ''Heptamethine Cyanines For Use As Fluorescent Markers Of The Biliary And Renal Systems'' [HHS Reference No. E–036–2018–0–US–03].

The patent rights in these inventions have been assigned to the Government of the United States of America.

The prospective exclusive license territory may be the ''United States,'' and the field of use may be limited to the following:

''Development, manufacture and commercialization of BL–760 dye as

disclosed and claimed in the Licensed Patent Rights for Intraoperative fluorescence imaging to visualize the bile duct and small biliary structures, including gallbladder, during hepato-pancreato-biliary surgery in humans.''

The E–271–2014–0 and E–046–2019–0 patent families are primarily directed to a new class of stable heptamethine cyanine fluorophores and biomedical applications thereof, including near-infrared fluorescent contrast agents for intraoperative fluorescence imaging. The E–036–2018–0 patent family is primarily directed to heptamethine cyanines for use as fluorescent markers of the biliary and renal systems, including methods of intraoperative visualization of biliary structures using such agents.

The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license that are timely filed in response to this notice will be treated as objections to the grant of the contemplated exclusive patent license. In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

''This Notice is made in accordance with 35 U.S.C. 209(e) and 37 CFR 404 Authority to grant exclusive licenses.''

Dated: August 7, 2026.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2026–16444 Filed 8–11–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government Owned Invention Available for License: MC38 B2m KO Cell Line

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute (NCI) seeks licensees for a CRISPR/Cas9-engineered MC38 B2m knockout murine colon cancer cell line that models tumor resistance to PD-1/PD-L1 checkpoint blockade caused by loss of MHC-I antigen presentation. This research tool provides an opportunity to study checkpoint-refractory tumors and evaluate alternative or combination immunotherapy strategies for cancers that evade conventional T-cell-mediated recognition.

FOR FURTHER INFORMATION CONTACT: Inquiries related to this license opportunity should be directed to: Michael Pollack, Ph.D., Unit Supervisor, NCI, Technology Transfer Center, Email: *PollackM@mail.nih.gov* or Phone: 240–276–5519.

SUPPLEMENTARY INFORMATION: Immune checkpoint blockade (ICB) is a type of cancer immunotherapy targeting proteins such as programmed cell death protein 1 (PD-1) and programmed death-ligand 1 (PD-L1), which tumors use to reduce T-cell immune activity. These therapies can be effective in some patients. However, ICB targeting PD-1/PD-L1 fails to provide clinical benefit for most cancer patients due to primary resistance. In such cases, tumors either do not respond from the outset or acquire resistance after initially responding. One important cause of resistance is defective antigen presentation, the process by which tumor cells display internal protein fragments on their surface using major histocompatibility complex class I (MHC-I) molecules for cancer-killing T cell recognition.

Researchers at the NCI have developed and validated an MC38 B2m knockout murine colon cancer cell line designed to reproduce a clinically relevant form of immunotherapy resistance. Using CRISPR/Cas9, NCI researchers eliminated B2m, a gene required for tumor cells to display MHC-I antigen-presenting molecules to cancer-killing T cells. The resulting MC38 B2m KO cell line produces tumors that lack this key immune-recognition signal and are resistant to anti-PD-1 and anti-PD-L1 therapy in syngeneic mouse models. This gives researchers a defined, practical preclinical model to: (1) study tumor immune escape and (2) evaluate new immunotherapy strategies in a checkpoint-resistant setting. This is a superior approach versus models only in tumors that remain responsive to checkpoint blockade. This model uses a clinically relevant checkpoint-resistance mechanism by deleting B2m, which causes loss of MHC-I antigen presentation and prevents conventional CD8+ T-cell recognition. It is based upon the MC38 colon cancer model, which has significant response to PD-1/PD-L1 immune checkpoint blockade before B2m knockout. MC38 B2m KO tumors show abrogated response to anti-PD-1 and anti-PD-L1 treatment *in vivo,* while wild-type MC38 tumors showed significant tumor growth reduction under the same treatment framework.

The Center for Immuno-Oncology seeks licensees interested in using this cell line as a research tool for immuno-oncology studies. This model may be useful for evaluating alternative or combination immunotherapy strategies for checkpoint-refractory tumors, including cancers that evade conventional T-cell-mediated recognition due to defective antigen presentation. It facilitates mechanistic studies of tumor immune escape, CD8+ T-cell recognition, and tumor microenvironment remodeling.

''This Notice is in accordance with 37 CFR 404.4 Authority to grant licenses.''

NIH Reference Number: E–123–2026–0.

Related Technologies: N/A.

Product Type: Research Tool.

Therapeutic Area(s): Oncology.

Development Stage: N/A.

Publications:

- Chariou, PL, et al. Generation of murine tumor models refractory to αPD-1/-L1 therapies due to defects in antigen processing/presentation or IFNγ signaling using CRISPR/Cas9 (PMID: 38427670)

Patens: N/A.

Potential Commercial Applications:

- Development of cancer therapeutics overcoming of PD-1/PD-L1 checkpoint blockade resistance.
- Development of alternative or combination immunotherapies for checkpoint-refractory tumors.
- Pre-clinical screening of alternative or combination immunotherapies for checkpoint-refractory tumors.
- Evaluation of cancer therapeutic strategies for cancers with defective antigen processing/presentation or loss of MHC-I expression.
- Companion model for comparing checkpoint-resistant MC38 B2m KO

tumors against checkpoint-responsive wild-type MC38 tumors.

Competitive Advantages:

- Uniquely models a clinically relevant checkpoint-resistance mechanism.
- Uses the MC38 colon cancer model, which is well-established and regulatorily de-risked.
- Unique model permitting the interrogation of abrogated response to anti-PD-1 and anti-PD-1 treatment.

Collaboration Opportunity: Licensing.

Dated: August 7, 2026.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2026–16449 Filed 8–11–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

NIH Owned Invention Available for License: Drug-Regulatable, Inducible Expression of Membrane-Bound Interleukin 12 (DRIM-IL-12) for Use in Adoptive Cell Therapy

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: Scientists at the National Cancer Institute (NCI) have developed a novel tightly regulated drug-responsive, membrane-bound IL-12 cytokine platform, that enhances anti-tumor efficacy in adoptive cell therapy (ACT) with engineered T-cells (CAR, TCR, TILs) while improving safety. The NCI seeks research co-development partners and/or licensees to advance this technology toward clinical translation.

FOR FURTHER INFORMATION CONTACT: Inquiries related to this license/co-development opportunity should be directed to: Andrew Burke, Ph.D., Senior Technology Transfer Manager, Email: *burkear@mail.nih.gov* or Phone: 240–276–5484.

SUPPLEMENTARY INFORMATION: ACT offers hope for patients with refractory or metastatic cancers, but effectiveness is frequently undermined by the immunosuppressive tumor microenvironment and T-cell dysfunction. Interleukin-12 (IL-12), a powerful cytokine with strong anti-tumor properties, has long been recognized for its potential to invigorate T-cell responses within tumors. However, systemic administration of IL-12 results in severe toxicity. Further, prior gene therapy strategies failed to provide sufficient control over IL-12 expression. These two factors compromise safety and therapeutic performance.

This invention introduces a Nuclear Factor of Activated T cells (NFAT)-inducible, drug-regulatable, membrane-bound IL-12 (DRIM-IL-12) system that delivers spatiotemporally controlled cytokine expression within the engineered T cell therapy product. This platform ensures IL-12 is expressed only upon T-cell activation. Concurrently, the degron (D) sequence confers lenalidomide-dependent proteasome-mediated degradation—serving as a drug-controlled safety switch to limit systemic toxicity. A transmembrane (TM) domain anchors IL-12 in the plasma membrane, preventing unintended secretion and promoting localized immune modulation. When paired with tumor-specific TCRs or CARs (*e.g.,* anti-mutant p53 or KRAS TCRs, or CD19 CAR), this platform enhances tumor cell killing and long-term survival in preclinical models. In a mouse model, DRIM-IL-12 demonstrated substantially improved safety compared to the previous generation of NFAT-inducible IL-12. The inventors also demonstrate that DRIM-IL-12 expression can be dialed down or fine-tuned to prevent T-cell exhaustion or differentiation, which can occur with uncontrolled IL-12 expression.

''This Notice is in accordance with 37 CFR 404.4 Authority to grant licenses.''

NIH Reference Number: E–217–2023.

Related Technologies: N/A.

Product Type: Therapeutic.

Therapeutic Area(s): Immunology | Oncology.

Development Stage: Pre-clinical (*in vivo* validation).

Publications:

- Kim SP, et al. Drug-regulatable, inducible, and membrane-bound interleukin 12 (IL-12TM-D) for use in adoptive cell therapies against advanced cancers. *https://doi.org/10.1136/jitc-2024-SITC2024.0344.*

Patents: PCT/US2025/031121, filed May 28,2025.

Potential Commercial Applications:

- Solid tumors expressing p53 or KRAS mutations.
- Hematologic malignancies.
- Melanoma.

Competitive Advantages:

- Versatile platform for inducible cytokine regulation.
- Superior survival in mouse models compared with TCR-only T-cells.
- Enhanced tumor cell killing and long-term survival in murine models.
- Decreased IL-12-associated toxicity.
- Maintenance of higher IL-12 expression.
- Improved sensitivity to lenalidomide-mediated degradation.

Collaboration Opportunity: Researchers at the NCI seek licensing and/or co-development research collaborations for developing a novel tightly regulated drug-responsive, membrane-bound IL-12 cytokine platform, that enhances anti-tumor efficacy in adoptive cell therapy (ACT) with engineered T-cells (CAR, TCR, TILs).

Dated: August 7, 2026.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2026–16438 Filed 8–11–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government Owned Invention Available for License: DNA Methylation-Based Cancer Diagnostics for Accurate Tumor Classification

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This technology encompasses a DNA methylation-based diagnostic platform designed to improve the accuracy and consistency of cancer classification, with demonstrated utility for tumors of the central nervous system, kidney, and hematopoietic system. By identifying disease-specific methylation signatures, the approach reduces interobserver variability and enhances diagnostic confidence. The central nervous system (CNS) classifier is built from a curated reference set of 16,567 methylation profiles and organizes tumors into 22 families and 133 clinically relevant diagnostic classes, including 21 newly developed methylation classes not represented in other existing tools. Across multiple independent validation cohorts (n = 5,875), the classifier demonstrated robust performance, and in a clinical-impact analysis of 1,204 NIH validation cases, methylation profiling materially influenced final diagnosis in 74.4% of cases by refining, increasing precision, or reclassifying. The CNS classifier was deployed as a user-facing software tool, MethylScape Analysis, which streamlines methylation-based classification workflows for CNS tumors, *https://methylscape.ccr.cancer.gov/*. The development of multiple specialized classifiers supports a more granular

understanding of tumor biology and informed clinical decision-making.

FOR FURTHER INFORMATION CONTACT: Inquiries related to this license opportunity should be directed to: Jaime Greene, M.S., Senior Technology Transfer Manager, NCI, Technology Transfer Center, Email: *greenejaime@mail.nih.gov* or Phone: 240–276–6633.

SUPPLEMENTARY INFORMATION: Accurate CNS tumor classification can be challenging when tumors show overlapping histology, limited tissue or atypical features. A meaningful fraction of cases remains unclassified or assigned with limited confidence with current molecular tools. These diagnostic ambiguities directly affect subtype and grade assignment which, in turn, influence treatment planning, prognosis, and clinical trial eligibility. Variability across observers and institutions can lead to additional testing, delays, and inconsistent diagnoses.

The NCI/Bethesda classifier addresses this gap using DNA methylation patterns as a robust molecular fingerprint. It applies a stratified machine learning framework to extend diagnostic coverage and improve assignment confidence for CNS tumors. The classifier was developed from a rigorously curated reference set of over 16k methylation profiles, structured into 22 tumor families and 133 clinically relevant diagnostic classes and includes 21 recently developed methylation classes not represented in existing tools. The approach has been validated across multiple independent cohorts (n = 5,875) and supports deployment through MethylScape, a public web-based portal that streamlines classifier execution for broad accessibility. In an NIH validation cohort analysis of 1,204 high-confidence matches with pre-methylation diagnoses available, methylation profiling confirmed the initial diagnosis in 25.6% of cases while driving clinically meaningful diagnostic evolution in the remainder, including refined diagnosis (subtyping) in 14.6%, new diagnosis with increased precision in 54.7%, and substantial diagnostic reclassification in 5.0%—changes that are expected to affect patient management in the reclassification subset.

Renal neoplasms present a parallel diagnostic challenge due to morphologic and molecular heterogeneity, overlapping microscopic features, and interobserver variability. As a result, a subset of cases are unclassifiable even after immunohistochemical, mutation and cytogenetic workups. To address this, the Kidney Classifier component of this platform leverages genome-wide DNA methylation profiling (feasible on formalin-fixed paraffin-embedded tissue using robust array-based methods). It was developed through examination of methylation signatures from over 2,000 renal neoplasms, identifying 23 coherent methylation groups that correlate with known tumor types and reveal clinically relevant novel subtypes. A machine learning classifier trained on 1,284 samples was externally tested on 287 renal neoplasms, demonstrating >90% concordance between expected neoplasm type and high-score methylation-based classification, with discordant cases highlighting opportunities for diagnostic reclassification and improved precision in challenging renal tumor evaluations.

Licensing and collaboration opportunities include commercial development of methylation-based diagnostic tests and/or software-enabled classification solutions for clinical laboratories, reference labs, and diagnostic companies. Partners may engage in external validation (retrospective and prospective), assay standardization, integration into pathology workflows and reporting systems, and extension of classifier coverage to additional tumor types and multi-institutional datasets. Consistent with consensus recommendations for complementary classifiers, the inventors are also interested in collaborations that: (1) operationalize multi-classifier strategies (concordant/complementary prediction to increase confidence, (2) leverage discordance to trigger orthogonal follow-up) and (3) accelerate clinical translation through scalable deployment models- including CLIA laboratory workflows and regulated diagnostic pathways.

''This Notice is in accordance with 37 CFR 404.4 Authority to grant licenses.''

≤*NIH Reference Number:* E–105–2023–0.

Related Technologies: N/A.

Product Type: Oncology.

Therapeutic Area(s): Diagnostic.

Development Stage: Prototype.

Publications:

- Aldape K., et.al. cIMPACT–NOW update 9: Recommendations on utilization of genome-wide DNA methylation profiling for central nervous system tumor diagnostics. Neurooncol Adv. 2025 Jan 3;7(1):vdae228. PMID: 39902391.

Patents: PCT/US2024/054179, filed November 1,2024.

Potential Commercial Applications:

- Molecular classification and diagnosis of CNS and kidney tumors, including difficult-to-classify and low-confidence cases.
- Diagnostic subtyping aligned to WHO-guided entities.
- Reference-lab and hospital-lab deployment.
- Clinical trial stratification and translational research cohort harmonization.
- Multi-classifier diagnostic decision support.
- Cancer treatment development.

Competitive Advantages:

- Developed from a rigorously curated, large reference set of methylation profiles.
- Clinically relevant CNS diagnostic.
- CNS tumor methylation classes not represented in existing tools, expanding diagnostic coverage.
- Clinical-impact analysis creating superior diagnostic precision.
- Superior classifier for kidney cancer.
- Superior classifiers for multiple solid, difficult-to-diagnose tumors.
- Integrative into clinical workflows, improving diagnostic practices and enhancing patient care.

Collaboration Opportunity: Researchers at the NCI seek licensing and/or co-development research collaborations to further develop and possibly expand the classification capabilities of the software.

Dated: August 7, 2026.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2026–16441 Filed 8–11–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government Owned Invention Available for License: Monoclonal Antibody (RO4) That Reacts With the Juxta-Membrane Region of Mesothelin

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute (NCI) seeks research co-development partners and/or licensees for a novel monoclonal antibody (mAb), RO4, that can be used to treat mesothelin (MSLN) expressing cancers.

FOR FURTHER INFORMATION CONTACT: Inquiries related to this license opportunity should be directed to: Laurie Whitney, Ph.D., Unit Supervisor, NCI, Technology Transfer Center, Email: *WhitneyL@mail.nih.gov* or Phone: 240–276–5505.

SUPPLEMENTARY INFORMATION: Mesothelin (MSLN) is a surface antigen

highly expressed in many solid tumors, such as mesothelioma, ovarian, and pancreatic cancers. MSLN is present at relatively low levels in mesothelial cells of healthy individuals, making it an ideal candidate for targeted therapeutics. However, the efficacy of MSLN-targeted agents is often reduced as a portion of the protein is shed from the cell surface and binds to available anti-MSLN antibodies. This reduces therapeutic engagement at the cell surface as shed MSLN acts as a decoy within tumor microenvironments, limiting antibodies from reaching and destroying tumor cells.

Researchers at the NCI developed a novel mAb, RO4, which specifically binds to the juxta-membrane region of MSLN to block shedding. RO4 binds to the same region of MSLN as a previously developed mAb, 15B6 (NCI Ref. #E–106–2017), but in a different conformation. This allows for increased binding affinity and specificity. CAR–T cells made with humanized RO4 demonstrated higher cytotoxicity both *in vitro* and *in vivo* compared to h15B6 CAR-Ts. Additionally, hRO4 exhibited broader binding across MSLN-positive cell types compared to h15B6, suggesting wider utility in patient populations.

Researchers at the NCI seek licensing and/or co-development research collaborations for further development of RO4 that can be used to treat MSLN-positive cancers.

''This Notice is in accordance with 37 CFR 404.4 Authority to grant licenses.''

NIH Reference Number: E–051–2024.

Related Technologies: E–106–2017 and E–033–2022.

Product Type: Therapeutic.

Therapeutic Area(s): Oncology | Immunology.

Development Stage: Pre-clinical (*in vivo* validation).

Publications:

- Onda M, et al. RO4, a high-affinity humanized antibody against the juxtamembrane region of mesothelin for targeted cancer therapy. (PMID41550974).
- Liu X, et al. Highly active CAR T cells that bind to a juxtamembrane region of mesothelin and are not blocked by shed mesothelin. (PMID35512094).

Patens: National Stage Applications.

Potential Commercial Applications:

- Treatment of various MSLN-positive cancers—including mesothelioma, ovarian and pancreatic cancer.
- Development of CAR T cells and bispecific antibodies to target MSLN and CD3.
- Development of Antibody-Drug Conjugates (ADCs) and Antibody-nanoparticle conjugates to deliver cytotoxic payloads to MSLN-positive tumors.

Competitive Advantages:

- Increased therapeutic effectiveness via avoiding shed decoy interference.
- Enhanced binding affinity and selectivity compared to earlier antibodies.
- Improved cytotoxicity across various MSLN-positive tumors.
- Versatility in use of CAR T cells and bispecific antibodies targeting MSLN and CD3.

Collaboration Opportunity: Researchers at the NCI seek licensing and/or co-development research collaborations for a novel monoclonal antibody (mAb), RO4, that can be used to treat MSLN expressing cancers.

Dated: August 7, 2026.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2026–16443 Filed 8–11–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government Owned Invention Available for License: Quantitative Particle Identification (QPID) Digital Autoradiography System

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute (NCI) seeks research co-development partners and/or licensees for a QPID digital autoradiography system with particle identification capabilities.

FOR FURTHER INFORMATION CONTACT: Inquiries related to this license opportunity should be directed to: Eric Cheng, Ph.D., Technology Transfer Manager, NCI, Technology Transfer Center, Email: *eric.cheng2@nih.gov* or Phone: 240–276–5978.

SUPPLEMENTARY INFORMATION: Autoradiography is a photographic process that exposes a medium, sensitive to radiation, to a sample emitting radiation. The current state of the art involves exposing a thin slice of tissue to an ionization-sensitive film for several hours or days and then scanning the film into an autoradiography image. This image is created using the sum of the ionizations from all the decays that occurred during the time of exposure on the ionization-sensitive medium. Imaging quality of these samples can be improved by collecting information from each individual decay to enhance the autoradiographic measurement.

Researchers at NCI developed a QPID digital autoradiography system to measure the energy deposition from charged particles for each individual radioactive decay. The QPID leverages the ionizing radiation detection features of the Timepix3 detector to generate autoradiograph images in units of dose per unit time and area. The high readout speed of the Timepix3 gives the detector the capability to measure separate decay ionizations. It also segregates the image into one generated only by alpha and the other only by beta particles. A gamma detector was interfaced with the Timepix3—allowing tagging charged particle ionization events in coincidence with a gamma emission during the isotope decay. This allows for a method to distinguish between alpha and positron emitting radioisotopes when imaged concurrently in the same pathology sample. This is the most unique feature of the QPID which will aid the development of new theranostic treatments in which two similar ligands are used.

''This Notice is in accordance with 37 CFR 404.4 Authority to grant licenses.''

NIH Reference Number: E–201–2023.

Related Technologies: N/A.

Product Type: Device.

Therapeutic Area(s): Oncology | Radiology.

Development Stage: Prototype.

Publications:

- Adler SS, et al. A Quantitative Particle Identification (QPID) spectral autoradiography system. (PMID40374923).

Patens: PCT Stage, filed May 29 2025.

Potential Commercial Applications:

- Improved radiotherapy dosing for cancer treatment.
- Improved radiotherapy guidance for cancer treatment.
- Improve accuracy of biopsy procedures through real-time tracer measurement and detection.
- Measuring dual radioligand pathology samples.

Competitive Advantages:

- QPID can measure charge particle activity for individual decays (alpha, beta, and gamma).
- QPID measures absolute time of decay relative to the start of data acquisition.
- QPID more accurately measures radioactive dose in a tissue sample.

Collaboration Opportunity: Researchers at the NCI seek licensing and/or co-development research collaborations for developing the QPID system for improved autoradiography imaging.

Dated: August 7, 2026.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2026–16439 Filed 8–11–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Health Promotion and Implementation.

Date: August 28, 2026.

Time: 9:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 451–6339, *kellya2@mail.nih.gov.*

Name of Committee: Center for Scientific Review, Special Emphasis Panel; Fellowships: Synthetic and Medicinal Chemistry and Chemical Biology deferral panel.

Date: August 31, 2026.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: John J. Laffan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 443–7154, *laffanjo@mail.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Biobehavioral Medicine and Health Outcomes Study Section.

Date: September 14–15, 2026.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Mark A. Vosvick, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, Bethesda, MD 20892, (301) 402–4128, *mark.vosvick@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 7, 2026.

Margaret N. Vardanian,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–16377 Filed 8–11–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

NIH Owned Invention Available for License: Soluble Tissue Factor, a Novel Target, and Antibodies, for Diagnosis, Prevention and Treatment of Thrombosis and Related Conditions

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: Scientists at the National Cancer Institute (NCI) have discovered a novel therapeutic, diagnostic and prognostic target for thrombosis: Soluble Tissue Factor (sTF). NCI has generated first-in-class antibodies and platform selectively neutralizing pathological coagulation while preserving normal hemostasis. This platform technology can be used to prevent, diagnose and treat pathological thrombosis caused by a variety of clinical conditions-including cancer, sepsis, infectious diseases (*e.g.,* COVID), autoimmune disorders, trauma, heart conditions and inflammatory conditions. It offers a much more sensitive and specific test of thrombosis than the current D-dimer test. It may be applicable to any clinical condition which induces necroptosis, pyroptosis and NETtosis, such as cancer, neurodegenerative disease, ischemia-reperfusion and acute injuries, traumatic injuries, bacterial and viral infections, cardiovascular conditions, and atherosclerosis, inflammatory, autoimmune conditions, and others.

FOR FURTHER INFORMATION CONTACT: Inquiries related to this license/co-development opportunity should be directed to: Aida Cremesti, Ph.D., Senior Technology Transfer Manager, NCI, Technology Transfer Center, Email: *aida.cremesti@nih.gov* or Phone: 240–276–6641.

SUPPLEMENTARY INFORMATION: Investigators at the National Cancer Institute (NCI) have identified and therapeutically validated a distinctive, disease-restricted driver of thrombosis: soluble tissue factor (sTF). sTF is generated through proteolytic cleavage during inflammatory cell death. Mechanistically, the researchers demonstrated that sTF generation is not limited to necroptosis but represents a conserved outcome of multiple inflammatory cell death pathways, including pyroptosis and NETtosis.

Pathological thrombosis remains a leading cause of morbidity and mortality in sepsis, cancer, autoimmune diseases, viral infections, and inflammatory disorders. Current anticoagulant and thrombosis treatments options such as Heparins and Warfarin are effective at reducing clot formation, but act indiscriminately on the coagulation cascade, disrupt normal hemostasis, and are associated with significant bleeding risk. Current thrombosis diagnostics, D-dimer, a fibrin degradation by product, is a late stage markers that lacks sensitivity. This invention provides an alternative for early detection based on sTF that is more sensitive and specific.

To selectively target this mechanism, the team developed novel humanized monoclonal antibodies (*e.g.,* 58B3 and 56E5) that specifically recognize human soluble tissue factor (hsTF), but not full-length membrane-bound tissue factor (flTF). This selectivity preserves physiological hemostasis while inhibiting pathological coagulation. *In vivo* validation using human samples of various clinical diseases demonstrated that administration of sTF-specific antibodies prevents fibrinogen depletion and reduces thrombin–antithrombin (TAT) complex elevation, effectively normalizing coagulation parameters. These results establish proof of concept that selective sTF neutralization can block pathological thrombosis without systemic anticoagulation.

By establishing sTF as a unifying mechanistic link between inflammatory cell death and thrombosis across sepsis, cancer, infection, autoimmune disease, cardiovascular disorders, and metabolic inflammation, this antibody platform represents a first-in-class strategy to selectively inhibit pathological

coagulation while preserving normal hemostasis. The approach offers a safer, more precise therapeutic and diagnostic alternative to conventional anticoagulants. The humanized monoclonal antibodies, as well as methods of using sTF as a target for diagnosis, treatment and prevention of thrombosis and associated diseases are available for licensing or collaborative development to advance clinical translation. Partnership opportunities include preclinical optimization, clinical development, and diagnostic assay co-development.

''This Notice is in accordance with 37 CFR 404.4 Authority to grant licenses.''

NIH Reference Number: E–263–2023.

Related Technologies: N/A.

Product Type: Therapeutic.

Therapeutic Area(s): Cardiology | Infectious Diseases | Oncology.

Development Stage: Pre-clinical (*in vivo* validation).

Publications:

- Wan, P., Choksi, S., Park, YJ. *et al.* Soluble tissue factor generated by necroptosis-triggered shedding is responsible for thrombosis. *Cell Res* 35, 840–858 (2025). *https://doi.org/10.1038/s41422-025-01167-8.*
- Yan J, Wan P, Choksi S, Liu ZG. Necroptosis and tumor progression. *Trends Cancer,* 2022 Jan;8(1):21–27. *https://doi.org/10.1016/j.trecan.2021.09.003.*

Patents: PCT/US2026/022285, filed April 3,2026.

Potential Commercial Applications:

- Diagnostic tool for early detection and monitoring of sTF in plasma.
- Diagnostic tool for early detection and monitoring of thrombosis, much more sensitive and specific test than the currently used D-dimer test.
- Basis for diagnostic kits such as ELISA and point-of-care assays.
- Diagnostic tool for early detection of DVT and PE with radiolabeled anti-sTF antibody in combination with ultrasound/CT scan.
- Therapeutic use for sepsis-associated thrombosis.
- Therapeutic use for cancer-associated thrombosis.
- Therapeutic use viral infection–associated thrombosis.
- Therapeutic use autoimmune disorders.
- Therapeutic use cardiovascular inflammatory diseases.
- Therapeutic use for acute lung injury including Acute Respiratory Distress Syndrome ARD.
- Therapeutic use for metabolic and vascular inflammatory diseases.
- Therapeutic use for highly efficient inhibition of thrombosis with anti-sTF-based bispecific antibodies.

Competitive Advantages:

- Selective targeting of pathological soluble tissue factor (sTF).
- Preservation of normal hemostasis.
- Potential for long-acting biologic prevention.
- Specific mechanism-based intervention tied to inflammatory cell death.

Collaboration Opportunity: Researchers at the NCI seek licensing and/or co-development for developing diagnostic, prognostic, preventative and therapeutic development of sTF. NCI is seeking collaborators with access to clinical samples of thrombosis, and with experience of *in vivo* detection of thrombosis (*e.g.,* DVT) in patients with current tools. Also seeking collaborators with experience in developing bi-specific antibodies.

Dated: August 7, 2026.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2026–16440 Filed 8–11–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R7–ES–2026–2312; FXES111607MRG01–267–FF07CAMM00]

Marine Mammals; Incidental Take During Specified Activities; Proposed Incidental Harassment Authorization for Southeast Alaska Stock of Northern Sea Otters in Juneau, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application; proposed incidental harassment authorization; draft environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (FWS), propose to authorize incidental take by harassment of small numbers of northern sea otters (*Enhydra lutris kenyoni*) from the Southeast Alaska stock for a period of up to 1 year from the date of issuance. We are responding to a request submitted under the Marine Mammal Protection Act of 1972, as amended, by Turnagain Marine Construction. The applicant has requested this authorization for take by harassment that may result from activities associated with pile driving and marine construction within Stephens Passage in Juneau, Alaska. This proposed authorization, if finalized, would be for incidental take by Level A harassment and Level B harassment of northern sea otters from the Southeast Alaska stock. We invite comments on the proposed incidental harassment authorization and the accompanying draft environmental assessment from the public, Tribes, and local, State, and Federal agencies.

DATES: Comments must be received by September 11, 2026.

ADDRESSES: *Document availability:* You may view the application package, the draft environmental assessment, and other supporting material at *https://www.regulations.gov* under Docket No. FWS–R7–ES–2026–2312, or you may request these documents from the person listed under **FOR FURTHER INFORMATION CONTACT**.

- *Comment submission:* All submissions must include the docket number [FWS–R7–ES–2026–2312] for this document. You must submit comments using one of the following methods:
- *Electronic submission:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter FWS–R7–ES–2026–2312, which is the docket number for this rulemaking action. Then, click on the ''Search'' button. On the resulting page, in the panel on the left side of the screen under the ''Document Type'' heading, check the Notice box to locate this document. You may submit a comment by clicking on ''Comment.'' Comments must be submitted to *https://www.regulations.gov* before 11:59 p.m. eastern time on the date specified in **DATES**.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R7–ES–2026–2312, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803.

Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered. We will not accept comments via email, fax, or hand delivery. We are not required to consider comments that are submitted after the comment period ends or that are submitted via a method outside of these instructions. Comments containing profanity, vulgarity, threats, or other inappropriate content will not be considered.

We request that you send comments only by the methods described above. We will post all comments at *https://www.regulations.gov.* You may request that we withhold personal identifying information from public review; however, we cannot guarantee that we will be able to do so. See Request for Public Comments for more information.

FOR FURTHER INFORMATION CONTACT: Stephanie Burgess, by email at *r7mmmregulatory@fws.gov,* by telephone at 907–786–3800, or by U.S. mail at U.S. Fish and Wildlife Service, MS 341, 1011 East Tudor Road, Anchorage, AK 99503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972 (MMPA; 16 U.S.C. 1361, *et seq.*) authorizes the Secretary of the Interior (Secretary) to allow, upon request, the incidental, but not intentional, taking by harassment of small numbers of certain marine mammals in response to requests by U.S. citizens (as defined in title 50 of the Code of Federal Regulations (CFR) in part 18, at 50 CFR 18.27(c)) engaged in a specified activity (other than commercial fishing) within a specified geographic region during a period of not more than 1 year. The Secretary has delegated authority for implementation of the MMPA to the U.S. Fish and Wildlife Service (FWS, or we). According to the MMPA, the FWS shall allow this incidental taking by harassment, if we find that the total of such taking for the 1-year period:

1. Will affect only small numbers of individuals of the species or stock;
2. Will have no more than a negligible impact on the species or stock; and
3. Will not have an unmitigable adverse impact on the availability of these species or stock for taking for subsistence use by Alaska Natives.

If the requisite findings are made, we issue an authorization that sets forth the following, where applicable:

1. Permissible methods of taking;
2. Means of effecting the least practicable adverse impact on the species or stock and its habitat and the availability of the species or stock for subsistence uses; and
3. Requirements for monitoring and reporting of such taking by harassment, including, in certain circumstances, requirements for the independent peer review of proposed monitoring plans or other research proposals.

The term ''take'' means to ''harass, hunt, capture, or kill, or to attempt to harass, hunt, capture, or kill any marine mammal'' (16 U.S.C. 1362(13)). Harassment for activities other than military readiness activities or scientific research conducted by or on behalf of the Federal Government means any act of pursuit, torment, or annoyance that has the potential to injure a marine mammal or marine mammal stock in the wild (the MMPA defines this as ''Level A harassment''), or has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (the MMPA defines this as ''Level B harassment'') (16 U.S.C. 1362(18)).

The terms ''negligible impact'' and ''unmitigable adverse impact'' are defined in 50 CFR 18.27(c) as follows: ''Negligible impact'' is an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival. ''Unmitigable adverse impact'' means an impact resulting from the specified activity: (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The term ''small numbers'' is also defined in 50 CFR 18.27(c). However, we do not rely on that definition here as it conflates ''small numbers'' with ''negligible impacts.'' We recognize ''small numbers'' and ''negligible impacts'' as two separate and distinct considerations when reviewing requests for incidental harassment authorizations (IHA) under the MMPA (see *Natural Res. Def. Council, Inc.* v. *Evans,* 232 F. Supp. 2d 1003, 1025 (N.D. Cal. 2003)). Instead, for our small numbers determination, we estimate the likely number of marine mammals to be taken and evaluate if that take is small relative to the size of the species or stock.

The term ''least practicable adverse impact'' is not defined in the MMPA or its enacting regulations. In processing requests for IHAs, we ensure the least practicable adverse impact by requiring mitigation measures that are effective in reducing the impact of specified activities, but they are not so restrictive as to make specified activities unduly burdensome or impossible to undertake and complete.

Summary of Request

On September 3, 2025, the FWS received a request prepared by Solstice Alaska Consulting, Inc. on behalf of Turnagain Marine Construction (hereafter, TMC or the applicant) for an authorization to take by harassment northern sea otters (*Enhydra lutris kenyoni*) (hereafter, sea otters unless another sea otter subspecies is specified) from the Southeast Alaska stock. The applicant expects that take by harassment may occur during their construction of a new cruise ship terminal on Douglas Island within Stephens Passage in Juneau, Alaska. The FWS requested additional information on the project activities, and the applicant provided the information needed. The FWS received a revised request on May 20, 2026, and determined the revised request to be adequate and complete.

Description of Specified Geographic Region and Specified Activities

The specified geographic region is the nearshore waters surrounding the western side of Douglas Island (hereafter project location) located within Stephens Passage in Juneau, Alaska (figure 1 below).

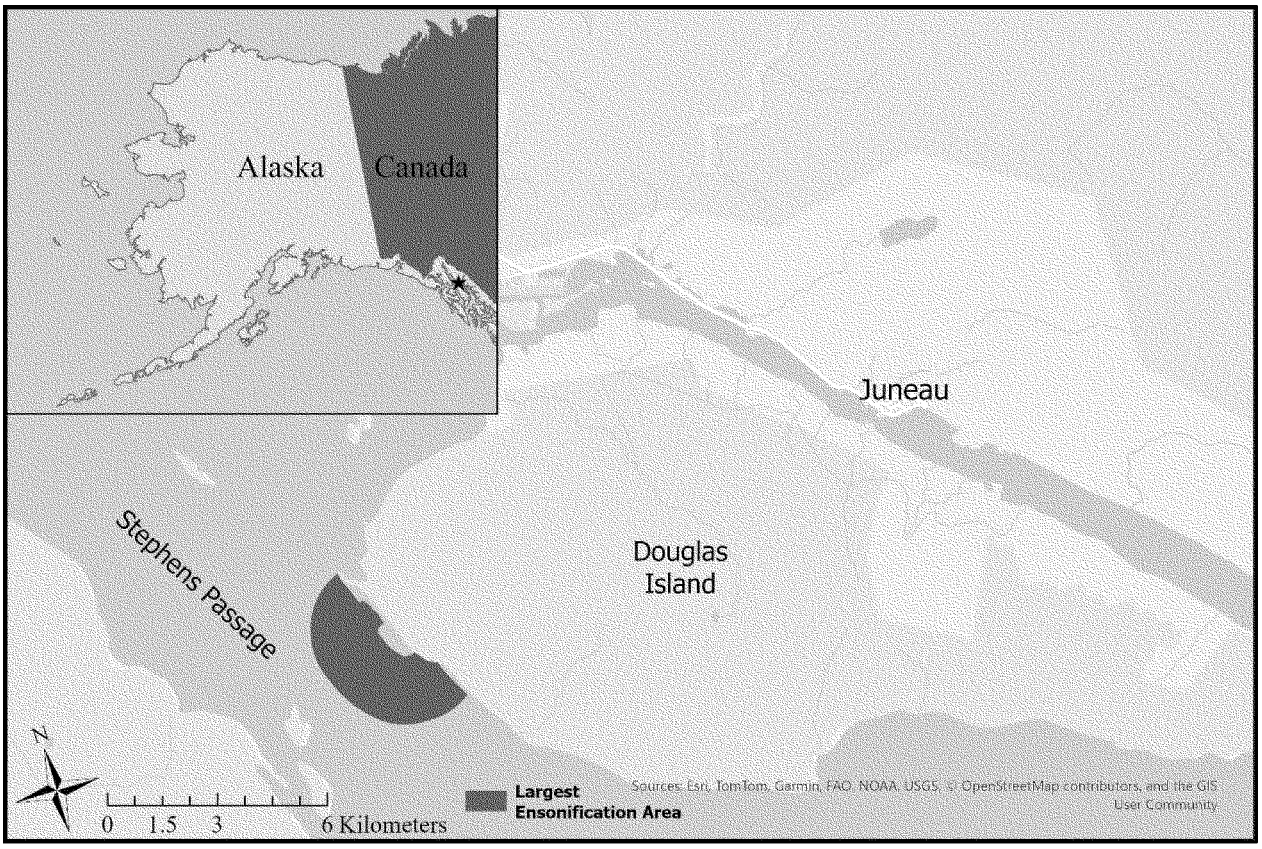

Figure 1. Specified geographic region of the project.

The specified activity (hereafter project) will include constructing two cruise ship berths and associated facilities on the western shore of Douglas Island in Stephens Passage, approximately 15 kilometers (km) (9.3 miles [mi]) northwest of downtown Juneau, Alaska. Construction will occur in two phases, with this proposed IHA covering the first phase. Phase 1 involves construction of a north berth and trestle and part of the south trestle. A total of 78 temporary steel piles, each 91.4 centimeters (cm) (36 inches [in]) in diameter, will be installed and removed using vibratory pile driving or down-the-hole (DTH) drilling to guide permanent piles into place. The applicant plans to install a total of 97 permanent steel piles no greater than 121.9 cm (48 in) in diameter using a combination of vibratory pile driving, impact pile driving, and DTH drilling methods. The 91.4-cm (36-in) and 121.9-cm (48-in) permanent steel piles may be installed simultaneously with a combination of pile driving methods, using two construction barges and crews, in order to increase construction productivity and reduce the project's duration. A bubble curtain will be employed during installation of the 121.9-cm (48-in) steel piles using impact pile driving and DTH drilling methods to reduce in-water noise levels. Hereafter (unless otherwise specified), the terms ''pile driving'' and ''pile-driving activities'' are used to refer to both pile installation and pile removal. Table 1 summarizes in-water project activities.

TABLE 1—DOUGLAS ISLAND CRUISE SHIP TERMINAL PROJECT ACTIVITIES, PILES INSTALLED OR REMOVED, AND DAYS OF ACTIVITY

Pile size and material	Activity	Total number of piles	Maximum number of piles per day	Maximum number of activity days
91.4-cm (36-in) steel	Temporary installation—vibratory	78	6	13
	Temporary removal—vibratory		6	13
	Temporary installation—DTH		4	20
91.4-cm (36-in) steel	Installation—vibratory	69	6	12
	Installation—impact		4	18
	Installation—DTH		4	18
121.9-cm (48-in) steel	Installation—vibratory	28	4	7
	Installation—impact		4	7
	Installation—DTH		2	14

Pile-driving activities will occur up to 122 non-consecutive days during the 1 year from the date of issuance of the IHA, if finalized. Materials and equipment will be transported via barges to the project location. The

applicant will also use two construction barges, tugboats, and cranes to support construction operations. Two small skiffs may also be used to support construction operations and transport personnel. Additional project details may be reviewed in the application materials available as described under **ADDRESSES** or may also be requested as described under **FOR FURTHER INFORMATION CONTACT**.

Description of Marine Mammals in the Specified Geographic Region

The sea otter is the only marine mammal species under the FWS's jurisdiction likely to be found within the specified geographic region. Information on the range, stocks, and biology of sea otters is included in supplemental information, which can be found as described above in **ADDRESSES**.

Potential Impacts of the Specified Activities on Marine Mammals

Effects of Noise on Sea Otters

We characterize ''noise'' as sound released into the environment from human activities that exceeds ambient levels or interferes with normal sound production or reception by sea otters. The terms ''acoustic disturbance'' and ''acoustic harassment'' are disturbances or harassment events resulting from noise exposure. Potential effects of noise exposure depend on factors such as the sea otter's distance from the sound source, the received sound level and intensity, background noise levels, the frequency and duration of the noise, and whether the noise is pulsed or continuous. The actual noise level perceived by individual sea otters will also depend on whether the sea otter is above or below water and on atmospheric and environmental conditions. Temporary disturbance of sea otters or localized displacement reactions are the most likely effects to occur from noise exposure.

Sea Otter Hearing

Pile driving and marine construction activities produce sound within sea otters' hearing range. Controlled sound exposure trials on southern sea otters (*Enhydra lutris nereis*) indicate that sea otters can hear frequencies between 125 hertz (Hz) and 38 kilohertz (kHz), with best sensitivity between 1.2 and 27 kHz (Ghoul and Reichmuth 2014). Sea otters are more adept at aerial hearing, and their sensitivity is similar to that of terrestrial carnivores (Reichmuth and Ghoul 2012; Ghoul and Reichmuth 2016; Zellmer et al. 2021). Aerial and underwater audiograms for a captive adult male southern sea otter in the presence of ambient noise suggest that its hearing is less sensitive to high-frequency (greater than 22 kHz) and low-frequency (less than 2 kHz) sound than that of terrestrial mustelids, but similar to that of a California sea lion (*Zalophus californianus*). However, the sea otter was still able to hear low-frequency sounds, and the detection thresholds for sounds between 0.125 and 1 kHz were between 116 and 101 decibels (dB), respectively. Dominant frequencies of southern sea otter vocalizations are between 3 and 8 kHz, with some energy extending above 60 kHz (McShane et al. 1995; Ghoul and Reichmuth 2012).

Exposure to high levels of sound may cause changes in behavior, masking of communications, temporary or permanent changes in hearing sensitivity, discomfort, and injury to marine mammals. Sea otters do not rely on sound to orient themselves, locate prey, or communicate under water; therefore, masking of communications by anthropogenic noise is less of a concern than for other marine mammals. However, sea otters, especially mothers and pups, do use sound for communication in air (McShane et al. 1995), and sea otters may monitor underwater sound to avoid predators (Davis et al. 1987).

Exposure Thresholds

Underwater Sounds

Noise exposure criteria for identifying underwater noise levels capable of causing Level A harassment (injury) to marine mammal species, including sea otters, have been established using the same methods as those used by the National Marine Fisheries Service (NMFS) (Southall et al. 2019). These criteria are based on estimated levels of sound exposure capable of causing a permanent shift in hearing sensitivity that is, a permanent threshold shift (PTS) (NMFS 2018). A PTS occurs when noise exposure causes damage to hair cells within the inner ear system (Ketten 2012). A sea otter that experiences PTS would be permanently unable to hear certain sounds at frequencies similar to those that caused the initial injury. Although the effects of PTS are, by definition, permanent, PTS does not equate to total hearing loss.

Sound exposure thresholds incorporate two metrics of exposure: the peak level of instantaneous exposure likely to cause PTS, and the cumulative sound exposure level (SEL_{CUM}) during a 24-hour period. They also include weighting adjustments for the sensitivity of different species to varying frequencies. The PTS-based injury criteria were developed from theoretical extrapolation of observations of temporary threshold shifts (TTS) detected in lab settings during sound exposure trials (Finneran 2015). A TTS is a noise-induced threshold shift in hearing sensitivity that fully recovers over time (Finneran 2015). Southall et al. (2019) developed TTS thresholds for sea otters, which are included in the ''other marine carnivores'' category, of 188 dB SEL_{CUM} re 1 micropascal (μPa) for impulsive underwater sound and 199 dB SEL_{CUM} for nonimpulsive underwater sound. Based on these analyses, Southall et al. (2019) predict that PTS for sea otters will occur at 232 dB peak sound pressure level (SPL) or 203 dB SEL_{CUM} for impulsive underwater sound and 219 dB SEL_{CUM} for nonimpulsive underwater sound.

The NMFS has revised its sound exposure criteria to include thresholds for auditory injury (NMFS 2024a). We are evaluating the auditory injury criteria to determine whether they are appropriate for FWS trust species, as sea otters in particular are not exposed to in-water noise for an entire 24-hour period.

The NMFS (2018) sound exposure criteria do not identify thresholds for avoidance of Level B harassment. For pinnipeds (seals and sea lions), NMFS has adopted a 160-dB threshold for Level B harassment from exposure to impulsive noise and a 120-dB threshold for nonimpulsive noise (High Energy Seismic Survey Team 1999; NMFS 2018). These thresholds were developed from observations of mysticete (baleen) whales responding to airgun operations (for example, Malme et al. 1983; Malme and Miles 1983; Richardson et al. 1986, 1995). Southall et al. (2007, 2019) assessed behavioral response studies and found considerable variability among pinnipeds. The authors determined that exposures between approximately 90 to 140 dB generally do not appear to induce strong behavioral responses from pinnipeds in water. However, they found behavioral effects, including avoidance, become more likely in the range between 120 and 160 dB, and most marine mammals showed some, albeit variable, responses to sound between 140 and 180 dB. Wood et al. (2012) adapted the approach identified in Southall et al. (2007) to develop a probabilistic scale for marine mammal taxa at which 10 percent, 50 percent, and 90 percent of individuals exposed are assumed to produce a behavioral response. For many marine mammals, including pinnipeds, these response rates were set at SPLs of 140, 160, and 180 dB, respectively.

We have evaluated these thresholds and determined that the Level B harassment threshold of 120 dB for nonimpulsive noise is not applicable to sea otters. The 120-dB threshold is based on studies in which gray whales (*Eschrichtius robustus*) were exposed to experimental playbacks of industrial noise (Malme et al. 1983; Malme and Miles 1983). During these playback studies, southern sea otter responses to industrial noise were also monitored (Riedman 1983, 1984). While gray whales exhibited avoidance to industrial noise at the 120-dB threshold, there was no evidence of disturbance reactions or avoidance in southern sea otters. Thus, given the differences in hearing and behavior between sea otters and gray whales, the NMFS 120-dB threshold based on gray whale behavior is not appropriate for predicting sea otter behavioral responses.

Based on the lack of disturbance or other observable reactions in sea otters during the 1980s playback studies, as well as the absence of a clear pattern of disturbance or avoidance behaviors attributable to underwater sound levels up to about 160 dB resulting from low-frequency broadband noise, we assume 120 dB is not an appropriate behavioral response threshold for sea otters exposed to nonimpulsive underwater noise.

Based on the best available scientific information about sea otters and closely related marine mammals where sea otter data are limited, the FWS has set 160 dB of received underwater sound as a threshold for take by Level B harassment of sea otters in this proposed IHA. Exposure to in-water noise levels between 125 Hz and 38 kHz that are greater than 160 dB—for both impulsive and nonimpulsive sound sources—will be considered by the FWS as Level B harassment. Thresholds for Level A harassment (which entails the potential for injury) for in-water noise levels between 125 Hz and 38 kHz are 232 dB peak SPL or 203 dB SEL_{CUM} for impulsive sounds and 219 dB SEL_{CUM} for nonimpulsive sounds (table 2 below).

Airborne Sounds

Thresholds for Level A harassment for in-air noise levels are 176 dB peak SPL re 20 µPa or 161 dB SEL_{CUM} for impulsive sounds and 177 dB SEL_{CUM} for nonimpulsive sounds (table 2 below). The NMFS (2018) guidance neither addresses thresholds for preventing injury or disturbance from airborne noise, nor provides thresholds for avoidance of Level B harassment. The NMFS currently recommends 100 dB for all pinnipeds, excluding harbor seals, as the Level B harassment threshold for in-air noise (NMFS 2025a). Conveyance of underwater noise into the air is of little concern since the effects of pressure release and interference at the water's surface reduce underwater noise transmission into the air. For activities that create both in-air and underwater noise, we will estimate take based on parameters for underwater noise transmission. Considering sound energy travels more efficiently through water than through air, this estimation will also account for exposures to sea otters at the surface.

TABLE 2—TEMPORARY THRESHOLD SHIFT (TTS) AND PERMANENT THRESHOLD SHIFT (PTS) THRESHOLDS

[Established by Southall et al. (2019) through modeling and extrapolation for "Other Marine Carnivores", which include sea otters.*]

	TTS			PTS		
	Nonimpulsive	Impulsive		Nonimpulsive	Impulsive	
	SEL_{CUM}	SEL_{CUM}	Peak SPL	SEL_{CUM}	SEL_{CUM}	Peak SPL
Air	157	146	170	177	161	176
Water	199	188	226	219	203	232

* Values are weighted for other marine carnivores' hearing thresholds and given in cumulative sound exposure level (SEL_{CUM} dB re (20 micropascal [µPa] in air and SEL_{CUM} dB re 1 µPa in water) for impulsive and nonimpulsive sounds, and unweighted peak sound pressure level (SPL) in air (dB re 20µPa) and water (dB 1µPa) (impulsive sounds only)).

Evidence From Sea Otter Studies

Individual sea otters near the project location would likely show a range of responses to noise from pile-driving activities. Some sea otters would likely dive, show startle responses, change direction of travel, or prematurely surface. Sea otters reacting to pile-driving activities may divert time and attention from biologically important behaviors, such as feeding and nursing pups. Sea otter responses to disturbance can result in energetic costs. For example, sea otters spend more time traveling in areas with high levels of disturbance (Curland 1997). Higher energetic costs require increased amounts of prey consumption (Barrett 2019). This increased prey consumption may impact sea otter prey availability and cause sea otters to spend more time foraging and less time resting (Barrett 2019). Some sea otters may abandon the project location and return when the disturbance has ceased. Based on the observed movement patterns of sea otters (Lensink 1962; Kenyon 1969, 1981; Garshelis and Garshelis 1984; Riedman and Estes 1990), we expect some sea otters would respond to pile-driving activities by dispersing to nearby areas of suitable habitat; however, other sea otters, especially territorial adult males, would not be displaced.

Additional information on the evidence from studies about how sea otters may be affected by noise can be found in the supplemental information to this document (available as described above in **ADDRESSES**).

Consequences of Permanent Threshold Shift

Sea otters exposed to noise levels above Level A harassment threshold criteria may experience a permanent shift in the sensitivity of their hearing. Information on the consequences of a PTS in sea otter hearing due to noise exposure can be found in the supplemental information to this document (available as described above in **ADDRESSES**).

Consequences of Disturbance

Information on the consequences of disturbance to sea otters can be found in the supplemental information to this document (available as described above in **ADDRESSES**).

Vessel Activities

Vessel activity during the project includes the use of barges and tugboats to transport and stage equipment and materials to support construction operations. Skiffs may be used to transport construction personnel. Vessels will not be used extensively or over a long duration during project activities. We do not anticipate that sea

otters would experience changes in behavior indicative of harassment during vessel operations. Additionally, vessel operators would take every precaution to avoid harassment of sea otters when operating a vessel near sea otters and implement mitigation measures described in the applicant's request and below in this proposed IHA, which include maintaining a minimum distance of 100 m (328 ft) from all sea otters.

Additional information on vessel activities can be found in the supplemental information to this document (available as described above in **ADDRESSES**).

Effects on Sea Otter Habitat and Prey

Information on the potential impacts of the specified activities on sea otter habitat and prey species can be found in the supplemental information to this document (available as described above in **ADDRESSES**). Based on this information, we do not anticipate any harassment to sea otters due to effects on sea otter habitat or prey from the specified activities.

Potential Impacts of the Specified Activities on Subsistence Uses

The specified activities will occur near marine subsistence harvest areas used by Alaska Natives from Juneau and the surrounding areas. The majority of sea otter harvest in this area occurs more than 19 km (12 mi) outside of Juneau. Since 2010, there have been 29 sea otters harvested in the Juneau area, and all were harvested in 2024 and 2025. In 2024, 17 sea otters were harvested from Hawk Inlet, on the west side of Admiralty Island, and 1 sea otter was harvested from Portland Island. In 2025, 9 sea otters were harvested from Hawk Inlet and 2 were harvested from Funter Bay, also on the west side of Admiralty Island.

The planned project will occur in Stephens Passage within the City and Borough of Juneau. The area potentially affected by the planned project does not significantly overlap with current subsistence harvest areas. Construction activities will not preclude access to hunting areas or interfere in any way with individuals wishing to hunt. Despite no conflict with subsistence use being anticipated, the FWS will conduct outreach with potentially affected communities to see whether there are any questions, concerns, or potential conflicts regarding subsistence use in those areas. If any conflicts are identified in the future, the TMC will develop a plan of cooperation (POC) specifying the steps necessary to minimize any effects the project may have on subsistence harvest.

Estimated Take

Definitions of Incidental Take Under the MMPA

Under the MMPA, ''take'' means ''to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal'' (16 U.S.C. 1362(13)). Below we provide definitions of three types of take of sea otters. This discussion is provided for context and background and does not necessarily reflect what is anticipated to result from the specified activities.

Lethal Take

In the most serious interactions, human actions can result in the mortality of sea otters, which we define here as lethal take.

Level A Harassment

The MMPA defines Level A harassment, for nonmilitary readiness activities, as ''any act of pursuit, torment, or annoyance which . . . has the potential to injure a marine mammal or marine mammal stock in the wild'' (16 U.S.C. 1362(18)(A)(i), (C)). We interpret this definition to include human activity that may result in PTS in a sea otter's hearing sensitivity or injury to sea otters.

Level B Harassment

The MMPA defines Level B harassment for nonmilitary readiness activities as ''any act of pursuit, torment, or annoyance which . . . has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, feeding, or sheltering'' (16 U.S.C. 1362(18)(A)(ii), (D)). We interpret this definition to include human-caused reactions that disrupt biologically significant behaviors or activities for the affected animal. Such reactions include, but are not limited to, the following:

- Swimming away at a fast pace on belly (*i.e.,* porpoising);
- Repeatedly raising the head vertically above the water to get a better view (spyhopping) while apparently agitated or while swimming away;
- In the case of a pup, repeatedly spyhopping while hiding behind and holding onto its mother's head;
- Abandoning prey or feeding area;
- Ceasing to nurse and/or rest (applies to dependent pups);
- Ceasing to rest (applies to independent animals);
- Ceasing to use movement corridors;
- Ceasing mating behaviors;
- Shifting/jostling/agitation in a raft (*i.e.,* group of 10 or more sea otters) so that the raft disperses;
- Sudden diving of an entire raft;
- Flushing animals off a haulout; or
- TTS in a sea otter's hearing sensitivity.

This list does not encompass all possible behaviors that indicate Level B harassment; other behavioral responses may be indicative of take by Level B harassment. In some circumstances, eliciting behavioral responses that equate to take by Level B harassment repeatedly may result in Level A harassment. Relatively minor changes in behavior such as the animal raising its head or temporarily changing its direction of travel are not likely to disrupt biologically important behavioral patterns, and the FWS does not view such minor changes in behavior as indicative of a take by Level B harassment.

Calculating Take

Sea Otter Density

We assumed all sea otters exposed to underwater sound levels that meet the acoustic exposure criteria defined above in *Exposure Thresholds* would experience take by Level A harassment or Level B harassment. We refer to the area in which sound levels meet or exceed the acoustic exposure criteria defined for either Level A harassment or Level B harassment as the ensonification area. Spatially explicit ensonification areas were established around the planned construction location to estimate the number of sea otters that may be exposed to these sound levels.

Ecological diffusion models have been used to examine sea otter distribution in the Southeast Alaska sea otter stock region at a fine-scale resolution, and these models have estimated the posterior mean and 95 percent posterior quantiles for sea otter density within the project location (Eisaguirre et al. 2021, 2023; Schuette et al. 2023). The upper 95 percent posterior quantile for sea otter density, which is a conservative density estimate, ranged from 0.155 to 1.373 sea otters/km^2 inside the project's largest ensonification area (Eisaguirre et al. 2021, 2023; Schuette et al. 2023). We used the maximum estimated sea otter density of 1.373 sea otters/km^2 in our analysis to estimate the number of sea otters potentially affected by the project activities. We received information that sea otter observations around Douglas Island have increased in recent years (Allen Marine Tours 2024; Solstice 2026). Sea otters have become more frequently observed on marine tours in

the area (one or two sea otters observed per day) during the summer. Sea otters are more frequently observed in areas outside the project location, such as Point Retreat Lighthouse, north of Shelter Island, Portland Island and Little Island (Solstice 2025). The information on local sea otter observations supports our sea otter density estimate of 1.373 sea otters/km^2 in the project location.

Sound Levels for the Specified Activities

The project activities consist of multiple pile installation methods (vibratory pile driving, impact pile driving, and DTH drilling). Each method generates a different type of in-water noise. Vibratory pile extraction and installation produces nonimpulsive noise; impact pile installation produces impulsive noise; and DTH drilling is considered to produce both impulsive and nonimpulsive noise (NMFS 2020).

The level of sound anticipated from each project activity was established using data from several sources in addition to guidance from NMFS. We used the empirical data from those proxy projects and sound levels provided by NMFS with the NMFS Technical Guidance and User Spreadsheet (NMFS 2018, 2020) to determine the distance at which sound levels would attenuate to Level A harassment thresholds (table 2 above). To estimate the distances at which sound levels would attenuate to Level B harassment thresholds, we used the data from the proxy projects and the sound levels provided by NMFS to determine the distance at which sound levels would attenuate to 160 dB. We used the NMFS-recommended transmission loss coefficient of 15 for coastal pile-driving activities in a practical spreading loss model (NMFS 2020) to estimate distances at which sounds would attenuate to Level A harassment and Level B harassment thresholds. The weighting factor adjustment included in the NMFS user spreadsheet accounts for sounds experienced in less sensitive portions of an animal's hearing range. We used the weighting factor adjustment for otariid pinnipeds as they are the closest available physiological and anatomical proxy for sea otters. We acknowledge that NMFS has revised their user spreadsheet to include thresholds for auditory injury (NMFS 2024a). As discussed in *Exposure Thresholds,* we are evaluating the auditory injury criteria to determine whether they are appropriate for FWS trust species, and we will continue to use the previous version of the user spreadsheet (NMFS 2018, 2020) to estimate harassment of sea otters from in-water noise exposure during our evaluation.

Sound levels for all sources are unweighted and given in dB re 1 µPa. For nonimpulsive sound sources, sound levels are shown in the form of mean maximum root mean square (RMS) SPL. For impulsive sound sources, sound levels are shown in the forms of peak SPL (peak) and sound exposure level for a single strike (SELss). Sound levels for project activities are listed in table 3 below.

TABLE 3—TMC DOUGLAS ISLAND CRUISE SHIP TERMINAL CONSTRUCTION SOUND TYPES, LEVELS, AND TIMING

Pile size and material	Activity	Type of sound	Sound levels	Source	Timing per pile (non-impulsive sound sources) or strikes per pile (impulsive sound sources)
91.4-cm (36-in) steel	Temporary installation—vibratory.	Nonimpulsive	166 dB RMS	NMFS 2026	10 minutes.
	Temporary removal—vibratory.		166 dB RMS	NMFS 2026	10 minutes.
	Temporary installation—DTH.	Impulsive and nonimpulsive.	174 dB RMS; 164 dB SELss; 194 dB peak.	Denes et al. 2019; Reyff & Heyvaert 2019; Reyff 2020; NMFS 2022.	150 minutes/90,000 strikes.
91.4-cm (36-in) steel	Installation—vibratory	Nonimpulsive	166 dB RMS	NMFS 2026	10 minutes.
	Installation—impact	Impulsive	193 dB RMS; 183 dB SELss; 210 dB peak.	Caltrans 2015, 2020	2,400 strikes.
	Installation—DTH	Impulsive and nonimpulsive.	174 dB RMS; 164 dB SELss; 194 dB peak.	Denes et al. 2019; Reyff & Heyvaert 2019; Reyff 2020; NMFS 2022.	150 minutes/90,000 strikes.
121.9-cm (48-in) steel[a]	Installation—vibratory	Nonimpulsive	171 dB RMS	NMFS 2026	10 minutes.
	Installation—impact	Impulsive	195 dB RMS; 180 dB SELss; 208 dB peak.	Caltrans 2020	2,400 strikes.
	Installation—DTH	Impulsive and nonimpulsive.	178 dB RMS; 168 dB SELss.	NMFS 2025b	240 minutes/115,200 strikes.
91.4-cm (36-in) and 121.9-cm (48-in) steel[a].	Simultaneous installation—vibratory and vibratory.	Nonimpulsive	172 dB RMS	NMFS 2024b; Add 1 dB to highest source level.	10 minutes.
	Simultaneous installation—impact and impact.	Impulsive	195 dB RMS; 223.4 dB SELcum.	Use calculations from NMFS 2024b.	2,400 strikes.
	Simultaneous installation—DTH and DTH.	Impulsive and nonimpulsive.	177 dB RMS; 167 dB SELss; 194 dB peak.	NMFS 2024b; Add 3 dB to the highest source level.	240 minutes/144,000 strikes.
91.4-cm (36-in) and 121.9-cm (48-in) steel[a].	Simultaneous installation—vibratory and impact.	Nonimpulsive and impulsive.	166 dB RMS; 195 dB RMS; 180 dB SELss; 208 dB peak.	NMFS 2024b; Use largest Level A and Level B isopleths.	10 minutes; 2,400 strikes.
	Simultaneous installation—vibratory and DTH.	Nonimpulsive and impulsive/nonimpulsive.	166 dB RMS; 178 dB RMS; 168 dB SELss; 174 dB RMS.	NMFS 2024b; Use largest Level A isopleth; Add 1 dB to highest source level for Level B.	10 minutes; 240 minutes/115,200 strikes.
	Simultaneous installation—impact and DTH.	Impulsive and impulsive/nonimpulsive.	193 dB RMS; 183 dB SELss; 210 dB peak; 178 dB RMS; 168 dB SELss.	NMFS 2024b; Use largest Level A and Level B isopleths.	2,400 strikes; 240 minutes/115,200 strikes.

TABLE 3—TMC DOUGLAS ISLAND CRUISE SHIP TERMINAL CONSTRUCTION SOUND TYPES, LEVELS, AND TIMING—Continued

Pile size and material	Activity	Type of sound	Sound levels	Source	Timing per pile (non-impulsive sound sources) or strikes per pile (impulsive sound sources)
121.9-cm (48-in) and 91.4-cm (36-in) steel.	Simultaneous installation—vibratory and impact.	Nonimpulsive and impulsive.	171 dB RMS; 193 dB RMS; 183 dB SELss; 210 dB peak.	NMFS 2024b; Use largest Level A and Level B isopleths.	10 minutes; 2,400 strikes.
	Simultaneous installation—vibratory and DTH.	Nonimpulsive and impulsive/nonimpulsive.	171 dB RMS; 174 dB RMS; 164 dB SELss; 194 dB peak; 176 dB RMS.	NMFS 2024b; Use largest Level A isopleth; Add 2 dB to highest source level for Level B.	10 minutes; 150 minutes/9,000 strikes.
	Simultaneous installation—impact and DTH.	Impulsive and impulsive/nonimpulsive.	195 dB RMS; 180 dB SELss; 208 dB peak; 174 dB RMS; 164 dB SELss; 194 dB peak.	NMFS 2024b; Use largest Level A and Level B isopleths.	2,400 strikes; 150 minutes/9,000 strikes.

[a] A 5 dB reduction in source levels was applied to proxy sound sources when calculating the ensonification areas for 121.9-cm (48-in) piles due to use of a bubble curtain during impact pile driving and DTH drilling activities.

Ensonification Areas

Distances to below Level A harassment and Level B harassment thresholds were calculated for each project activity to determine the ensonification area for that project activity (table 4 below). A 5 dB reduction in source levels was applied to proxy sound sources when calculating ensonification areas for 121.9-cm (48-in) piles due to use of a bubble curtain during impact pile driving and DTH drilling activities. The TMC would implement a 20-m (66-ft) physical interaction shutdown zone, regardless of predicted sound levels, to minimize the potential for physical impacts to sea otters.

TABLE 4—TMC DOUGLAS ISLAND CRUISE SHIP TERMINAL DISTANCES TO BELOW LEVEL A HARASSMENT AND LEVEL B HARASSMENT ZONES AND PROPOSED PHYSICAL INTERACTION SHUTDOWN ZONES

Pile size and material	Activity	Distance to below Level A harassment threshold (m)	Distance to below Level B harassment threshold (m)	Distance to below physical interaction shutdown zone (m)
91.4-cm (36-in) steel	Temporary installation—vibratory	0.6	25.1	20.0
	Temporary removal—vibratory	0.6	25.1	20.0
	Temporary installation—DTH	106.6	[b] 85.8	20.0
91.4-cm (36-in) steel	Installation—vibratory	0.6	25.1	20.0
	Installation—impact	175.8	1,584.9	20.0
	Installation—DTH	106.6	[b] 85.8	20.0
121.9-cm (48-in) steel [a]	Installation—vibratory	1.0	54.1	20.0
	Installation—impact	51.5	1,000.0	20.0
	Installation—DTH	67.9	73.6	20.0
91.4-cm (36-in) and 121.9-cm (48-in) steel [a]	Simultaneous installation—vibratory and vibratory	1.6	63.1	20.0
	Simultaneous installation—impact and impact	193.2	2,154.4	20.0
	Simultaneous installation—DTH and DTH	145.5	[b] 135.9	20.0
	Simultaneous installation—vibratory and impact	51.5	1,000.0	20.0
	Simultaneous installation—vibratory and DTH	67.9	85.8	20.0
	Simultaneous installation—impact and DTH	175.8	1,584.9	20.0
121.9-cm (48-in) and 91.4-cm (36-in) steel [a]	Simultaneous installation—vibratory and impact	175.8	1,584.9	20.0
	Simultaneous installation—vibratory and DTH	106.6	116.6	20.0
	Simultaneous installation—impact and DTH	106.6	1,000.0	20.0

[a] A 5 dB reduction in source levels was applied to proxy sound sources when calculating the ensonification areas for 121.9-cm (48-in) piles due to use of a bubble curtain during impact pile driving and DTH drilling activities.

[b] The Level B harassment distance threshold is smaller than the Level A harassment distance threshold for these activities; therefore, the Level A harassment distance threshold will be used rather than the Level B harassment distance threshold for monitoring of takes.

We calculated the area ensonified to >232 dB peak SPL or >203 dB SEL_{CUM} re 1µPa for impulsive underwater sound and >219 dB SEL_{CUM} re 1µPa for nonimpulsive underwater sound to determine the area in which sea otters may experience Level A harassment for each of the TMC's project activities. Our ensonification area calculations showed that the project activity sound levels would not reach the 232 dB peak SPL threshold for causing instantaneous PTS in sea otter hearing sensitivity. We multiplied the ensonification area for Level A harassment by the density of sea otters for the project location (see *Sea Otter Density*) and the number of project activity days to determine the number of Level A harassment events for each project activity.

To estimate the number of Level B harassment events during the TMC's project activities, we subtracted the area of the Level A harassment zone from the area ensonified to >160 dB re 1µPa to determine the area in which sea otters may experience Level B harassment for each project activity. Our ensonification area calculations showed that the project activity sound levels would not reach the 226 dB peak SPL threshold for causing instantaneous TTS in sea otter hearing sensitivity outside the 20-m (66-ft) physical interaction shutdown zone. We multiplied the remaining ensonified area for Level B harassment by the density of sea otters for the project location (see *Sea Otter Density*) and the number of project activity days to

determine the number of Level B harassment events for each project activity. The applicant provided geospatial files representing the area where pile driving and construction will occur and the ensonified water around the construction area. These geospatial files were clipped by land boundaries; therefore, only the area of ensonified water was provided by the applicant. The numbers of Level A harassment and Level B harassment events estimated during project activities can be found in tables 5 and 6 below, respectively.

TABLE 5—TMC DOUGLAS ISLAND CRUISE SHIP TERMINAL LEVEL A HARASSMENT EVENTS ESTIMATED

Pile size and material	Activity	Maximum number of activity days	Sea otter density	Level A area (km^2)	Estimated sea otters affected by Level A sound per day	Total estimated Level A harassment events (unrounded)	Total estimated Level A harassment events (rounded)
91.4-cm (36-in) steel.	Temporary installation—vibratory	13	1.373 sea otters/ km^2.	0.342	0.470	6.107	7
	Temporary removal—vibratory	13		0.342	0.470	6.107	7
	Temporary installation—DTH	20		0.536	0.735	14.707	15
91.4-cm (36-in) steel and 121.9-cm (48-in) steel.	Simultaneous installation—vibratory and vibratory.	7		0.344	0.472	3.304	4
	Simultaneous installation—impact and impact.	7		0.723	0.992	6.947	7
	Simultaneous installation—DTH and DTH.	14		0.616	0.846	11.847	12
	Simultaneous installation—vibratory and impact.	7		0.430	0.591	4.135	5
	Simultaneous installation—vibratory and DTH.	12		0.461	0.632	7.587	8
	Simultaneous installation—impact and DTH.	14		0.683	0.938	13.128	14
121.9-cm (48-in) steel and 91.4-cm (36-in) steel.	Simultaneous installation—vibratory and impact.	7		0.683	0.938	6.564	7
	Simultaneous installation—vibratory and DTH.	7		0.536	0.735	5.148	6
	Simultaneous installation—impact and DTH.	7		0.536	0.735	5.148	6

TABLE 6—TMC DOUGLAS ISLAND CRUISE SHIP TERMINAL LEVEL B HARASSMENT EVENTS ESTIMATED

Pile size and material	Activity	Maximum number of activity days	Sea otter density	Level B area (km^2)	Level B area minus Level A area (km^2)	Estimated sea otters affected by Level B sound per day	Total estimated Level B harassment events (unrounded)	Total estimated Level B harassment events (rounded)
91.4-cm (36-in) steel	Temporary installation—vibratory.	13	1.373 sea otters/ km^2.	0.384	0.041	0.057	0.737	1
	Temporary removal—vibratory.	13		0.384	0.041	0.057	0.737	1
	Temporary installation—DTH.	20		0.495	[a] 0	0	0	0
91.4-cm (36-in) steel and 121.9-cm (48-in) steel.	Simultaneous installation—vibratory and vibratory.	7		0.452	0.108	0.148	1.036	2
	Simultaneous installation—impact and impact.	7		11.553	10.830	14.867	104.069	105
	Simultaneous installation—DTH and DTH.	14		0.596	[a] 0	0	0	0
	Simultaneous installation—vibratory and impact.	7		3.705	3.274	4.495	31.465	32
	Simultaneous installation—vibratory and DTH.	12		0.495	0.034	0.047	0.562	1
	Simultaneous installation—impact and DTH.	14		7.133	6.450	8.854	123.955	124
121.9-cm (48-in) steel and 91.4-cm (36-in) steel.	Simultaneous installation—vibratory and impact.	7		7.133	6.450	8.854	61.978	62
	Simultaneous installation—vibratory and DTH.	7		0.556	0.020	0.028	0.195	1
	Simultaneous installation—impact and DTH.	7		3.705	3.169	4.350	30.452	31

[a] The Level B harassment distance threshold is smaller than the Level A harassment distance threshold for these activities; in these instances, we estimated take of sea otters by Level A harassment only.

Critical Assumptions

In order to conduct this analysis and estimate the potential amount of take by Level A harassment and Level B harassment, several critical assumptions were made.

Sound level information from pile-driving activities in several locations was used to generate sound level estimates for the specified activities (see sources in table 3 above). Environmental conditions in these locations, including water depth, substrate, and ambient sound levels may be similar to those in the project location, but are not identical. Further, ensonification area estimates were based on sound attenuation models using a practical spreading loss model. These factors may lead to actual sound values differing slightly from those estimated here.

Some of the piles may be installed using multiple pile installation methods including vibratory pile driving, impact pile driving, and DTH drilling methods. It is possible that all three pile installation methods may not be necessary for all piles. We assumed that all three pile installation methods will be used during installation of permanent piles to estimate the potential for take of sea otters. Additionally, installation of 91.4-cm (36-in) and 121.9-cm (48-in) permanent piles may be conducted simultaneously using a combination of pile installation methods. Since we cannot know the actual number of permanent piles that may be driven sequentially versus simultaneously or the combination of pile installation methods that will be used in advance, we assumed that every possible combination of pile installation methods will be used to simultaneously install 91.4-cm (36-in) and 121.9-cm (48-in) permanent piles to estimate the potential for take of sea otters. Take estimates from these simultaneous pile installation activities were then added to the take estimates for temporary piles that will not be driven simultaneously.

The pile-driving activities described here will also create in-air noise. Because sea otters spend over half of their day with their heads above water (Esslinger et al. 2014), they will be exposed to the in-air noise produced by construction equipment. However, we have calculated Level A harassment and Level B harassment with the assumption that a sea otter may be harassed only one time per 24-hour period, and in-water noise levels would be more disturbing and extend farther than in-air noise. Thus, while sea otters may be disturbed by noise both in-air and in-water, we have relied on the more conservative in-water estimates.

Level B harassment is equated herein with behavioral responses that indicate harassment or disturbance. There is likely a portion of animals that respond in ways that indicate some level of disturbance but do not experience biologically significant consequences. Our estimates do not account for variable responses by sea otter age and sex.

The behavioral response estimates presented here do not account for the individual movements of animals in response to the specified activities. Our assessment assumes animals remain stationary (that is, the density does not change) for a 24-hour period, and animals do not move out of ensonification areas in response to noise. Not enough information is available about the movement of sea otters in response to specific disturbances to refine this assumption.

Sea otter density in the project location was calculated using fine-scale ecological diffusion models created by Eisaguirre et al. (2021, 2023; Schuette et al. 2023). Methods and assumptions for these surveys can be found in the original publications. A limited number of individual sea otters occupy the project location depending on multiple factors, such as habitat suitability, prey availability, environmental stressors, predation, subsistence harvest levels, and human activity (Tinker et al. 2019; Eisaguirre et al. 2021). Although sea otters are nonmigratory, they typically move amongst focal areas within their home ranges to rest and forage (Garshelis and Garshelis 1984; Laidre et al. 2009). It is possible that, given the large variability in individual home range sizes and the potential for daily movement in and out of foraging or resting areas, different individual sea otters could be found within the ensonification area each day of the project. Thus, we assumed that the estimated harassment events may impact different sea otters up to the maximum number of individual sea otters estimated to be exposed to the TMC's project activities. We used the best available scientific information to estimate the maximum number of individual sea otters that may be exposed to the TMC's project activities. Sea otters maintain home ranges from approximately 1 to 16 km (0.6 to 10 mi) of shoreline (Kenyon 1969; Garshelis and Garshelis 1984; Riedman and Estes 1990). We summed the number of sea otters within 16 km (10 mi) of the project location using the sea otter abundance estimates derived from the fine-scale ecological diffusion models (Eisaguirre et al. 2021, 2023; Schuette et al. 2023). Based on this information and our assumptions, we estimate that up to 119 individual sea otters may be exposed to the TMC's project activities.

For our take estimate analysis, we subtracted the Level A harassment ensonification area from the Level B harassment ensonification area for each project activity to estimate the total number of Level B harassment events. This approach avoids overestimating the number of Level B harassment events. We rounded the total numbers of Level A harassment and Level B harassment events up to the nearest whole number considering that harassment events are not fractional units. In some recent MMPA take authorizations for sea otters, the FWS has rounded the number of harassment events to 2 harassment events when the number of harassment events is between 0.001 and 1 to account for the potential of mother and pup pairs being exposed to in-water noise at harassment thresholds. For this project, we did not round the number of harassment events for mother and pup pairs given the low density of sea otters in the project location and the low likelihood of observing more than one sea otter per day in Stephens Passage (see *Sea Otter Density*).

Sum of Harassment From All Sources

The TMC will conduct pile driving and marine construction activities in Juneau for up to a 1-year period. A summary of total estimated takes by Level A harassment and Level B harassment during the project is provided in table 7 below.

TABLE 7—SEA OTTERS EXPECTED TO BE HARASSED; LEVEL A HARASSMENT AND LEVEL B HARASSMENT EVENTS

Location	Number of sea otters exposed to Level A harassment	Total number of Level A harassment events	Number of sea otters exposed to Level B harassment	Total number of Level B harassment events
Douglas Island (Southeast Alaska stock)	98	98	119 [a]	360

[a] It is possible that an individual sea otter may experience both Level A harassment and Level B harassment. We anticipate up to 119 sea otters may experience harassment during the project activities.

Over the course of the project, we estimate up to 98 instances of take by Level A harassment of 98 sea otters from the Southeast Alaska stock due to PTS associated with in-water noise exposure during project activities. We anticipate that sea otters may experience PTS as a result of cumulative in-water noise exposure. Project activity sound levels would not reach the 232 dB peak SPL threshold for causing instantaneous PTS in sea otter hearing sensitivity based on our ensonification area calculations. Using soft-start procedures, zone clearance prior to activity startup, and shutdown zones is likely to decrease both the number of sea otters exposed to noise above Level A harassment thresholds and the exposure time of any sea otters entering the Level A harassment zone. This reduces the likelihood of hearing sensitivity losses that might impact the health, reproduction, or survival of affected sea otters. Despite the implementation of mitigation measures, it is anticipated that some sea otters may experience Level A harassment via exposure to in-water noise above threshold criteria during pile-driving activities.

Over the course of the project, we estimate up to 360 instances of take by Level B harassment of up to 119 sea otters from the Southeast Alaska stock due to behavioral responses to in-water noise exposure during project activities. Although multiple instances of Level B harassment of individual sea otters are possible, these events are unlikely to have significant consequences for the health, reproduction, or survival of affected sea otters. The potential effects of multiple Level B harassment noise exposures may include short-term behavioral reactions, displacement of sea otters near active operations, and potential temporary shifts in hearing thresholds. We anticipate that the likelihood of sea otters experiencing a TTS is low during the project. Project activity sound levels would not reach the peak SPL threshold for causing instantaneous TTS in sea otter hearing sensitivity outside of the 20-m (66-ft) physical interaction shutdown zone based on our ensonification area calculations. Therefore, sea otters would experience TTS as a result of cumulative in-water noise exposure, which is unlikely due to sea otter behavior patterns. Sea otters spend over half of their time above the surface during the summer months (Esslinger et al. 2014), and likely no more than 70 percent of their time foraging during winter months (Gelatt et al. 2002); thus, their ears would not be exposed to underwater noise for a prolonged time period, thereby reducing their likelihood to experience TTS. Considering the sound levels of the specified activities, the limited amount of time over non-consecutive days in which the specified activities will occur, and the localized area to be impacted by the specified activities; we do not anticipate that the effects of multiple Level B harassment noise exposures would rise to the level of TTS, an injury, or Level A harassment.

Determinations and Findings

Sea otters exposed to noise from the specified activities are likely to respond with temporary behavioral modification or displacement. The specified activities could temporarily interrupt the feeding, resting, and movement of sea otters. The activities will occur during a limited amount of time and in a localized area, and the impacts associated with the project are likewise temporary and localized. The anticipated effects are short-term behavioral reactions, displacement of sea otters near active operations, and potential shifts in hearing thresholds.

Sea otters that encounter the specified activities may exert more energy than they would otherwise due to temporary cessation of feeding, increased vigilance (for example, repeatedly spyhopping), and retreating from the project location. We expect that affected sea otters would tolerate this exertion without measurable effects on health or reproduction. Most of the anticipated takes would be due to short-term Level B harassment in the form of startling reactions, interruption of feeding, resting, and movement, or temporary displacement. We anticipate that the likelihood of sea otters experiencing a TTS from in-water noise exposure is low based on project activity sound levels and typical sea otter behavioral patterns. While mitigation measures incorporated into the TMC's request would reduce occurrences of Level A harassment to the extent practicable, a small number of takes by Level A harassment would be authorized for the specified activities, which have Level A harassment zone radii ranging up to 193.2 m (634 ft).

Small Numbers

For our small numbers determination, we consider whether the estimated number of sea otters to be subjected to incidental take is small relative to the population size of the species or stock. More specifically, the FWS compares the number of sea otters anticipated to be taken in the year contemplated by the proposed IHA with the population estimate applicable for the year. Here, predicted numbers of sea otters to be taken were determined based on the estimated density of sea otters in the project location and ensonification areas developed using empirical evidence from similar geographic areas. We estimate that the TMC's specified activities in the specified geographic region would take no more than 119 Southeast Alaska stock sea otters by Level A harassment and Level B harassment during the 1-year period of this proposed IHA (see *Sum of Harassment from All Sources*). Take of 119 sea otters is 0.53 percent of the best available estimate of the current annual Southeast Alaska stock size of 22,359 animals (Schuette et al. 2023; 88 FR 53510, August 8, 2023) ([119 ÷ 22,359] × 100 ≈ 0.53) and represents a ''small number'' of sea otters of that stock.

Further, the specified activity area is small relative to the range of the Southeast Alaska stock of sea otters. The Southeast Alaska stock of sea otters ranges well beyond the nearshore waters surrounding the Douglas Island Cruise Ship Terminal located within Stephens Passage, meaning this specified geographic region represents only a small subset of the potential area in which this population may occur.

Therefore, we propose a finding that the applicant's specified activities would take only small numbers of sea otters because: (1) Only a small proportion of sea otters would overlap with the areas where the specified activities will occur; and (2) the estimated number of Southeast Alaska stock sea otters to be taken would be limited to a total of 119 sea otters over the duration of the proposed IHA, which represents a small proportion (0.53 percent) of the stock of sea otters.

Negligible Impact

We propose a finding that any incidental take by harassment resulting from the specified activities cannot be reasonably expected to, and is not reasonably likely to, adversely affect sea otters through effects on annual rates of recruitment or survival and would, therefore, have no more than a negligible impact on the Southeast Alaska stock of sea otters. In making this finding, we considered the best available scientific information including the biological and behavioral characteristics of the species, the most recent information on species distribution and abundance within the specified geographic region, the current and expected future status of the stock (including existing and foreseeable human and natural stressors), the potential disturbance sources caused by the specified activities, and the potential sea otter responses to this disturbance. In addition, we reviewed applicant-provided materials, our own files and datasets, published reference materials, and input from species experts.

The specified activities may impact sea otters by causing short-term behavioral reactions, by displacing sea otters near active operations, and by potentially causing hearing threshold shifts. While Level A harassment has the potential to result in the injury (hearing threshold shift) of up to 98 sea otters during the IHA period, this type of harassment is not anticipated to result in long-term impacts that are likely to result in mortality. Most sea otters would respond to disturbance by moving away from the source, which may cause temporary interruption of foraging, resting, or other natural behaviors. Affected sea otters are expected to resume normal behaviors soon after exposure with no lasting consequences to their survival or reproduction.

Sea otters may move in and out of the project location during pile-driving activities, leading to as many as 119 sea otters experiencing noise exposure at levels that may cause harassment. However, it is possible that a sea otter may enter the ensonification area more than once during the project. At most, if the same sea otter enters the ensonification area every day that pile driving occurs, the sea otter would be exposed to pile driving and marine construction noise for up to 122 non-consecutive days. The ensonification areas that exceed harassment thresholds are small (a maximum of 11.6 km^2) and are less than 1.0 km^2 on the majority of activity days. These small ensonification areas and the timing of project activities occurring over non-consecutive days reduce the likelihood of the same sea otter being exposed to noise levels at harassment thresholds throughout the project duration.

It is possible that sea otters may be exposed to noise levels equal to or greater than Level A harassment thresholds on multiple days throughout project activities. The potential effects of multiple Level A harassment noise exposures may include a greater reduction in a sea otter's hearing sensitivity, but this reduction in hearing sensitivity does not equate to total hearing loss. The reduction in sea otter hearing sensitivity caused by PTS would align with the energy produced by pile-driving activities (for example, low-frequency less than 2 kHz), which would not impair the majority of a sea otter's hearing range. Sea otters do not rely on sound to orient themselves, locate prey, or communicate under water. Therefore, we do not anticipate PTS from multiple Level A harassment noise exposures would impact sea otters' ability to move, forage, or communicate. Sea otters, especially mothers and pups, do use sound for communication in air (McShane et al. 1995), and sea otters may monitor underwater sound to avoid predators (Davis et al. 1987). However, we anticipate that a sea otter would retain the majority of its hearing range if it experiences PTS from multiple Level A harassment noise exposures and that impacts from PTS would not have long-term consequences to a sea otter's survival and reproduction.

It is possible that sea otters would move away from Level A harassment zones and avoid experiencing PTS. The maximum area that will experience noise levels equal to or greater than Level A harassment thresholds due to pile driving is relatively small (~0.7 km^2 [0.27 mi^2]), and a sea otter that may be disturbed could escape the noise by moving to nearby quieter areas. Further, sea otters spend over half of their time above the surface during the summer months (Esslinger et al. 2014), and likely no more than 70 percent of their time foraging during winter months (Gelatt et al. 2002); thus, their ears would not be exposed to underwater noise for a prolonged time period, thereby reducing their likelihood of experiencing PTS. Some sea otters may exhibit some of the stronger responses typical of Level B harassment, such as fleeing, interruption of feeding, or flushing from a haulout. These responses could have temporary biological impacts for affected sea otters but are not anticipated to result in measurable changes in survival or reproduction. Therefore, we anticipate the specified activities would not have lasting impacts that could significantly affect an individual's health, reproduction, or survival. The anticipated impacts on sea otters are limited and therefore unlikely to adversely affect annual rates of sea otter survival or recruitment.

The total number of sea otters affected and the impact severity are not sufficient to change the current population dynamics at the stock scale. Although the specified activities may result in a maximum of 458 incidental takes of up to 119 sea otters from the Southeast Alaska stock, we do not expect this level of harassment to affect annual rates of recruitment or survival or result in adverse effects on the stock.

Our proposed finding of negligible impact applies to incidental take associated with the specified activities as mitigated by the avoidance and minimization measures identified in the applicant's mitigation and monitoring plan. These mitigation measures are designed to minimize interactions with and impacts on sea otters. These measures and the monitoring and reporting procedures are required for the validity of our finding and are a necessary component of the proposed IHA. For these reasons, we propose a finding that the specified project would have a negligible impact on the Southeast Alaska stock of sea otters.

Least Practicable Adverse Impact

We propose a finding that the mitigation measures required by this proposed IHA would effect the least practicable adverse impact on the Southeast Alaska stock of sea otters from any incidental take likely to occur in association with the specified activities. In making this finding, we considered the biological characteristics of sea otters, the nature of the specified activities, the potential effects of the activities on sea otters, the documented impacts of similar activities on sea otters, and alternative mitigation measures.

In evaluating what mitigation measures are appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses, we considered the manner and degree to which the successful implementation of the measures is expected to achieve this goal. We considered the nature of the potential adverse impact being mitigated (likelihood, scope, range), the likelihood that the measures would be effective if implemented, and the likelihood of effective implementation. We also considered the practicability of the measures for applicant implementation (for example, the cost and impact on operations).

To reduce the potential for disturbance associated with the activities, the TMC would implement mitigation measures, including the following:

- Using the smallest diameter piles practicable while minimizing the overall number of piles;
- Using a project design that does not include blasting;
- Using bubble curtains during impact pile driving and DTH drilling of 121.9-cm (48-in) piles to attenuate in-water noise;
- Minimizing the use of the impact hammer to the extent possible by using a vibratory hammer to advance piles as deeply as possible;
- Development of a marine mammal monitoring and mitigation plan;
- Visual mitigation monitoring by designated protected species observers (PSOs);
- Halting or delaying activity during environmental conditions that may hinder sea otter detection, such as darkness, adverse weather conditions, high sea states, and other times of limited visibility;
- Maintaining the maximum distance practicable between a vessel and raft of sea otters;
- Operating vessels in such a way as to avoid approaching sea otters or impeding sea otter movements when traveling near the shoreline in shallow water (<20 m [66 ft]) whenever practicable;
- Conducting pile-driving activities at lower tidal heights;
- Establishment of shutdown and monitoring zones;
- Site clearance before activity startup;
- Soft-start procedures; and
- Shutdown procedures.

A number of additional potential mitigation measures were considered but determined to be not practicable and/or not effective. These measures are listed below:

- *Require use of cofferdams and other noise-dampening methods*—The applicant indicated that implementation of noise-dampening methods such as cofferdams, pile-surrounding casings, sound mitigation screens, and nets around piles are costly and difficult to install due to the size and number of piles being installed. However, the applicant will implement bubble curtains for all 121.9-cm (48-in) piles during impact pile driving and DTH drilling activities to attenuate in-water sound. The applicant indicated that bubble curtains could not be implemented for other piles besides the 121.9-cm (48-in) piles due to the large number of piles being installed and the amount of time to install and remove a bubble curtain (several hours for each) for every pile. The FWS determined the required use of other noise-dampening methods and bubble curtains for other piles besides the 121.9-cm (48-in) piles was not practicable because these mitigation measures were unduly burdensome to undertake for the project activities.
- *Require use of alternate detection methods*—The FWS determined that the required use of alternate detection methods such as infrared sensors; thermal imaging; or surveys conducted by aircraft, unmanned aircraft system, or vessel was not practicable considering that these alternate detection methods would be less effective than PSOs in reducing impacts on sea otters. The applicant would employ PSOs to monitor the project location for sea otters to reduce impacts on sea otters.

Impact on Subsistence Use

The anticipated harassment will not preclude access to harvest areas or interfere with the availability of sea otters for harvest by Alaska Native Peoples. We therefore propose a finding that the applicant's anticipated harassment would not have an unmitigable adverse impact on the availability of any stock of sea otters for taking for subsistence uses by Alaska Native Peoples during the specified timeframe. In making this proposed finding, we considered the timing and location of the planned activities and the timing and location of subsistence harvest activities in the project location.

The harvest of sea otters is important to Alaska Native Peoples in the communities surrounding Juneau. The TMC would be required to contact subsistence communities that may be affected by the pile driving and marine construction activities to discuss potential conflicts caused by location, timing, and methods of the specified activities. The TMC must make reasonable efforts to ensure that activities do not interfere with subsistence hunting and that adverse effects on the availability of sea otters are minimized. No concerns have been voiced by the Alaska Native communities regarding the specified activities limiting availability of sea otters for subsistence uses. However, should such a concern be voiced, a POC, which identifies measures to minimize any adverse effects, would be implemented. The POC would ensure that the TMC would not have an unmitigable adverse impact on the availability of the species or stock for subsistence uses. This POC would provide the procedures addressing how the TMC would work with the affected Alaska Native communities and what actions would be taken to avoid interference with subsistence hunting of sea otters, as warranted.

The FWS has not received any reports and is not aware of information that indicates that sea otters are being or would be deterred from hunting areas or impacted in any way that diminishes their availability for subsistence use by the expected level of pile driving and marine construction activity. If there is evidence that these pile driving and marine construction activities are affecting the availability of sea otters for subsistence uses, we would reevaluate our findings regarding permissible limits of take and the measures required to ensure continued subsistence hunting opportunities.

Monitoring and Reporting

The purpose of monitoring requirements is to assess the effects of specified activities on sea otters; to ensure that take is consistent with that anticipated in the small numbers, negligible impact, and subsistence use analyses; and to detect any unanticipated effects on the species or stock. Monitoring plans document when and how sea otters are observed, the number of sea otters, and their behaviors during the observation. This information allows the FWS to measure encounter rates, examine trends in sea otter activity and distribution in the project location, and estimate the number of sea otters potentially affected by the specified activities. The TMC is required to report all observations of sea otters. To the extent possible, PSOs would record group size, age, sex, behavior, duration of observation, and closest approach to the project activity.

As proposed, monitoring activities would be summarized and reported in formal reports. The TMC must submit monthly reports for all months during which noise-generating work takes place

as well as a final monitoring report that must be submitted no later than 90 days after the expiration of the IHA. We would require approval of the monitoring results for continued operation under the IHA.

We propose a finding that these monitoring and reporting requirements to evaluate the potential impacts of planned activities would ensure that the effects of the activities remain consistent with the rest of the findings.

References Cited

A list of the references cited in this notice may be found at *https://www.regulations.gov* under Docket No. FWS–R7–ES–2026–2312.

Required Determinations

National Environmental Policy Act

We have prepared a draft environmental assessment in accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). We have preliminarily concluded that the proposed action of issuing a final IHA would not significantly affect the quality of the human environment and, thus, preparation of an environmental impact statement for this IHA, if finalized, is not required by section 102(2) of NEPA or the Department's NEPA handbook. We are accepting comments on the draft environmental assessment as specified above in **DATES** and **ADDRESSES**.

Endangered Species Act

Under the Endangered Species Act (ESA; 16 U.S.C. 1536(a)(2)), all Federal agencies must ensure that the actions they authorize are not likely to jeopardize the continued existence of any threatened or endangered species or result in destruction or adverse modification of critical habitat. The specified activities will occur entirely within the range of the Southeast Alaska stock of sea otters, which is not listed as threatened or endangered under the ESA. The authorization of incidental take of sea otters and the measures included in the proposed IHA would not affect other listed species or designated critical habitat.

Government-to-Government Consultation

It is our responsibility to communicate and work directly on a Government-to-Government basis with federally recognized Alaska Native Tribes and organizations in developing programs for healthy ecosystems. We seek their full and meaningful participation in evaluating and addressing conservation concerns for protected species. It is our goal to remain sensitive to Alaska Native culture, and to make information available to Alaska Natives. Our efforts are guided by *Executive Order 13175—Consultation and Coordination With Indian Tribal Governments,* 512 DM 5—*Procedures for Consultation with Indian Tribes,* 512 DM 6—*Department of the Interior Policy on Consultation with Alaska Native Claims Settlement Act Corporations,* 510 FW 1, *The Service's Native American Policy,* and 510 FW 2, *The Service's Alaska Native Relations Policy.*

The FWS has evaluated possible effects of the specified activities on federally recognized Alaska Native Tribes and Alaska Native Claims Settlement Corporations. The applicant has presented a communication process, culminating in a POC if needed, with the Alaska Native organizations and communities most likely to be affected by their work. We have evaluated the potential effects of the proposed action and determined that it would not have substantial direct effects on any federally-recognized Tribes or Alaska Native Claims Settlement Act Corporations. However, we invite continued discussion, either about the project and its impacts or about our coordination and information exchange throughout the IHA/POC process.

Paperwork Reduction Act

This authorization does not contain any new collection of information that requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The OMB has previously approved the information collection requirements associated with IHAs and assigned OMB Control Number 1018–0194 (expires August 31, 2026). 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.

Proposed Authorization

We propose to authorize the incidental take by Level A harassment and Level B harassment of sea otters from the Southeast Alaska stock. Authorized take would be limited to disruption of behavioral patterns, displacement of sea otters near active operations, or hearing threshold shifts that may be caused by pile driving and marine construction activities conducted by the TMC in Juneau, Alaska, for a period of up to one year from the date of finalization.

A. General Conditions for This IHA

(1) Activities must be conducted in the manner described in the revised request dated May 20, 2026, from the TMC for an IHA and in accordance with all applicable conditions and mitigations measures. The taking of sea otters whenever the required conditions, mitigation, monitoring, and reporting measures are not fully implemented as required by the IHA is prohibited. Failure to follow the measures specified both in the revised request and within this proposed authorization may result in the modification, suspension, or revocation of the IHA.

(2) If project activities cause a form of take other than Level A harassment or Level B harassment or take of one or more sea otters through methods not described in the IHA, the TMC must take the following actions:

(i) Cease its activities immediately (or reduce activities to the minimum level necessary to maintain safety);

(ii) Report the details of the incident to the FWS within 24 hours; and

(iii) Suspend further activities until the FWS has reviewed the circumstances and determined whether additional mitigation measures are necessary to avoid further unauthorized taking.

(3) All operation managers, vehicle operators, and machine operators must receive a copy of this IHA and maintain consistent access to it for reference during project work. These personnel must understand, be fully aware of, and be capable of always implementing the conditions of the IHA during project work.

(4) This IHA will apply to activities associated with the specified project as described in this document and in the TMC's revised request. Changes to the specified project without prior authorization may invalidate the IHA.

(5) The applicant's revised request is approved and fully incorporated into this IHA unless exceptions are specifically noted herein. The request includes:

(i) The TMC's revised request for an IHA, dated May 20, 2026; and

(ii) The TMC's revised Protected Species Monitoring and Mitigation Plan, dated May 15, 2026.

(6) Operators will allow the FWS personnel or the FWS's designated representative to visit project worksites to monitor for impacts on sea otters and subsistence uses of sea otters at any time throughout project activities so long as it is safe to do so. ''Operators'' are all personnel operating under the TMC's authority, including all contractors and subcontractors.

B. Avoidance and Minimization

(7) Construction activities must be conducted using equipment that generates the lowest practicable levels of in-water noise within the range of frequencies audible to sea otters.

(8) If a sea otter enters or appears likely to enter the shutdown zone, in-water activities must be shut down until either the sea otter has been visually observed outside the shutdown zone or at least 15 minutes have elapsed since the last observation time without redetection of the sea otter.

(i) During all in-water activities, regardless of predicted sound levels, a physical interaction shutdown zone of at least 20 m (66 ft) must be enforced.

(9) For impact pile driving activities, a soft-start procedure must be implemented at the start of each day's impact pile driving activities and at any time following cessation of impact pile driving for more than 30 minutes without monitoring by PSOs. The soft-start procedure requires an initial set of three strikes from the impact driver at reduced energy, if possible, followed by a 30-second waiting period. This procedure must be conducted a total of three times before full-powered strikes if practicable.

(10) For DTH drilling activities, a soft-start procedure must be implemented at the start of each day's DTH drilling activities and at any time following cessation of DTH drilling for more than 30 minutes without monitoring by PSOs. The soft-start procedure requires the equipment operators to activate the drilling equipment at reduced energy if possible for several seconds, followed by a 30-second waiting period. This procedure must be conducted a total of three times before full-powered operations if practicable.

(11) A bubble curtain must be implemented during impact pile driving and DTH drilling of 121.9-cm (48-in) piles to attenuate in-water noise.

(12) In-water activity must be conducted in daylight. If environmental conditions prevent visual detection of sea otters approaching the shutdown zone, in-water activities must be stopped until visibility is regained.

C. Mitigation Measures for Vessel Operations

Vessel operators must take every precaution to avoid harassment of sea otters during vessel operations. The applicant must carry out the following measures:

(13) Vessels must maintain a minimum distance of 500 m (0.3 mi) from rafts of 10 or more sea otters unless otherwise needed for safety. If a vessel must transit within 500 m (0.3 mi) from rafts of sea otters, the vessel must travel at a reduced speed and maintain the maximum distance practicable between the vessel and raft of sea otters. Vessels must reduce speed and maintain a minimum distance of 100 m (328 ft) from all sea otters unless otherwise needed for safety.

(14) Vessels must not be operated in such a way as to separate members of a group of sea otters (two or more sea otters) from other members of the group, encircle sea otters, or impede movement of sea otters. Vessels must use established navigation channels or commonly recognized vessel traffic corridors and avoid approaching sea otters or impeding sea otter movements when traveling near the shoreline in shallow water (<20 m or <66 ft) whenever practicable.

(15) When weather conditions require, such as when visibility drops, vessels must adjust speed accordingly to reduce the likelihood of injury to sea otters.

(16) Vessel operators must be provided written guidance for avoiding collisions and minimizing disturbances to sea otters. Guidance will include all measures identified in this section.

D. Monitoring

(17) Operators shall work with PSOs to apply mitigation measures and shall recognize the authority of PSOs up to and including stopping work, except in situations where doing so poses a significant safety risk to personnel.

(18) Duties of the PSOs include watching for and identifying sea otters, recording observation details, documenting presence in any applicable monitoring zone, identifying and documenting potential harassment, and working with operators to implement all appropriate mitigation measures.

(19) A sufficient number of PSOs will be available to meet the following criteria: 100 percent monitoring of shutdown zones during all daytime periods of in-water noise-generating work; a maximum of 4 consecutive hours on watch per PSO; a maximum of 12 hours on watch per day per PSO.

(20) All PSOs will complete training designed to familiarize individuals with monitoring and data collection procedures. This training will be completed prior to starting work. A field crew leader with prior experience as a sea otter observer will supervise the PSO team. Initially, new or inexperienced PSOs will be paired with experienced PSOs so that the quality of marine mammal observations and data recording is kept consistent. Resumes for candidate PSOs will be made available to the FWS prior to the start of the project.

(21) The PSOs will be provided with reticule binoculars (7×50 or better), big-eye binoculars or spotting scopes (30×), and range finders. Field guides, instructional handbooks, maps, and a contact list will also be made available.

(22) The PSOs will monitor a pre-clearance zone for 30 minutes prior to the commencement of in-water noise-generating activities and following periods of inactivity of more than 30 minutes to ensure no sea otters are within the shutdown zone prior to initiating or resuming in-water noise-generating activities.

(23) The PSOs will collect data using the following procedures:

(i) All data will be recorded onto a field form or database.

(ii) Global positioning system data, sea state, tidal state, wind force, visibility, and weather condition will be recorded at the beginning and end of a monitoring period; at least every hour in between, at the change of a PSO, and upon observation of sea otters.

(iii) Observation records of sea otters will include date, time, the PSOs' locations, sea otter's heading (if moving), weather condition, visibility, number of sea otters, group composition (adults/juveniles), and the location of the sea otters (or distance and direction from the PSO).

(iv) Observation records will also include initial behaviors of the sea otters, descriptions of project activities and in-water noise levels being generated, the position of sea otters relative to applicable monitoring and Level A harassment or Level B harassment zones, any mitigation measures applied, and any apparent reactions to the project activities before and after mitigation.

(v) For all sea otters in or near a Level A harassment or Level B harassment zone, the PSOs will record the distance from the sound source to the sea otter upon initial observation, the duration of the encounter, and the distance at last observation in order to monitor cumulative sound exposures.

(vi) The PSOs will note any instances of sea otters lingering close to or traveling with vessels for prolonged periods of time.

(24) Monitoring of the shutdown zone must continue for 30 minutes following completion of in-water noise-generating activities.

E. Measures to Reduce Impacts to Subsistence Users

(25) Prior to conducting the work, the TMC will take the following steps to

reduce potential effects on subsistence harvest of sea otters:

(i) Avoid work in areas of known sea otter subsistence harvest;

(ii) Discuss the planned activities with subsistence stakeholders including Southeast Alaska villages and traditional councils;

(iii) Identify and work to resolve concerns of stakeholders regarding the project's effects on subsistence hunting of sea otters; and

(iv) If any concerns remain, develop a POC in consultation with the FWS and subsistence stakeholders to address these concerns.

F. Reporting Requirements

(26) The applicant, TMC, must notify the FWS at least 48 hours prior to commencement of activities.

(27) Monthly reports will be submitted to the FWS's Marine Mammals Management office (MMM) for all months during which noise-generating work takes place. The monthly report will contain and summarize the following information: dates, times, weather, and sea conditions (including the Beaufort Scale sea state and wind force conditions) when sea otters were observed; the number, location, distance from the sound source, and behavior of the sea otters; the associated project activities; and a description of the implementation and effectiveness of mitigation measures with a discussion of any specific behaviors the sea otters exhibited in response to mitigation.

(28) A final report will be submitted to the FWS's MMM within 90 days after completion of work or expiration of the IHA. The report will include:

(i) A summary of monitoring efforts (hours of monitoring, activities monitored, number of PSOs, and, if requested by the FWS, the daily monitoring logs).

(ii) A description of all project activities, any additional work yet to be done, factors influencing visibility and detectability of marine mammals (*e.g.,* sea state, fog, glare, and number of PSOs), and factors correlated with the presence and distribution of sea otters (*e.g.,* weather, sea state, and project activities).

(iii) An estimate of the number of sea otters exposed to noise at received levels greater than or equal to Level A harassment and Level B harassment (based on visual observation).

(iv) A description of changes in sea otter behavior resulting from project activities and any specific behaviors of interest.

(v) A discussion of the mitigation measures implemented during project activities and their observed effectiveness for minimizing impacts on sea otters. Sea otter observation records will be provided to the FWS in the form of electronic database or spreadsheet files.

(29) Injured, dead, or distressed sea otters that are not associated with project activities (for example, animals known to be from outside the project location, previously wounded animals, or carcasses with moderate to advanced decomposition or scavenger damage) must be reported to the FWS within 24 hours of the discovery to either the FWS's MMM (907) 786–3800, business hours); or the Alaska SeaLife Center in Seward (1–888–774–7325, 24 hours a day), or both. Photographs, video, location information, or any other available documentation must be provided to the FWS.

(30) All reports shall be submitted by email to *fw7_mmm_reports@fws.gov.*

(31) The TMC must notify the FWS upon project completion or end of the work season.

Request for Public Comments

If you wish to comment on this proposed authorization, the associated draft environmental assessment, or related documents, you may submit your comments by either of the methods described above in **ADDRESSES**. Please identify the document(s) to which your comments pertain, make your comments as specific as possible, confine them to issues pertinent to the proposed authorization, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph that you are addressing. The FWS will consider all comments that are received before the close of the comment period (see **DATES** above). The FWS does not anticipate extending the public comment period beyond the 30 days required under section 101(a)(5)(D)(iii) of the MMPA.

Comments, including names and street addresses of respondents, will become part of the administrative record for this proposal. Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comments to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Peter Fasbender,

Assistant Regional Director for Fisheries and Ecological Services, Alaska Region, U.S. Fish and Wildlife Service.

[FR Doc. 2026–16379 Filed 8–11–26; 8:45 am]

BILLING CODE 4333–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–523 and 731–TA–1259 (Second Review)]

Boltless Steel Shelving Units Prepackaged for Sale From China; Scheduling of Expedited Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping and countervailing duty orders on boltless steel shelving units prepackaged for sale from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: July 6, 2026.

FOR FURTHER INFORMATION CONTACT: Gregory Gutierrez (202–205–1999), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On July 6 2026, the Commission determined that the domestic interested party group response to its notice of institution (91 FR 16234, April 1, 2026) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant

conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the reviews has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for these reviews on August 25, 2026. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the reviews may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before 5:15 p.m. on September 1, 2026, and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by September 1, 2026. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: August 7, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–16390 Filed 8–11–26; 8:45 am]

BILLING CODE 7020–02–P

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

[2] The Commission has found the response submitted on behalf of Edsal Manufacturing Company LLC to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–464 and 731–TA–1160 (Third Review)]

Prestressed Concrete Steel Wire Strand From China; Scheduling of Expedited Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty and countervailing duty orders on prestressed concrete steel wire strand from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: July 6, 2026.

FOR FURTHER INFORMATION CONTACT: Caitlyn Costello—(202) 205–2058), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On July 6, 2026, the Commission determined that the domestic interested party group response to its notice of institution (91 FR 16226, April 1, 2026) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act (19 U.S.C. 1675(c)(3)).[2]

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the reviews has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for these reviews on October 7, 2026. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[3] and any party other than an interested party to the reviews may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before October 14, 2026, and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

[2] Chairman Johanson voted to conduct full reviews.

[3] The Commission has found the responses submitted on behalf of Insteel Wire Products Company, Sumiden Wire Products Corporation, and Wire Mesh Corporation, to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by October 14, 2026. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determinations.—The Commission has determined these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: August 7, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–16380 Filed 8–11–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–ONEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; New Information Collection; USAO–PR COMMUNITY OUTREACH REQUEST FORM Feedback Form Package

AGENCY: United States Attorney's Office District of Puerto Rico, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The USAO–PR, 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 60 days until October 13, 2026.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Genesis Gonzalez, Community Outreach Coordinator, *genesis.gonzalez@usdoj.gov* or *USAPR.Outreach@usdoj.gov,* (787) 282–1865.

SUPPLEMENTARY INFORMATION: 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 (component), including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* New information collection.

2. *The Title of the Form/Collection:* USAO–PR COMMUNITY OUTREACH REQUEST FORM.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is no agency form number assigned at this time. The applicable component is the United States Attorney's Office for the District of Puerto Rico (USAO–PR), Executive Office for United States Attorneys (EOUSA), Department of Justice.

Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households; Secondary: Schools, nonprofit organizations, community groups, municipalities, and other organizations requesting community outreach presentations. Affected Public: Primary: Individuals or households. well as a brief abstract: The USAO–PR Community Outreach Request Form collects information necessary to receive, review, schedule, and coordinate requests for educational presentations and community outreach activities. The information will assist the agency in allocating resources, tracking outreach efforts, identifying community concerns and emerging crime trends, and evaluating the effectiveness of outreach programs.

4. *Obligation to Respond:* An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: Voluntary. An estimated 250 respondents will complete the form annually. The estimated time required to complete the form is 10 minutes (0.167 hours) per response.

5. *Total Estimated Number of Respondents:* 250 annually.

6. *Estimated Time per Respondent:* ~10 minutes (0.167 hours).

7. *Frequency:* Once.

8. *Total Estimated Annual Time Burden*—~41.8 hours.

9. *Total Estimated Annual Other Costs Burden*—$0. There are no capital, start-up, operation, maintenance, or purchase costs associated with this collection.

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: August 10, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–16437 Filed 8–11–26; 8:45 am]

BILLING CODE 4410–BE–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 26–044; NASA Docket Number: NASA–2026–0397]

Information Collection; Generic Clearance for NASA Citizen Science and Crowdsourcing Projects.

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of renewal of information collection.

SUMMARY: NASA, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act (PRA) of 1995.

DATES: Comments are due by October 13, 2026.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice at *http://www.regulations.gov* and search for NASA Docket [NASA–2026–0397].

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NASA PRA Clearance Officer, Stayce Hoult, NASA Headquarters, 300 E Street SW, JC0000, Washington, DC 20546, or email *hq-ocio-pra-program@mail.nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Citizen science and crowdsourcing are tools that engage, educate and empower the public to apply their curiosity and contribute their talents to a wide range of scientific and societal issues. NASA's mission to *reach for new heights and reveal the unknown so that what we do and learn will benefit all humankind.* NASA uses the vantage point of space to achieve with the science community and our partners a deep scientific understanding of our planet, other planets and solar system bodies, the interplanetary environment, the Sun and its effects on the solar system, and the universe beyond. Citizen science and crowdsourcing can support NASA's mission and purpose by providing new opportunities to explore our solar system and our own home planet like never before, producing critical data that expands our knowledge of the universe, and advancing our ability to provide societal benefit through the synergy of satellite and ground-based observations.

NASA is committed to effectively performing the Agency's communication function in accordance with the National Aeronautics and Space Act of 1958, Section 203(a)(3), as amended states ''provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof'', and to enhance public understanding of, and participation in, the Nation's aeronautics and space programs.

II. Methods of Collection

Citizen science and crowdsourcing collections submitted under this generic clearance can be stand-alone projects or the methods may be incorporated into an existing or new project, including, but not limited to, projects in the following typology:

- Data gathering projects. These projects may include: (1) Observation, characterization and documentation of natural phenomena or general environmental health observations, opinions, or preferences or (2) surveying participants or screening environmental conditions, including using specialized equipment provided by project leaders to record and submit data, or submitting samples plus descriptors (*e.g.,* of air or water) for testing. Data may be collected using technologies mentioned above, through structured data forms, surveys, focus groups or interviews, submitting photographs or other media, surveys or questionnaires, or providing written observations.
- Classification/problem solving projects. Participants' tasks may include: (1) Observation of recorded materials provided by project organizers (images, video, etc.) through structured data submission forms, surveys or questionnaires in an online or computer program, clicking boxes, highlighting parts of text or image, and providing comments and/or annotations; (2) Classification of images or sounds using structured data submission forms or clicking boxes in an online or computer program; (3) Transcribing information, by typing handwritten logs or notes; (4) Performing a function meant to generate human behavior data; or (5) Problem-solving or manipulation of data. Tasks 1–5 may be conducted via structured actions or instructions or through the use of ''human-based computational game'' or ''game with a purpose'', a human-based computational technique in which a computational process performs its function by presenting certain steps to humans in an entertaining way.

III. Data

Title: Generic Clearance for NASA Citizen Science and Crowdsourcing Projects.

OMB Number: 2700–0168.

Type of review: Renewal of information collection.

Affected Public: Individuals.

Annual Responses: 50,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 8,333 hours.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Stayce Harris Houlton,

PRA Clearance Officer, National Aeronautics and Space Administration.

[FR Doc. 2026–16402 Filed 8–11–26; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2026–035]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of proposed extension request.

SUMMARY: We are proposing to request an extension from the Office of Management and Budget (OMB) of an approved information collection, Facility Access Media (FAM) Request, NA Form 6006, used by all individuals requesting recurring access to non-public areas of NARA's facilities and IT network. We invite you to comment on these proposed information collections

pursuant to the Paperwork Reduction Act of 1995.

DATES: We must receive written comments on or before October 13, 2026.

ADDRESSES: Send comments to Paperwork Reduction Act Comments (MP), Room 4100; National Archives and Records Administration; 8601 Adelphi Road, College Park, MD 20740–6001, or email them to *forms@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Kristin Phillips, Paperwork Reduction Act Officer, by email at *kristin.phillips@nara.gov* or by telephone at 616–254–0405 with requests for additional information or copies of the proposed information collection and supporting statement.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we invite the public and other Federal agencies to comment on proposed information collections. If you have comments or suggestions, they should address one or more of the following points: (a) whether the proposed information collection is necessary for NARA to properly perform its functions; (b) our estimate of the burden of the proposed information collection and its accuracy; (c) ways we could enhance the quality, utility, and clarity of the information we collect; (d) ways we could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether the collection affects small businesses.

We will summarize any comments you submit and include the summary in our request for OMB approval. All comments will become a matter of public record.

In this notice, we solicit comments concerning the following information collection:

Title: Facility Access Media (FAM) Request.

OMB number: 3095–0057.

Agency form number: NA Form 6006.

Type of review: Regular.

Affected public: Individuals or households.

Estimated number of respondents: 4,500.

Estimated time per response: 3 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 225 hours.

Abstract: The Facility Access Media (FAM) Request, NA Form 6006, is completed by all individuals requiring recurring access to non-public areas of NARA's facilities and IT network (such as NARA employees, contractors, volunteers, NARA-related foundation employees, volunteers, interns, and other non-NARA federal employees, such as federal agency reviewers) herein referred to as ''applicants,'' in order to obtain NARA Facility Access Media (FAM). After approval of the request, the applicant is given a FAM, if approved, and is then able to access non-public areas of NARA facilities and IT network. The collection of information is necessary to comply with Homeland Security Presidential Directive (HSPD) 12 requirements for secure and reliable forms of personal identification issued by federal agencies to their employees, contractors, and other individuals requiring recurring access to non-public areas of government facilities and information services. This form was developed to comply with this requirement.

Gulam Shakir,

Executive for Information Services/CIO.

[FR Doc. 2026–16378 Filed 8–11–26; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–2345]

Information Collection: Physical Protection of Category 1 and 2 Quantities of Radioactive Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Physical Protection of Category 1 and 2 Quantities of Radioactive Material.''

DATES: Submit comments by October 13, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: 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–2026–2345. 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.

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: Kristen Benney, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6355; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–2345 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–2345. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2026–2345 on this website.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML26152A246. The supporting statement and burden spreadsheet are available in ADAMS under Accession Nos. ML26152A111 and ML26152A113.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without

charge by contacting the NRC's Clearance Officer, Kristen Benney, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6355; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2026–2345, in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized as follows.

1. *The title of the information collection:* 10 CFR part 37, Physical Protection of Category 1 and 2 Quantities of Radioactive Material.

2. *OMB approval number:* 3150–0214.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC Form 755, ''Advance Notification to the NRC of Shipments of Category 1 Quantities of Radioactive Material.''

5. *How often the collection is required or requested:* One time for initial compliance notifications and fingerprints for the reviewing officials; and as needed for implementation notifications, event notifications, notifications of shipments of radioactive material, and fingerprinting of new employees.

6. *Who will be required or asked to respond:* Licensees that are authorized to possess and use category 1 or category 2 quantities of radioactive material.

7. *The estimated number of annual responses:* 94,279 responses (3,384 Reporting + 960 Recordkeeping + 89,935 Third-Party Disclosure).

8. *The estimated number of annual respondents:* 3,840 respondents (780 Agreement State Licensees + 180 NRC licensees + 2,880 individuals making personal history disclosures under 37.23(d)).

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 51,579 hours (1,227 reporting + 16,707 recordkeeping + 33,645 third-party disclosure).

10. *Abstract:* Part 37 of title 10 of the *Code of Federal Regulations* (10 CFR), contains security requirements for the use of category 1 and category 2 quantities of radioactive material. Licensees are required to: (1) develop procedures for the implementation of the security provisions; (2) develop a security plan that describes how security is being implemented; (3) implement security measures for the protection of the radioactive material; (4) conduct training on the procedures and security plan; (5) conduct background investigations for those individuals permitted unescorted access to category 1 or category 2 quantities of radioactive material; (6) coordinate with Local Law Enforcement Agencies (LLEAs) so the LLEAs would be better prepared to respond in an emergency; and (7) conduct coordination activities before shipping category 2 radioactive material, and preplanning and coordination activities before shipping category 1 radioactive material. Licensees are required to promptly report any attempted or actual theft or diversion of the radioactive material. Licensees are required to keep copies of the security plan, procedures, background investigation records, training records, and documentation associated with implementation of the security program. The NRC uses the information required by 10 CFR part 37 to fulfill its responsibilities to respond to, investigate, and correct situations that have the potential to adversely affect public health and safety or the common defense and security.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility? Please explain your answer.

2. Is the estimate of the burden of the information collection accurate? Please explain your answer.

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Authority: 42 U.S.C. 2011 *et seq.*

Dated: August 10, 2026.

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026–16433 Filed 8–11–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–008; NRC–2008–0476]

Virginia Electric and Power Company, (Doing Business as Dominion Energy Virginia); North Anna Site; Early Site Permit Renewal Application

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is providing public notice each week, for four consecutive weeks, of receipt and availability of an application for renewal of early site permit (ESP) ESP–003 for the North Anna ESP site from Virginia Electric and Power Company, doing business as (dba) Dominion Energy Virginia. Renewal of the ESP would allow the licensee to reference ESP–003 in a construction permit (CP) or combined license (COL) application for an additional 20-year period beyond the period specified in the ESP. The location for the North Anna ESP site is in Louisa County, Virginia, and the current ESP–003 expires on November 27, 2027.

DATES: The application for renewal of the North Anna ESP is available as of July 14, 2026.

ADDRESSES: Please refer to Docket ID NRC–2008–0476 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–2008–0476. 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 North Anna ESP renewal application is available in ADAMS under Accession No. ML26195A323.

• *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: Billy Gleaves, Office of Advanced Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5848; email: *Bill.Gleaves@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

On July 14, 2026, Virginia Electric and Power Company, dba Dominion Energy Virginia (Dominion), filed with the NRC, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, and part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Licenses, Certifications, and Approvals for Nuclear Power Plants,'' an application to request that the NRC renew ESP–003 for an additional 20 years beyond the current November 27, 2027, expiration date or from the date of issuance, whichever is later.

In accordance with subpart A of 10 CFR part 52, an applicant may seek an ESP separate from the filing of an application for a CP or COL. The ESP process allows resolution of issues relating to siting. Renewal of ESP–003 would allow for the licensee to reference the ESP in a CP or COL application for an additional 20-year period beyond the period specified in ESP–003 or from the date of issuance, whichever is later. If an application for a CP or COL references an ESP, the Commission shall treat as resolved those matters resolved in the proceeding on the application for issuance or renewal of the ESP, except as provided for in paragraphs (b), (c), and (d) of 10 CFR 52.39.

In the case of the North Anna site, Dominion holds COL NPF–103 for a reactor designated as North Anna, Unit 3. In the renewal application for ESP–003, Dominion notified the NRC of its decision to place COL NPF–103 in deferred status. Dominion also included in its renewal application for ESP–003 a request for an exemption from the subsumption requirements of 10 CFR 52.26(d), ''Duration of permit,'' to provide for the renewal of the ESP in its entirety, rather than renewal of only the portions of ESP–003 not subsumed into NPF–103.

II. Further Information

The NRC will publish subsequent **Federal Register** notices addressing the acceptability of the tendered ESP renewal application for docketing and provisions for participation of the public in the ESP renewal process.

(Authority: 42 U.S.C. 2011 *et seq.*)

Dated: August 3, 2026.

For the Nuclear Regulatory Commission.

Christopher Cook,

Chief, Advanced Reactor Science Branch 4, Division of Advanced Reactor Science, Office of Advanced Reactors.

[FR Doc. 2026–16369 Filed 8–11–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–7038; CLI–26–11]

Orano Enrichment USA LLC; (Project Ike Enrichment Facility); Notice of Receipt of Application for License; Notice of Consideration of Issuance of License; Notice of Hearing and Commission Order; Opportunity To Request a Contested Hearing; and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation

Commissioners: Ho. K. Nieh, Chairman; David A. Wright; Bradley R. Crowell; Matthew J. Marzano; Douglas W. Weaver.

I. Receipt of Application and Availability of Documents

The U.S. Nuclear Regulatory Commission (NRC) has received an application from Orano Enrichment USA LLC (Orano) for a license to receive, acquire, possess, and transfer byproduct, source, and special nuclear material for the purpose of constructing and operating the Project IKE Enrichment Facility in Oak Ridge, Tennessee.[1] Orano is a regional subsidiary of Orano SA, a French multinational nuclear fuel cycle corporation majority-owned by the French state. The requested license would authorize Orano to possess equipment capable of enriching uranium, to construct and operate a uranium enrichment facility, and to receive title to, own, acquire, receive, possess, use, transfer, and/or deliver source material, special nuclear material, and byproduct material as specified in the license for a facility that performs the mechanical separation of isotopes using a fast rotating cylinder (centrifuge) to enrich uranium. The facility would be known as the Project IKE Enrichment Facility and would be located in eastern Tennessee, in Roane County, on land owned by the Industrial Development Board of the City of Oak Ridge.[2] The requested license would authorize Orano to re-enrich depleted uranium hexafluoride (UF_6) tails and enrich natural-grade UF_6 to a maximum of 8-weight percent uranium-235.

In May 2026, following the initial submission of its application in March, Orano requested that the NRC staff grant an exemption from timing requirements set forth in 10 CFR 70.22(m), which require that certain license applications submitted under Part 70 include a description of the applicant's security program to protect classified matter and equipment.[3] Orano asked to be allowed to submit its license application (LA) to provide the required Information Systems Security Plan (ISSP) separate from the other safety and safeguards portions of the LA package.[4] The NRC staff granted the temporary exemption, allowing Orano until September 21, 2026, to submit the portions of the application required by § 70.22(m).[5] On May 21, 2026, the NRC staff informed

[1] Letter from Peter Vescovi, Orano Enrichment USA LLC to NRC Document Control Desk (Mar. 27, 2026) (ML26086A377 (package)) (March 27 Application). Orano supplemented its application on May 8, 2026 (ML26128A423), providing responses to an NRC request for supplemental information dated May 1, 2026 (ML26114A041).

[2] March 27 Application, Enclosure 3 (ML26086A381).

[3] Letter from Peter Vescovi, Orano Enrichment USA LLC, to NRC Document Control Desk (May 14, 2026) (ML26134A341).

[4] *Id.*

[5] Letter from Tekia Govan, U.S. Nuclear Regulatory Commission, to Peter Vescovi, Orano Enrichment USA LLC (May 20, 2026) (ML26135A230), Encl., ''The Safety Evaluation Report for the Orano Enrichment USA, LC Request for Exemption to Segment the License Application for Project IKE,'' (undated) (ML261235A228).

Orano of its determination that ''the application provides sufficient information to proceed with a detailed technical review'' and formally accepted the application for review.[6]

The NRC staff will perform a detailed technical review of the application and prepare a safety evaluation report (SER) that addresses the findings required by the Atomic Energy Act of 1954, as amended (AEA) (42 U.S.C. 2011–2297h–13), and the NRC's regulations concerning the public health and safety and common defense and security. Additionally, in accordance with section 193 of the AEA, the National Environmental Policy Act of 1969 (NEPA), and the NRC's regulations in 10 CFR part 51, the NRC staff will prepare a final environmental impact statement (FEIS) before the required hearing on the issuance of the license is completed.

Interested persons may obtain publicly available documents relating to this application online in the Agencywide Documents Access and Management System (ADAMS) Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* Interested persons may also examine and order copies of publicly available documents at the NRC's Public Document Room (PDR), which 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. When available, the NRC staff's SER and FEIS, except for portions subject to withholding from public inspection in accordance with 10 CFR 2.390, will also be placed in the PDR and in ADAMS. Copies of correspondence between the NRC and Orano and transcripts of prehearing conferences and hearings, except for portions subject to withholding from public inspection in accordance with 10 CFR 2.390, similarly will be made available to the public.

II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Pursuant to 10 CFR 70.23a and Section 193 of the AEA, as amended, a hearing is required prior to the issuance of the license. In the event there is a contested hearing on the application, the Commission does not intend to conduct an additional uncontested hearing. If no contested hearing takes place, the Commission will notice its procedures for the conduct of the uncontested hearing at a later date.

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult 10 CFR 2.309. If a petition is filed, the presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 60 days from the date of publication of this notice in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, Federally-recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 60 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR§ 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (*https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053*) and the NRC's public website at *https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate.*

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally-recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website at *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.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system

[6] Letter from Osiris Siurano-Perez, U.S. Nuclear Regulatory Commission, to Peter Vescovi, Orano Enrichment US LLC (May 21, 2026), at 1 (ML26134A3287 (package)).

may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html*, by email to *MSHD.Resource@nrc.gov*, or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC issued- digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

IV. Commission Guidance

a. Selection of Hearing Procedures

The NRC's regulations at 10 CFR 2.310(c) and 2.700 and 70.23a provide that proceedings conducted with respect to the initial licensing of a uranium enrichment facility are to be conducted under the procedures of Subpart G to 10 CFR part 2. After considering the desired goals of efficient conduct and streamlining of adjudicatory proceedings, the Commission directs that, notwithstanding §§ 2.310(c), 2.700, and 70.23a, the procedures of Subpart L (Simplified Hearing Procedures for NRC Adjudications) to 10 CFR part 2, with certain modifications in this Order, will be used for any contested hearing held in this matter.[7] Specifically, notwithstanding the provisions of 10 CFR 2.1202(a), the NRC staff shall not issue its approval or denial of the application during the pendency of the hearing. Furthermore, when the Licensing Board has ruled on the contested matters in a manner that would otherwise conclude the proceeding (*i.e.,* dispositioning all contentions on either threshold admissibility or merits), it shall hold open the record and refer the contested hearing ruling to the Commission.[8] Consistent with AEA Section 193, final Commission action on this referred contested hearing record will not occur before the NRC staff prepares the FEIS on the licensing action. Additionally, the parties' litigation of contested issues should commence promptly following the admission of contentions, rather than awaiting the completion of the NRC staff review.

b. Licensing Board Determination of Contentions

The Licensing Board shall issue a decision on the admissibility of contentions no later than [140 days from the date of publication of this **Federal Register** notice].

c. Novel Legal Issues

If rulings on petitions, contention admissibility, or admitted contentions, raise novel legal or policy questions, the Commission will provide early guidance and direction on the treatment and resolution of such issues. Accordingly, the Commission directs the Licensing Board to promptly certify to the Commission in accordance with 10 CFR 2.319(l) and 2.323(f) all novel legal or policy issues that would benefit from early Commission consideration should such issues arise in this proceeding.

d. Discovery

As provided above, for any contested hearing in this proceeding, the provisions of 10 CFR Subpart L will govern the parties' discovery and disclosure obligations.

e. Hearing Schedule

In the interest of providing a fair hearing, avoiding unnecessary delays in NRC's review and hearing process, and producing an informed adjudicatory record that supports the licensing determination to be made in this proceeding, the Commission expects that both the Licensing Board and NRC staff, as well as the applicant and other parties to this proceeding, will follow the applicable requirements contained in 10 CFR part 2 and guidance in the *Commission's Statement of Policy on Conduct of Adjudicatory Proceedings,* CLI–98–12, 48 NRC 18 (1998) (63 FR 41872 (August 5, 1998)) to the extent that such guidance is not inconsistent with specific guidance in this Order. The guidance in the Statement of Policy on Conduct of Adjudicatory Proceedings is intended to improve the management and the timely completion of the proceeding and addresses hearing schedules, parties' obligations, contentions and discovery management. In addition, the Commission is providing the following direction for this proceeding:

(1) The Licensing Board shall set a schedule for the contested hearing in this proceeding consistent with this Order that provides for the issuance of a final Licensing Board decision within 315 days (10½ months) from the date of the publication of this **Federal Register** notice.

(2) The evidentiary hearing with respect to contested issues shall commence promptly and not await issuance of the SER or FEIS unless the Licensing Board finds that doing so will adversely impact its consideration of an issue.

(3) The Commission believes that issuing a contested hearing decision within 315 days may be reasonably achieved under the rules of practice contained in 10 CFR part 2 and the enhancements directed by this Order. We do not expect the Licensing Board to sacrifice fairness and sound decision-making to expedite any hearing granted on this application. We do expect the Licensing Board to use the applicable techniques specified in: this Order; 10 CFR 2.332, 2.333, and 2.334; and the Commission's policy statement on the conduct of adjudicatory proceedings (CLI–98–12, *supra*) to ensure prompt and efficient resolution of contested

[7] We are directing the use of Subpart L because it will be more efficient and its procedures meet the requirements for ''on the record'' proceedings. *See Citizens Awareness Network, Inc.* v. *NRC,* 391 F.3d 338 (1st Cir. 2004).

[8] Pursuant to 10 CFR 2.323(f), a prompt referral from the Licensing Board and Commission decision is necessary to materially advance the orderly disposition of the proceeding that is required under Section 193 of the AEA.

issues. *See also Statement of Policy on Conduct of Licensing Proceedings,* CLI–81–8, 13 NRC 452 (1981).

(4) The Licensing Board shall adopt the following milestones, in developing a schedule, for conclusion of significant steps in a contested adjudicatory proceeding.

Within [60 days from the date of publication of this **Federal Register** notice].	Deadline for Requests for Hearing; Petitions to Intervene and Contentions; and Requests for Limited Participation under 10 C.F.R. § 2.315(c).
Within [85 days from the date of publication of this **Federal Register** Notice].	Answers to Requests for Hearing; Petitions to Intervene and Contentions; and Requests for Limited Participation.
Within [95 days from the date of publication of this **Federal Register** Notice].	Replies to Answers regarding Requests for Hearing; Petitions to Intervene and Contentions; and Requests for Limited Participation.
Within [140 days from the date of publication of this **Federal Register** Notice].	Licensing Board issues decision on Requests for Hearing; Petitions to Intervene and Contentions; and Requests for Limited Participation.
Within 30 days of the Licensing Board decision determining intervention:.	Licensing Board sets initial schedule for evidentiary proceeding. Staff prepares hearing file.
Within [315 days from the date of publication of this Federal Register Notice]:.	Licensing Board issues initial decision.

To avoid unnecessary delays in the proceeding, the Licensing Board shall not routinely grant requests for extensions of time and should manage the schedule such that the overall hearing process is completed within 315 days from the date of publication of this **Federal Register** notice. The Licensing Board shall not entertain motions for summary disposition under 10 CFR 2.1205, unless the Licensing Board finds that such motions, if granted, are likely to expedite the proceeding. Unless otherwise justified, the Licensing Board shall provide for the simultaneous filing of answers to proposed contentions, responsive pleadings, proposed findings of fact, and other similar submittals. In managing the proceeding, the Licensing Board shall establish timetables for consideration and disposition of contentions filed after the initial deadline in a manner that will, to the maximum extent practicable, effectuate the ultimate target of completing the hearing process within 315 days from the date of publication of this **Federal Register** notice.

(5) Parties are obligated to comply with applicable requirements in 10 CFR part 2, unless directed otherwise by this Order or the Licensing Board. They are also obligated in their filings before the Licensing Board and the Commission to ensure that their arguments and assertions are supported by appropriate and accurate references to legal authority and factual basis, including, as appropriate, citation to the record. Failure to do so may result in material being stricken from the record or, in extreme circumstances, a party being dismissed from the proceeding.

(6) The Commission directs the Licensing Board to inform the Commission promptly, in writing, if the Licensing Board determines that any single milestone could be missed by more than 30 days. The Licensing Board must include an explanation of why the milestone cannot be met and the measures the Licensing Board will take to mitigate the failure to achieve the milestone and restore the proceeding to the overall schedule.

f. Commission Oversight

As in any proceeding, the Commission retains its inherent supervisory authority over the proceeding to provide additional guidance to the Licensing Board and participants and to resolve any matter in controversy itself. In the event that the Licensing Board issues a final order which would terminate the contested proceeding (or deny a petition to intervene), the Licensing Board shall hold open the record and refer that order to the Commission.

V. Applicable Requirements

A. Licensing

The Commission will license and regulate byproduct, source, and special nuclear material at the Project IKE Enrichment Facility in accordance with the AEA. Section 274c.(1) of the AEA was amended by Public Law 102–486 (October 24, 1992) to require the Commission to retain authority and responsibility for the regulation of uranium enrichment facilities. Therefore, in compliance with law, the Commission will be the sole licensing and regulatory authority with respect to possession of equipment capable of enriching uranium, operation of a uranium enrichment facility, and possession and use of byproduct, source, and special nuclear material for the Project IKE Enrichment Facility in connection therewith.

Many rules and regulations in 10 CFR Chapter I are applicable to the licensing of a person to receive, possess, use, transfer, deliver, or process byproduct, source or special nuclear material in the quantities that would be possessed at the Project IKE Enrichment Facility. These include 10 CFR parts 19, 20, 21, 25, 30, 40, 51, 70, 71, 73, 74, 95, 140, 170, and 171 for the licensing and regulation of byproduct, source, and special nuclear material, including requirements for notices to workers, reporting of defects, radiation protection, waste disposal, decommissioning funding, and insurance. With respect to these regulations, the Commission notes that this is the seventh proceeding involving the licensing of an enrichment facility.[9]

Consistent with the AEA, and the Commission's regulations, the Commission is providing the following direction for licensing uranium enrichment facilities:

1. Environmental Issues

a. *General:* 10 CFR part 51 governs the preparation of an environmental report and an environmental impact statement

[9] The Commission issued a number of decisions in earlier proceedings regarding proposed sites in Homer, Louisiana (Claiborne Enrichment Center); Eunice, New Mexico (National Enrichment Facility); Piketon, Ohio (American Centrifuge Plant); Bonneville County, Idaho (Eagle Rock Enrichment Facility); and Wilmington, North Carolina (GLE Commercial Facility). These final decisions—*Louisiana Energy Services, L.P. (Claiborne Enrichment Center),* CLI–92–7, 35 NRC 93 (1992); *Louisiana Energy Services, L.P. (Claiborne Enrichment Center),* CLI–97–15, 46 NRC 294 (1997); *Louisiana Energy Services, L.P. (Claiborne Enrichment Center),* CLI–98–3, 47 NRC 77 (1998); *Louisiana Energy Services, L.P. (National Enrichment Facility),* CLI–05–05, 61 NRC 22(2005); *Louisiana Energy Services, L.P. (National Enrichment Facility), et. al.,* CLI–05–17, 62 NRC 5 (2005); *USEC, Inc. (American Centrifuge Plant),* CLI–07–05, 65 NRC 109 (2007); *AREVA Enrichment Services, LLC (Eagle Rock Enrichment Facility),* CLI–11–4, 74 NRC 1 (2011)—resolve a number of issues concerning uranium enrichment licensing and may be relied upon as precedent.

for a materials license. Orano's environmental report and the NRC staff's associated environmental impact statement shall include a statement on the alternatives to the proposed action, including a discussion of the no-action alternative.

b. *Treatment of depleted uranium hexafluoride tails:* As to the treatment of the disposition of depleted uranium hexafluoride tails (depleted tails) in these environmental documents, unless Orano demonstrates a use for uranium in the depleted tails as a potential resource, the depleted tails will be considered waste. The Commission has previously concluded that depleted uranium from an enrichment facility is appropriately classified as low-level radioactive waste.[10] An approach for disposition of tails that is consistent with the USEC Privatization Act, such as transfer to the Department of Energy (DOE) for disposal, constitutes a ''plausible strategy'' for disposition of the Orano depleted tails.[11] The NRC staff may consider DOE's Final Programmatic Environmental Impact Statement for Alternative Strategies for the Long-Term Management and Use of Depleted Uranium Hexafluoride in preparing the staff's environmental impact statement.[12] Orano and the Staff shall address alternatives for the disposition of depleted uranium tails in these documents. As part of the licensing process, Orano must also address the health, safety, and security issues associated with the onsite storage of depleted uranium tails pending removal of the tails from the site for disposal or DOE disposition.

2. Financial Qualifications

Review of financial qualifications for enrichment facility license applications is governed by 10 CFR part 70. In CLI–97–15, the Commission held that the 10 CFR part 70 financial criteria, 10 CFR 70.22(a)(8) and 70.23(a)(5), could be met by conditioning the license to require funding commitments to be in place prior to construction and operation.[13] The specific license condition imposed—providing one way to satisfy the requirements of 10 CFR part 70—required the licensee to have in place prior to commencement of construction or operation: a minimum equity contribution of 30% of project costs from the parents and affiliates of partners prior to construction of the associated capacity; firm funding commitments for the remaining project costs; and long term enrichment contracts with prices sufficient to cover both construction and operating costs, including a return on investment, for the entire term of the contracts.

3. Foreign Ownership

The Orano application is governed by sections 53 and 63 of the AEA, and, consequently, issues of foreign involvement shall be determined pursuant to sections 57 and 69, not sections 103, 104, or 193(f). Sections 57 and 69 of the AEA require, among other things, an affirmative finding by the Commission that issuance of a license for the facility will not be ''inimical to the common defense and security.'' The requirements of sections 57 and 69 are incorporated in 10 CFR 70.31 and 10 CFR 40.32, respectively.

4. Creditor Requirements

Pursuant to section 184 of the AEA, the creditor regulations in 10 CFR 50.81 shall apply to the creation of creditor interests in equipment, devices, or important parts thereof, capable of separating the isotopes of uranium or enriching uranium in the isotope U–235. In addition, the creditor regulations in 10 CFR 70.44 shall apply to the creation of creditor interests in special nuclear material. These creditor regulations may be augmented by license conditions as necessary to allow ownership arrangements (such as sale and leaseback) not covered by 10 CFR 50.81, provided it can be found that such arrangements are not inimical to the common defense and security of the United States.

5. Classified Information

All matters of classification of information related to the design, construction, operation, and safeguarding of the Project IKE Enrichment Facility shall be governed by classification guidance in ''Joint DOE/NRC Classification Guide for Enrichment of Uranium by the SILEX Process in the United States,'' Secret RD, Change 1 (November 2016)(CG–US–SILEX–2) and ''Classification Guide for Safeguards and Security Information Associated with Uranium Enrichment by the SILEX Process,'' OUO, Change 1 (January 2024)(CG–NRC–SILEX–2A). All decisions on questions of classification or declassification of information shall be made by appropriate classification officials in the NRC and/or DOE and are not subject to *de novo* review in this proceeding.

6. Access to Classified Information

Portions of Orano's application for a license are classified Restricted Data or National Security Information. Persons needing access to those portions of the application will be required to have the appropriate security clearance for the level of classified information to which access is required. Access requirements apply equally to intervenors, their witnesses and counsel, employees of the applicant, its witnesses and counsel, NRC personnel, and others. Any person who believes that he or she will have a need for access to classified information for the purpose of this licensing proceeding, including the hearing, should immediately contact the NRC, Division of Fuel Cycle, Washington, DC, 20555, for information on the clearance process. Telephone calls may be made to Osiris Siurano-Perez, Project Manager, Fuel Facility Licensing Branch 2, Division of Fuel Cycle, Office of Nuclear Material Safety and Safeguards. Telephone: (301) 415–7827.

7. Obtaining NRC Security Facility Approval for Safeguarding Classified Information Received or Developed Pursuant to 10 CFR part 95

Any entity requiring access to or possession of classified information in connection with the licensing proceeding must process, store, reproduce, transmit, or handle such information exclusively at a location that has received facility security clearance approval from the NRC's Division of Fuel Cycle, Washington, DC 20555. Telephone calls may be made to Samuel (Sam) Bazian, Senior Program Manager Materials Security Branch, Division of Fuel Cycle, Office of Nuclear Material Safety and Safeguards. Telephone: (301) 415–7048.

B. Reconsideration

The above guidance does not foreclose the applicant, any person admitted as a party to the hearing, or an entity participating under 10 CFR 2.315(c) from litigating material factual issues necessary for resolution of contentions in this proceeding. Persons permitted to intervene and entities participating under 10 CFR 2.315(c) as of the date of the order on intervention may also move the Commission to reconsider any portion of section V of this Notice and Commission Order where there is no clear Commission precedent or unambiguously governing statutes or regulations. Any motion to reconsider must be filed within 10 days after the order on intervention. The

[10] *See Louisiana Energy Services,* CLI–05–05, 61 NRC at 36.

[11] *Id.*

[12] *See* Department of Energy, *Final Programmatic Environmental Impact Statement for Alternative Strategies for the Long-Term Management and Use of Depleted Uranium Hexafluoride* (DOE/EIS–0269), 64 FR 43358 (Aug. 10, 1999).

[13] *Louisiana Energy Services,* CLI–97–15, 46 NRC at 309.

motion must contain all technical or other arguments to support the motion. Other persons granted intervention and entities participating under 10 CFR 2.315(c), including the applicant and the NRC staff, may respond to motions for reconsideration within 20 days of the order on intervention. Motions will be ruled upon by the Commission. A motion for reconsideration does not stay the schedule set out above in section IV.e.4. However, if the Commission grants a motion for reconsideration, it will, as necessary, provide direction on adjusting the hearing schedule.

VI. Notice of Intent Regarding Classified Information

As noted above, a hearing on this application will be governed by 10 CFR part 2, subparts A, C, L, and to the extent classified material becomes involved, Subpart I. Subpart I requires in accordance with 10 CFR 2.907 that the NRC staff file a notice of intent if, at the time of publication of the Notice of Hearing, it appears that it will be impracticable for the staff to avoid the introduction of Restricted Data or National Security Information into the proceeding.

The applicant has submitted portions of its application that are classified and intends to submit additional portions of its application that will also be classified. The Commission notes that, since the entire application may become part of the record of the proceeding, the NRC staff has found it impracticable for it to avoid the introduction of Restricted Data or National Security Information into the proceeding.

VII. Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI)). Requirements for access to SGI are primarily set forth in 10 CFR parts 2 and 73. Nothing in this Order is intended to conflict with the SGI regulations.

B. Within 10 days after publication of this notice of hearing or opportunity for hearing, any potential party who believes access to SUNSI or SGI is necessary to respond to this notice may request access to SUNSI or SGI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI or SGI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI, SGI, or both to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Deputy General Counsel for Licensing, Hearings, and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email addresses for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *RidsOgcMailCenter.Resource@nrc.gov,* respectively.[14] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) If the request is for SUNSI, the identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

(4) If the request is for SGI, the identity of each individual who would have access to SGI if the request is granted, including the identity of any expert, consultant, or assistant who will aid the requestor in evaluating the SGI. In addition, the request must contain the following information:

(a) A statement that explains each individual's ''need to know'' the SGI, as required by 10 CFR 73.2 and 10 CFR 73.22(b)(1). Consistent with the definition of ''need to know'' as stated in 10 CFR 73.2, the statement must explain:

(i) Specifically, why the requestor believes that the information is necessary to enable the requestor to proffer and/or adjudicate a specific contention in this proceeding; [15] and

(ii) The technical competence (demonstrable knowledge, skill, training or education) of the requestor to effectively utilize the requested SGI to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant, or assistant who satisfies these criteria.

(b) A completed Form SF–85, ''Questionnaire for Non-Sensitive Positions,'' for each individual who would have access to SGI. The completed Form SF–85 will be used by the Personnel Security Branch in the Office of the Chief Human Capital Officer to conduct the background check required for access to SGI, as required by 10 CFR part 2, subpart C, and 10 CFR 73.22(b)(2), to determine the requestor's trustworthiness and reliability. For security reasons, Form SF–85 can only be submitted electronically through the National Background Investigation Services e-App system, a secure website that is owned and operated by the Defense Counterintelligence and Security Agency (DCSA). To obtain online access to the form, the requestor should contact the NRC's Office of the Chief Human Capital Officer at 301–415–3710.[16]

(c) A completed Form FD–258 (fingerprint card), signed in original ink, and submitted in accordance with 10 CFR 73.57(d). Copies of Form FD–258 will be provided in the background check request package supplied by the Office of the Chief Human Capital Officer for each individual for whom a background check is being requested. The fingerprint card will be used to satisfy the requirements of 10 CFR part 2, subpart C, 10 CFR 73.22(b)(1), and Section 149 of the Atomic Energy Act of 1954, as amended, which mandates that all persons with access to SGI must be

[14] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

[15] Broad SGI requests under these procedures are unlikely to meet the standard for need to know; furthermore, NRC staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requestor's need to know than ordinarily would be applied in connection with an already-admitted contention or non-adjudicatory access to SGI.

[16] The requestor will be asked to provide the requestor's full name, social security number, date and place of birth, telephone number, and email address. After providing this information, the requestor usually should be able to obtain access to the online form within one business day.

fingerprinted for a Federal Bureau of Investigation identification and criminal history records check.

(d) A check or money order payable in the amount of $403.00 [17] to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted.

(e) If the requestor or any individual(s) who will have access to SGI believes they belong to one or more of the categories of individuals that are exempt from the criminal history records check and background check requirements in 10 CFR 73.59, the requestor should also provide a statement identifying which exemption the requestor is invoking and explaining the requestor's basis for believing that the exemption applies. While processing the request, the Office of the Chief Human Capital Officer, Personnel Security Branch, will make a final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of the Chief Human Capital Officer for an evaluation of their exemption status prior to submitting their request. Persons who are exempt from the background check are not required to complete the SF–85 or Form FD–258; however, all other requirements for access to SGI, including the need to know, are still applicable.

Note: Copies of documents and materials required by paragraphs C.(4)(b), (c), and (d) of this Order must be sent to the following address:

U.S. Nuclear Regulatory Commission, Office of the Chief Human Capital Officer, ATTN: Personnel Security Branch, Mail Stop: TWFN–07D04M, 11555 Rockville Pike, Rockville, MD 20852.

These documents and materials should *not* be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as required.

D. To avoid delays in processing requests for access to SGI, the requestor should review all submitted materials for completeness and accuracy (including legibility) before submitting them to the NRC. The NRC will return incomplete packages to the sender without processing.

E. Based on an evaluation of the information submitted under paragraphs C.(3) or C.(4), the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI or need to know the SGI requested.

F. For requests for access to SUNSI, if the NRC staff determines that the requestor satisfies both E.(1) and E.(2), the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [18] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

G. For requests for access to SGI, if the NRC staff determines that the requestor has satisfied both E.(1) and E.(2), the Office of the Chief Human Capital Officer will then determine, based upon completion of the background check, whether the proposed recipient is trustworthy and reliable, as required for access to SGI by 10 CFR 73.22(b). If the Office of the Chief Human Capital Officer determines that the individual or individuals are trustworthy and reliable, the NRC will promptly notify the requestor in writing. The notification will provide the names of approved individuals as well as the conditions under which the SGI will be provided. Those conditions may include, but are not limited to, the signing of a draft Non-Disclosure Agreement or Affidavit, or Protective Order [19] by each individual who will be granted access to SGI.

H. Release and Storage of SGI. Prior to providing SGI to the requestor, the NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection system is sufficient to satisfy the requirements of 10 CFR 73.22. Alternatively, recipients may opt to view SGI at an approved SGI storage location rather than establish their own SGI protection program to meet SGI protection requirements.

I. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

J. Review of Denials of Access.

(1) If the request for access to SUNSI or SGI is denied by the NRC staff after a determination on standing and requisite need, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) Before the Office of the Chief Human Capital Officer makes a final adverse determination regarding the trustworthiness and reliability of the proposed recipient(s) for access to SGI, the Office of the Chief Human Capital Officer, in accordance with 10 CFR 2.336(f)(1)(iii), must provide the proposed recipient(s) any records that were considered in the trustworthiness and reliability determination, including those required to be provided under 10 CFR 73.57(e)(1), so that the proposed recipient(s) have an opportunity to correct or explain the record.

(3) The requestor may challenge the NRC staff's adverse determination with respect to access to SUNSI or with respect to standing or need to know for SGI by filing a challenge within five days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if this individual is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(4) The requestor may challenge the Office of the Chief Human Capital Officer's final adverse determination with respect to trustworthiness and reliability for access to SGI by filing a request for review in accordance with 10 CFR 2.336(f)(1)(iv).

(5) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

[17] This fee is subject to change pursuant to DCSA's adjustable billing rates.

[18] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[19] Any motion for Protective Order or draft Non-Disclosure Agreement or Affidavit for SGI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 180 days of the deadline for the receipt of the written access request.

K. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within five days of the notification by the NRC staff of its grant of access and must be filed with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if this individual is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[20]

L. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

For the Commission.

Dated at Rockville, Maryland, this 7th day of August 2026.

Jody Martin,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information in This Proceeding

Day	Event/activity
0	Publication of FEDERAL REGISTER notice of hearing or opportunity for hearing, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified NonSafeguards Information (SUNSI) and/or Safeguards Information (SGI) which contains information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (*e.g.,* showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and demonstrates the (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (*i.e.,* preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no ''need,'' no ''need to know,'' or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff's reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Agreement or Affidavit. Deadline for applicant/licensee to file draft Non-Disclosure Agreement or Affidavit for SUNSI.
60	Deadline for submitting petition for intervention which contains: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-Disclosure Agreement or Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of the Chief Human Capital Officer makes a final adverse determination regarding access to SGI, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff trustworthiness or reliability determination under 10 CFR 2.336(f)(1)(iv).
A	If access is granted: Issuance of a decision by a presiding officer or other designated officer on motion for Protective Order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed draft Non-Disclosure Agreements or Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the Protective Order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI or SGI contentions by that later deadline.

[20] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012, 78 FR 34247, June 7, 2013) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

Day	Event/activity
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

Additional Views of Commissioner Marzano

While I support the agency's goal of timely, efficient adjudication, I would have voted to disapprove the proposed order. While I do not oppose elimination of mandatory hearings for enrichment facilities through legislation and supported the recent changes to the mandatory hearing process under Section 189, I cannot reconcile this order with the Atomic Energy Act's current hearing requirements.

For enrichment facilities, Section 193 requires a single hearing, on the record, linked to the licensing decision. It further imposes timing requirements relative to the issuance of an environmental impact statement.[1]

In the order issued today, the Commission now states that if there is a contested hearing on the application, it does not intend to conduct an additional uncontested hearing. It further directs the Board to hold open the record and refer the final ruling to the Commission. This path sets the stage for the Commission to credit any form of an adjudicatory record as sufficient for the statute's hearing requirement.

The order rests on an overly permissive reading of Section 193 that I do not share. Congress designed this hearing to function as a comprehensive public adjudication on the licensing decision.[2] Treating early dispositive rulings as sufficient for the ''single adjudicatory hearing on the record'' hollows out the statute's requirement and the balance struck by Congress.

Even if one could read the statute to permit the proposed approach, the attendant risks outweigh the potential schedule benefits. Other efficiencies could be addressed in the overall process, and there is still room for improvement in mandatory hearings for enrichment facilities. The national interest in the timely expansion of domestic enrichment capacity is better served by process certainty than by significant, ad hoc changes to Commission practice.

For these reasons, I would deny the order as written. Until Congress amends Section 193, we remain bound by its text. The agency should instead expedite schedules where possible without departing from the statute and what our rules require.

[FR Doc. 2026–16372 Filed 8–11–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–456, STN 50–457, 72–73, STN 50–454, STN 50–455, 72–68, 50–373, 50–374, 72–70, 50–390, 50–391, 72–1048, 50–259, 50–260, 50–296, 50–237, 50–249, 72–53, 50–254, and 50–265; NRC–2026–3961]

Issuance of Multiple Exemptions

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a single notice to announce the issuance of four exemptions in response to requests as detailed in the available documents.

DATES: This notice contains four exemptions that the NRC granted during the period from April 1, 2026, to June 30, 2026, in response to requests submitted by two licensees.

ADDRESSES: Please refer to Docket ID NRC–2026–3961 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–2026–3961. 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 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: Robert Kuntz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3733, email: *Robert.Kuntz@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

During the period from April 1, 2026, through June 30, 2026, the NRC granted the included four exemptions in response to requests submitted by the following licensees: Constellation Energy Generation, LLC and Tennessee Valley Authority.

The details of the exemptions that have been issued are provided in the available documents.

II. Availability of Documents

The tables in this notice provide transparency regarding the number and type of exemptions the NRC has issued and provide the licensee name, facility name, docket number, document description, document date, and ADAMS accession number for each exemption issued. Additional details on each exemption issued, including the exemption request submitted by the respective licensee and the NRC's decision, are provided in each exemption approval listed in the following tables. For additional directions on accessing information in

[1] Licensing of uranium enrichment facilities, Atomic Energy Act § 193, 42 U.S.C. 2243.

[2] 136 Cong. Rec. 32761 (1990) (statement of Rep. Miller) (''The compromise language provides for the following procedural safeguards that were not contained in the Senate-passed licensing amendment: Provision for a mandatory full adjudicatory public hearing prior to the issuance of a combined construction/operation license.'')

ADAMS, see the **ADDRESSES** section of this document.

Document description	ADAMS accession No.	Document date
Constellation Energy Generation, LLC;vBraidwood Station Units 1 and 2, Byron Station Unit Nos. 1 and 2, and LaSalle County Station, Units 1 and 2; Docket Nos. STN 50–456, STN 50–457, 72–73, STN 50–454, STN 50–455, 72–68 50–373, 50–374, and 72–70		
Braidwood Station, Units 1 and 2; Byron Station, Unit Nos. 1 and 2; Lasalle County Station, Units 1 and 2—Request for an Exemption from 10 CFR 50.82(a)(8)(i) and (ii) and 10 CFR 50.75(h)(1)(iv) to Allow Use of the Decommissioning Trust Funds Earnings for Certain Decommissioning Activities and During Operations (EPID L–2025–LLE–0028).	ML26099A141, Package	April 23, 2026.
Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Docket Nos. 50–390, 50–391, and 72–1048		
Watts Bar Nuclear Plant, Units 1 and 2—Exemption from Requirements of 10 CFR 50.71(e)(4)(i) Regarding Submission of Revisions and Updates to the Final Safety Analysis Report (EPID L–2026–LLE–0003).	ML26086A347	April 30, 2026.
Tennessee Valley Authority; Browns Ferry Nuclear Plant, Units 1, 2, and 3; Docket Nos. 50–259, 50–260, and 50–296		
Browns Ferry Nuclear Plant, Units 1, 2, and 3—Exemption from the Requirements of 10 CFR 50.55a(a)(3)(iii) and 10 CFR 50.55a(y) to Adopt ASME [American Society of Mechanical Engineers] Code Case OMN–31 (EPID L–2025–LLE–0026).	ML26077A342	May 14, 2026.
Constellation Energy Generation, LLC; Dresden Nuclear Power Station, Units 2 and 3; Constellation Energy Generation, LLC and MidAmerican Energy Company; Quad Cities Nuclear Power Station, Units 1 and 2; Docket Nos. 50–237, 50–249, 72–53, 50–254, and 50–265		
Dresden Nuclear Power Station, Units 2 and 3, and Quad Cities Nuclear Power Station, Units 1 and 2—Exemption Request from 10 CFR 50.82(a)(8)(i) and 10 CFR 50.82(a)(8) (ii), 10 CFR 50.75(h)(1)(iv), and 10 CFR 50.75(h)(2) to Allow Use of the Decommissioning Trust Funds Earnings for Certain Decommissioning Activities and During Operations without Making Prior Notifications to the NRC (EPID L–2026–LLE–0001).	ML26131A001, Package	May 29, 2026.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: August 10, 2026.

For the Nuclear Regulatory Commission.

Robert Kuntz,

Senior Project Manager, Operating Reactor Licensing Branch 3, Division of Reactor Projects 1, Office of Nuclear Reactor Regulation.

[FR Doc. 2026–16434 Filed 8–11–26; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

International Product Change—Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: Date of notice: August 12, 2026.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 3, 2026, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 120 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2026–331 and K2026–326.

Jeffrey Boblick,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2026–16427 Filed 8–11–26; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106058; File No. SR–IEX–2026–26]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Pursuant to IEX Rule 15.110(a) and (c) To Amend the Exchange's Fee Schedule Applicable to Members To Modify IEX's Incremental Fee Tiers and To Make Organizational Changes to the Fee Schedule in Preparation for the Launch of IEX Options Later This Year

August 7, 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 30, 2026, the Investors Exchange LLC (''IEX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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

Pursuant to the provisions of Section 19(b)(1) under the Act,[4] and Rule 19b–4 thereunder,[5] the Exchange is filing with the Commission a proposed rule change pursuant to IEX Rule 15.110(a) and (c) to amend the Exchange's fee schedule applicable to Members [6] (the ''Fee Schedule'' [7]) to modify IEX's Incremental Fee Tiers and to make organizational changes to the Fee Schedule in preparation for the launch of IEX Options later this year. Changes to the Fee Schedule pursuant to this proposal are effective upon filing,[8] and will be implemented on August 1, 2026.

The text of the proposed rule change is available at the Exchange's website at *https://www.iexexchange.io/resources/regulation/rule-filings* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to modify IEX's Incremental Fee Tiers [9] and to make organizational changes to the Fee Schedule in preparation for the launch of IEX Options later this year. Specifically, IEX proposes to: (1) introduce a new fee of $0.0004 per share for certain non-displayed trades of Members who qualified for the reduced Incremental Fee in each of the three immediately preceding months; and (2) move the FINRA Registration and Processing and the Consolidated Audit Trail Funding Fees into a separate ''Additional Fees'' schedule, which will be linked from both the Exchange's equities and options fee schedules.[10] This fee change proposal is effective on filing and will be implemented on August 1, 2026.[11]

Incremental Fee Tiers Change

IEX's Incremental Fee Tiers are a volume-based fee incentive designed to incentivize Members to increase their ADV [12] of non-displayed trading on the Exchange by charging a reduced fee of $0.0001 per share [13] to Members that qualify for Incremental Fee Tier 2 for applicable executions of non-displayed orders.[14] A Member qualifies for the reduced fee (*i.e.,* Incremental Fee Tier 2) for a portion of its Incremental Fee eligible ADV [15] in the current month if in the prior (*i.e.,* immediately preceding) month, its Incremental Fee eligible ADV exceeded its Baseline non-displayed ADV [16] by at least 15,000,000. In the current month, all Members that qualify for Incremental Fee Tier 2 pay the regular $0.0010 fee for any Incremental Fee eligible ADV that is less than or equal to the Baseline non-displayed ADV, and pay the reduced $0.0001 fee for any Incremental Fee eligible ADV that exceeds the Baseline non-displayed ADV. However, unless the Member has qualified for Incremental Fee Tier 2 in at least the three immediately preceding months, IEX caps the volume that is eligible for the reduced $0.0001 fee at the Member's Baseline non-displayed ADV, and any additional Incremental Fee eligible ADV is charged the regular fee of $0.0010 for either adding or removing non-displayed liquidity.

For Members that qualified for Incremental Fee Tier 2 in at least the three immediately preceding months, IEX doubles the cap on the amount of Incremental Fee eligible ADV that qualifies for the $0.0001 reduced fee. Thus, for these Members (herein referred to as ''Eligible Members''), the $0.0001 reduced fee is applicable to Incremental non-displayed ADV [17] that is less than or equal to two times the Baseline non-displayed ADV. Any additional Incremental Fee eligible ADV for Eligible Members is currently charged the regular fee of $0.0010 for either adding or removing non-displayed liquidity.

Because of the cap on Incremental Fee eligible ADV that qualifies for the $0.0001 reduced fee, IEX's Incremental Fee Tiers only incentivize non-displayed trading on the Exchange up to a point, after which Eligible Members return to paying the regular $0.0010 fee for non-displayed trading. To better incentivize these Eligible Members to bring more non-displayed trading to the Exchange, IEX now proposes to introduce a $0.0004 per share reduced fee for any Incremental Fee eligible ADV in excess of the two-times Baseline non-displayed ADV cap on the $0.0001 reduced fee.

IEX chose $0.0004 as the fee for qualifying executions because it represents the lowest possible blended rate an Eligible Member would pay if it had traded exactly enough to maximize the current Incremental Fee Tier 2 benefit, as represented in the following example:

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] *See* IEX Rule 1.160(s).

[7] *See* Investors Exchange Fee Schedule, available at *https://www.iex.io/resources/trading/fee-schedule.*

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] *See* footnote 6 to the Transaction Fees, Base Rates table and Fee Code Combinations and Associated Fees table of the IEX Fee Schedule, *supra* note 7.

[10] IEX has not yet filed for any options-related fees, but when it does so it intends to place options-related fees on a separate fee schedule from the one used by equities traders.

[11] Nothing in this rule filing affects trades below $1.00 per share (''sub-dollar trades''). Sub-dollar trades would not impact the Incremental Fee Tier calculations and would not be eligible for any of the Incremental Fee Tiers described herein.

[12] ''ADV'' means average daily volume calculated as the number of shares added or removed (as applicable) that execute at or above $1.00 per share, per day.

[13] IEX's base rate for transactions that add or remove non-displayed liquidity is $0.0010 per share. *See* IEX Fee Schedule, *supra* note 7, Transaction Fees, Base Rates table.

[14] The fee codes to which the Incremental Fee Tiers apply are ''MI'' (Adds non-displayed liquidity); ''MIB'' (Adds non-displayed liquidity in Tape B securities); ''TIY'' (Post Only order removes non-displayed liquidity); ''TIYB'' (Post Only order removes non-displayed liquidity in Tape B securities); ''TI'' (Removes non-displayed liquidity); and ''TIB'' (Removes non-displayed liquidity in Tape B securities).

[15] ''Incremental Fee eligible ADV'' means executions with any of the Fee Code Combinations MI, MIB, TI, TIB, TIY, or TIYB. Unless otherwise specified, Incremental Fee eligible ADV refers to executions in the current month.

[16] ''Baseline non-displayed ADV'' is calculated by taking the average of the Member's Incremental Fee eligible ADV in the three months with the lowest Incremental Fee eligible ADV between March 1, 2025 and February 28, 2026. For Members that joined IEX after March 1, 2025, the Baseline non-displayed ADV is calculated by taking the average of the Member's Incremental Fee eligible ADV in its first three full months of trading on the Exchange. *See* IEX Fee Schedule, *supra* note 7, Transaction Fees, Definitions.

[17] ''Incremental non-displayed ADV'' means executions in the immediately preceding month of Incremental Fee eligible ADV that exceeded the Baseline non-displayed ADV. *See* IEX Fee Schedule, *supra* note 7.

Example 1

• Member A qualified for Incremental Fee Tier 2 in each of the three immediately preceding months (Months 1–3). The current month, Month 4, has twenty (20) trading days.

• In Month 4, Member A's Baseline non-displayed ADV is 10,000,000 (in a twenty-day month, this equals 200,000,000 shares) and its Incremental Fee eligible ADV is 30,000,000 (in a twenty-day month, this equals 600,000,000 shares), meaning its Incremental non-displayed ADV is 20,000,000 (in a twenty-day month, this equals 400,000,000 shares).

• Member A pays $0.0010 per share for the 200,000,000 shares that represent its Baseline non-displayed ADV, which totals $200,000.

• Member A pays $0.0001 per share for the 400,000,000 shares that represent its Incremental non-displayed ADV (because it is less than or equal to two times its Baseline non-displayed ADV), which totals $40,000.

• Member A's total costs for its Incremental Fee eligible ADV in Month 4 is $240,000 ($200,000 + $40,000). Member A's per share cost is $0.0004 ($240,000 total cost/600,000,000 shares traded).

An example of how this fee change proposal will work in practice can be found in the proposed changes to footnote a to the Fee Schedule's ''Incremental Fee Tier Fee Calculation Table (used by both Options 1 and 2).'' The last sentence of that footnote includes an example of the fees currently applicable to an Eligible Member whose Incremental Fee eligible ADV is greater than three times its Baseline non-displayed ADV. It currently reads:

For example, if such a Member's Baseline non-displayed ADV is 15,000,000 and its Incremental Fee eligible ADV is 50,000,000 (*i.e.,* its Incremental non-displayed ADV is 35,000,000), the $0.0001 fee is applicable to 30,000,000 of its Incremental Fee eligible ADV (two times the Member's Baseline non-displayed ADV), and the $0.0010 fee is applicable to 20,000,000 of its Incremental Fee eligible ADV.

IEX proposes to change this sentence to reflect that for this Eligible Member, only the Baseline non-displayed ADV (15,000,000) will be assessed the $0.0010 fee, two times the Baseline non-displayed ADV (30,000,000) will be assessed the $0.0001 fee, and the 5,000,000 of Incremental Fee eligible ADV that is greater than three times the Baseline non-displayed ADV will now be assessed the $0.0004 fee.

IEX notes that this fee change will not affect a Member who has not qualified for Incremental Fee Tier 2 in at least the three immediately preceding months.

To effect the above proposed fee change, IEX proposes making the following changes to the Fee Schedule:

• Amend the first bullet in the Incremental Fee Tiers subsection (footnote 6 in the Transaction Fees section) to remove the words ''of $0.0001 per share)'', so the bullet now reads in full: ''IEX's Incremental Fee Tiers provide Members an opportunity to pay a reduced fee (the 'Incremental Fee') for Incremental Fee eligible ADV in the current month.'' IEX proposes to make this change because the reduced fee can now be either $0.0001 per share or $0.0004 per share.

• Add ''or $0.0004'' to the Incremental Fee Tier Calculation Table (used by both Options 1 and 2), so that it now shows that for Tier 2, if Member's Incremental non-displayed ADV was greater than or equal to 15,000,000, the Fee for Incremental non-displayed ADV is ''$0.0001 or $0.0004.''

• Amend footnote a to the Incremental Fee Tier Calculation Table (used by both Options 1 and 2) as follows:

○ At the beginning of the first sentence, delete ''This fee'' and replace with ''The $0.0001 fee. . .'' This change modifies the part of footnote a that refers to Members who have not qualified for Incremental Fee Tier 2 in at least the three immediately preceding months, and who therefore are only eligible for the $0.0001 reduced fee on Incremental non-displayed ADV that does not exceed the Baseline non-displayed ADV.

○ In the second sentence replace the word ''reduced'' with ''$0.0001.'' This change reflects the specific fee that will be charged for Incremental non-displayed ADV for a Member that qualified for Incremental Fee Tier 2 in at least the three immediately preceding months.

○ Add a new third sentence that reads in full: ''Incremental non-displayed ADV that exceeds two times the Baseline non-displayed ADV will be assessed the $0.0004 fee.''

○ In the last sentence of the paragraph (now the fourth sentence), update the example by removing the words: ''the $0.0001 fee is applicable to 30,000,000 of its Incremental Fee eligible ADV (two times the Member's Baseline non-displayed ADV), and the $0.0010 fee is applicable to 20,000,000 of its Incremental Fee eligible ADV'' and inserting the following: ''15,000,000 is assessed the $0.0010 fee, 30,000,000 is assessed the $0.0001 fee, and 5,000,000 is assessed the $0.0004 fee.''

• Amend the ''Incremental non-displayed TAV'' bullet under the Incremental Fee Tier Option 2 subsection as follows:

○ In the last sentence replace ''the reduced Incremental Fee is capped at two times the Baseline non-displayed ADV'' with ''the $0.0001 fee is capped at two times the Baseline non-displayed ADV.'' And add to the end of the sentence '', and any volume greater than three times the Baseline non-displayed ADV is eligible for the $0.0004 fee.'' These changes reflect that only the $0.0001 reduced fee is capped at two times the Baseline non-displayed ADV, and there will now be a $0.0004 reduced fee applied to any volume greater than three times the Baseline non-displayed ADV.

IEX also proposes to correct a typographical error in one of the examples to the Incremental Fee Tier Option 1 section of the Fee Schedule. Specifically, IEX proposes to update the explanatory text in the second footnote, which is marked with two asterisks (''**''), under the table in the Incremental Fee Tier Option 1 section, so that it states that the Member has Incremental Fee eligible ADV of 35,000,000. Currently, the explanatory text states that the Member has Incremental Fee eligible ADV of 30,000,000 in the Prior Month, but the example in the table and the calculations in the footnote all correctly reflect the Member having Incremental Fee eligible ADV of 35,000,000, not 30,000,000, in the Prior Month.

Organizational Fee Schedule Changes

On September 18, 2025, the Commission approved IEX's rule change proposal to adopt rules governing the trading of options on the Exchange in a new facility called ''IEX Options;'' [18] IEX Options has announced its plan to commence trading options on October 2, 2026.[19] In preparation for the launch of IEX Options, IEX proposes to rename the current Fee Schedule to reflect that it specifically applies to equities trading, and to move fees that apply to both equities and options trading into a separate ''Additional Fees'' schedule, which will be linked from the equities or options specific fee schedules.

Specifically, the Exchange proposes to make the following organizational changes to the Fee Schedule:

[18] *See* Securities Exchange Act Release No. 103998 (September 18, 2025), 90 FR 45861 (September 23, 2025) (SR–IEX–2025–02).

[19] *See https://www.iex.io/options/resources#important-dates.*

• Rename the Fee Schedule from ''Investors Exchange Fee Schedule'' to ''IEX Equities Fee Schedule'' and insert the words ''Investors Exchange LLC'' above ''IEX Equities Fee Schedule.''

• Remove the ''Registration and processing fees'' and ''Consolidated Audit Trail Funding Fees'' sections of the Fee Schedule.

• Insert text at the bottom of the Fee Schedule that reads:

○ ''Additional Fees: Fees collected through the CRD registration system for registration and processing of associated persons of Members that are not also FINRA members, and the Consolidated Audit Trail Funding Fees are set forth on the Additional Fees schedule:''

○ Have the words ''Additional Fees schedule'' be hyperlinked to a new Additional Fees schedule.

• Create a new ''Additional Fees'' schedule that will contain the ''Registration and processing fees'' and ''Consolidated Audit Trail Funding Fees'' that are currently on the Fee Schedule.

• Set the effective date of the Additional Fees schedule as May 1, 2026, to reflect the most recent update to the ''Registration and processing fees'' and ''Consolidated Audit Trail Funding Fees'' found on the schedule.[20]

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)[21] of the Act in general and furthers the objectives of Section 6(b)(4)[22] of the Act, in particular, in that it is designed to not be unfairly discriminatory and to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

The Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. Accordingly, IEX has designed the change to its Incremental Fee Tiers to encourage more trading on the Exchange while providing a fee structure that is fair, equitable, and not designed to permit unfair discrimination because they will be applied equally to all Members who satisfy the criteria.

Within that context, the proposed introduction of a new $0.0004 fee for Members who have qualified for Incremental Fee Tier 2 in at least the three immediately preceding months, and whose Incremental Fee eligible ADV in the current month is greater than three times their Baseline non-displayed ADV is within the range of rebate and fee tier requirements applied by other exchanges. IEX also believes that offering a reduced fee of $0.0004 per share for the non-displayed trading of Members that have qualified for Incremental Fee Tier 2 in at least the three immediately preceding months, and whose volume in the current month is greater than three times their Baseline non-displayed ADV furthers the objectives of the Act. This aspect of the proposal, which IEX also makes for business and competitive reasons, is designed to incentivize Members to increase their volume of non-displayed trading on the Exchange and to maintain that volume in subsequent months. IEX believes that this increased non-displayed volume on the Exchange will contribute to a deeper and more liquid market, which benefits all market participants and provides greater execution opportunities on the Exchange.

Further, IEX believes that the correction of the footnote related to one of the examples in the Incremental Fee Option 1 section of the Fee Schedule is consistent with Section 6(b)(5) of the Act because it is designed to eliminate any potential confusion regarding IEX fees by correcting an inadvertent typographical error that made the example inconsistent with the fee as specified in the Fee Schedule.

Additionally, IEX believes that this proposal provides for the equitable allocation of reasonable fees among its Members and is not designed to be unfairly discriminatory because all Members are eligible to increase their non-displayed volume to qualify for the reduced fee of $0.0004, as described in the Purpose section, and therefore all similarly situated Members will be treated the same by this proposal. Thus, IEX does not believe that any aspect of this proposal raises new or novel issues not already considered by the Commission.

Furthermore, the Exchange believes that the proposed reorganization of its Fee Schedule to establish a separate fee schedule for Additional Fees (the Registration and Processing and CAT Funding fees) that apply to Members who trade either equities, options or both, is reasonable and equitable because it is a non-substantive change and does not involve changing any existing fees or rebates that apply to trading activity on IEX. Further, the changes are designed to make the fee schedule easier to read. The Exchange also believes this reorganization is non-discriminatory because it applies uniformly to all Members. The Exchange believes the proposed reorganized Fee Schedule will be clearer and less confusing for Members of the Exchange and will eliminate potential Member confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and in general, protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed in the Statutory Basis section, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if fee schedules at other venues are viewed as more favorable. Consequently, the Exchange believes that the degree to which IEX fees could impose any burden on competition is extremely limited and does not believe that such fees would burden competition between Members or competing venues. Moreover, as noted in the Statutory Basis section, the Exchange does not believe that the proposed changes raise any new or novel issues not already considered by the Commission.

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, while different fees are assessed on Members, these fees are not based on the type of Member entering the orders that match, but rather on the Member's own trading activity. Further, the proposed fee change is intended to encourage market participants to bring increased order flow to the Exchange, which benefits all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

[20] *See* Securities Exchange Act Release No. 105407 (May 7, 2026), 91 FR 26252 (May 12, 2026) (SR–IEX–2026–12) (filing introducing ''Historical CAT Assessment 1A'' fees).

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) [23] of the Act.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [24] 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–IEX–2026–26 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–IEX–2026–26. 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–IEX–2026–26 and should be submitted on or before September 2, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026–16383 Filed 8–11–26; 8:45 am]

BILLING CODE 8011–01–P

[23] 15 U.S.C. 78s(b)(3)(A)(ii).

[24] 15 U.S.C. 78s(b)(2)(B).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106060; File No. SR–CboeEDGX–2026–051]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Increase the Discounted External Distribution Fee for the EDGX Top Feed Available Under the Exchange's Existing Small Retail Broker Distribution Program From $750 per Month to $1,250 per Month

August 7, 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 August 6, 2026, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX) filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to increase the discounted External Distribution Fee for the EDGX Top Feed available under the Exchange's existing Small Retail Broker Distribution Program from $750 per month to $1,250 per month. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/equities/regulation/rule_filings/edgx/*), and at the principal office of the Exchange.

[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 Exchange proposes to increase the discounted External Distribution Fee for the EDGX Top Data Feed (''EDGX Top Feed'') offered under the Exchange's existing Small Retail Broker Distribution Program (the ''Program'') from $750 per month to $1,250 per month.[3] [4]

By way of background, the Exchange offers the EDGX Top Feed, which is an uncompressed data feed that offers top-of-book quotations and last sale information based on equity orders entered into the Exchange's System. The EDGX Top Feed benefits investors by facilitating their prompt access to real-time top-of-book information. The standard External Distribution Fee for EDGX Top Feed is $2,250 per month.[5]

The Exchange introduced the Small Retail Broker Distribution Program to allow Small Retail Brokers that purchase the EDGX Top Feed to benefit from a discounted External Distribution

[3] In line with this proposed change, the Exchange will also update the referenced discounted rate that is ultimately waived under the Small Retail Broker Hosted Solutions Program. This is a non-substantive, conforming change to ensure consistency within the Exchange's Fee Schedule. Additionally, the Exchange proposes a cleanup change to provide clarity in the Exchange's Fee Schedule to modify the current Non-Professional User fee listed in the Small Retail Broker Hosted Solution Program (currently reads as ''$0.025'') to state the correct Non-Professional User fee of $0.10. The Exchange notes that by updating this fee here, it aligns with the above fee table for EDGX Top and provides clarity for users. This is not a substantive change to the Exchange's Fee schedule (and has no impact on fees charged), but is rather a confirming, clarifying update to provide transparency for customers.

[4] The Exchange initially submitted the proposed rule change on August 3, 2026 (SR–CboeEDGX–2026–050). On August 6, 2026, the Exchange withdrew that filing and submitted this proposal.

[5] *See* EDGX Equities Fee Schedule.

Fee.[6] The Small Retail Broker Distribution Program is also offered for Cboe One Summary Data Feed which reduces the External Distribution Fee and Consolidation Fee for Small Retail Brokers. In turn, the Program is intended to increase retail investor access to real-time U.S. equity quote and trade information, and to allow the Exchange to better compete for this business with competitors that offer similar optional products. Under the Program as currently in effect, the Exchange charges a discounted External Distribution Fee of $750 per month for the EDGX Top Feed for eligible participants.

To participate in the Program, a Small Retail Broker must meet the following criteria: (i) the Distributor is a broker-dealer distributing the applicable feed to Non-Professional Data Users with whom the broker-dealer has a brokerage relationship; (ii) at least 90% of the Distributor's total subscriber population consists of Non-Professional subscribers, inclusive of any subscribers not receiving the applicable feed; and (iii) the Distributor distributes the applicable feed to no more than 10,000 Non-Professional Data Users.[7]

The Exchange now proposes to increase the discounted External Distribution Fee for the EDGX Top Feed under the Program from $750 per month to $1,250 per month. The proposed $1,250 per month discounted fee would continue to represent a discount from the $2,250 per month standard external distribution fee for the EDGX Top Feed, while adjusting the magnitude of that discount. No other feature of the Program—including the eligibility criteria or the discounted fees applicable to the Cboe One Summary Data Feed—would change as a result of this proposal.

The Exchange is proposing this change as part of its ongoing review of its proprietary market data fee programs. The Exchange periodically reviews, updates, and modifies its data fee programs from time to time as market conditions and business considerations warrant, and the proposed adjustment reflects the Exchange's assessment of the appropriate discounted price point for the EDGX Top Feed under the Program in the current competitive environment.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange. In particular, the Exchange believes the proposed rule change is consistent with the objectives of Section 6 of the Act[8] in general, and furthers the objectives of Section 6(b)(4)[9] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other recipients of Exchange data. The Exchange also believes the proposed rule change is consistent with Section 6(b)(5)[10] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and not to permit unfair discrimination between customers, issuers, brokers, or dealers. In addition, the Exchange believes the proposed rule change is consistent with Section 11A of the Act[11] and Rule 603 of Regulation NMS[12] thereunder, which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory.

The EDGX Top Feed product is proprietary, non-core market data. The Exchange is not required by any rule or regulation to make the EDGX Top Feed—or any other proprietary market data product—available and is under no obligation to offer any associated discounted fee program. The EDGX Top Feed is distributed and purchased on an entirely voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make the product available or to subscribe to it. Distributors and Users may discontinue use at any time and for any reason, including based on an assessment of the reasonableness of the fees charged.

For the same reasons, the Exchange is not obligated to offer any discount from the standard $2,250 per month External Distribution Fee for the EDGX Top Feed.[13] The Small Retail Broker Distribution Program discount is a voluntary, discretionary pricing incentive that the Exchange has elected to offer in order to make its proprietary data more attractive to a particular segment of the market. The proposed increase in the discounted External Distribution Fee from $750 to $1,250 per month simply adjusts the magnitude of a voluntary incentive that the Exchange remains free to offer, modify, or discontinue, (subject to its obligations under the Act) and the adjusted fee continues to provide a discount relative to the standard external distribution fee.

Consistent with the foregoing, the Exchange retains the discretion to review, update, and modify its data fee programs from time to time (in accordance with the Act) as market conditions and business considerations warrant. The proposed rule change is a product of that ongoing review. The Exchange operates in a highly competitive environment, and 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 recognized that the 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.''[14] The proposed fee change is a result of that competitive environment, as the Exchange calibrates the pricing of its proprietary top-of-book data offerings in response to prevailing market conditions.

As a further illustration of the Exchange's discretion in setting discounted fee levels for these voluntary programs, the Exchange notes that it is concurrently proposing, through its affiliate, to introduce a new Small Retail Broker Distribution Program for the BZX Top Feed.[15] Under that concurrent proposal, the discounted External Distribution Fee for the BZX Top Feed would be $2,000 per month, in lieu of the standard $2,500 per month External Distribution Fee for that product. The fact that the discounted External Distribution Fee for a comparable program on an affiliated exchange is set at a different level ($2,000 for BZX Top, as compared to the $1,250 proposed here for EDGX Top) illustrates that discounted fee levels across similar programs may vary by exchange and product, and are set in light of the

[6] *See* Securities Exchange Act Release No. 88219 (February 14, 2020), 85 FR 9872 (February 20, 2020) (SR–CboeEDGX–2020–008).

[7] *See* Securities Exchange Act Release No. 104265 (November 25, 2025), 90 FR 55218 (December 1, 2025) (SR–CboeEDGX–2025–081).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78k–1.

[12] 17 CFR 242.603.

[13] *See* EDGX Equities Fee Schedule.

[14] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[15] *See* SR–CboeBZX–2026–062.

competitive circumstances applicable to the particular data product.

The Exchange believes the proposed fee is reasonable, equitable, and not unfairly discriminatory. The proposed discounted fee of $1,250 per month remains available to any Small Retail Broker that satisfies the Program's eligibility criteria on the same terms, and the eligibility criteria themselves are unchanged. The Program continues to be designed to ensure that Small Retail Brokers that distribute top-of-book data to their retail users can benefit from reduced pricing relative to the standard External Distribution Fee, thereby increasing the availability of the Exchange's data products to retail investors. National securities exchanges commonly charge reduced fees and offer market structure benefits to retail investors, and the Commission has consistently held that such incentives are consistent with the Act. Because the proposed fee applies uniformly to all similarly situated participants and continues to further the Program's retail-investor-focused purpose, the Exchange believes it does not permit unfair discrimination among customers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price these data products is constrained by (i) competition among exchanges that offer similar top-of-book data products to their customers, and (ii) the existence of real-time consolidated data disseminated by the SIPs. Top-of-book data is disseminated by both the SIPs and the other national securities exchanges, and there are therefore numerous alternative products available to market participants and investors. In this competitive environment, potential subscribers are free to choose which competing product to purchase to satisfy their need for market information.

The Exchange does not believe the proposed rule change imposes any unnecessary or inappropriate burden on intramarket competition. The proposed discounted fee applies uniformly to all Small Retail Brokers that satisfy the Program's unchanged eligibility criteria. Larger broker-dealers and vendors that distribute the Exchange's data products to a sizeable number of investors continue to benefit from the standard fee structure, which includes Enterprise licenses.

The Exchange does not believe the proposed rule change imposes any unnecessary or inappropriate burden on intermarket competition, as other exchanges remain free to set the prices of their own competing top-of-book data products, including any discounts they choose to offer. Because the EDGX Top Feed is proprietary, non-core data that no market participant is required to purchase, and because the discounted fee under the Program is a voluntary incentive that the Exchange is not obligated to offer at all, any adjustment to the level of that discount cannot impose an undue competitive burden.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and paragraph (f) of Rule 19b–4 [17] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeEDGX–2026–051 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeEDGX–2026–051. 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–CboeEDGX–2026–051 and should be submitted on or before September 2, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026–16384 Filed 8–11–26; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36288; 812–16018]

Source Capital and First Pacific Advisors, LP

August 7, 2026.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 19(b) of the Act and rule 19b–1 under the Act to permit registered closed-end investment companies to make periodic distributions of long-term capital gains more frequently than permitted by section 19(b) or rule 19b–1.

Summary of Application:

Applicants request an order to permit certain registered closed-end management investment companies to pay as frequently as twelve times in any one taxable year in respect of its

common stock and as often as specified by, or determined in accordance with the terms of, any preferred stock issued by the investment company subject to the terms and conditions stated in the application.

APPLICANTS: Source Capital and First Pacific Advisors, LP.

FILING DATES: The application was filed on April 21, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern Time, on September 1, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Laurie A. Dee, Morgan, Lewis & Bockius LLP, *laurie.dee@morganlewis.com,* with copies to Diane Drake, Source Capital, *diane.drake@mfac-ca.com* and Eric R. Brown, Esq., Chief Legal Officer, First Pacific Advisors, LP, *ebrown@fpa.com.*

FOR FURTHER INFORMATION CONTACT: Rachel Loko, Senior Special Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants application, dated April 21, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/search-filings.* You may also call the SEC's Office of Investor Education and Assistance at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026–16385 Filed 8–11–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106057; File No. SR–CBOE–2026–067]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Rules Relating to Trading Permit Holder (''TPH'') Transaction Reporting Duties

August 7, 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 31, 2026, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the 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. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its Rules relating to Trading Permit Holder (''TPH'') transaction reporting duties. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/options/regulation/rule_filings/cone/*), and at the principal office of the Exchange.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend its Rules relating to TPH reporting duties.

Background

By way of background, Rule 6.1 generally requires TPHs to report trades after execution. Particularly, Rule 6.1(a) requires that a participant in each transaction designated by the Exchange report or ensure the transaction is reported to the Exchange within 90 seconds of execution so that the trade information may be reported to time and sales reports (which is often referred to as ''the tape'' or OPRA (the Options Price Reporting Authority)).[5] Current Rule 6.1(b) requires that for each transaction on the Exchange in which a TPH participates, the TPH must report the transaction promptly to the TPH for whom such transaction was made and/or to the TPH that will clear such transaction in a form and manner prescribed by the Exchange. Rule 6.1(c) sets forth further detail and procedures the Exchange has established for reporting trade information required under Rule 6.1(a) and (b). Rule 6.1(d) requires that for each transaction in which a TPH participates off the Exchange in any option pertaining to an underlying security which is currently approved for Exchange transactions, such TPH shall report the transaction to the Exchange in a form and manner prescribed by the Exchange. Rule 6.1(e) describes the trade information that

[5] Transactions not reported within 90 seconds after execution shall be designated late. A pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with just and equitable principles of trade and subject to summary fine under Exchange Rule 17.50 or to discipline by the Business Conduct Committee.

TPHs must report to allow the Exchange to properly match and clear trades. Rule 6.1(g) describes the procedures the Exchange has established for reporting trade information required under Rule 6.1(e).[6] Further, Rule 6.1(f) clarifies that TPHs must submit trade information in such form and manner prescribed by the Exchange in order to allow the Exchange to properly prioritize and route orders and report resulting transactions to the Clearing Corporation; Rule 6.1(h) and (i) address reporting duties when certain required reporting information is unknown; and Rule 6.1(j) clarifies when trade information is considered to have been received by the Exchange.

Proposed Rule Change

Applicability and Form

The Exchange first clarifies in the introduction of Rule 6.1 that the transaction reports TPHs must submit pursuant to Rule 6.1 (in a form and manner prescribed by the Exchange) must be submitted for all transactions executed in open outcry on the Exchange's trading floor. While all transaction information for electronic transactions executed on the Exchange must also be reported for purposes of times and sales, matching, and clearing, the Exchange's System has all necessary information for electronic transactions executed on the Exchange, so TPHs need to take no additional steps to report transaction information to the Exchange after execution of these transactions. This is consistent with current behavior, and the proposed rule change merely clarifies the current applicability of the Rule. Additionally, pursuant to current Rule 6.1 (including in current paragraphs (a), (b), (c), (e), and (g)[7]), the Exchange will designate the form and manner of reports. The proposed rule change deletes outdated language, such as ''electronic data transmission link'' and ''electronic data storage medium,'' as the form and manner of these reports is set forth in technical specifications, notices, and regulatory circulars, as applicable, available on the Exchange's website.

Reports

Next, the Exchange proposes to amend Rule 6.1 to distinguish between three sets of transaction information the Rule requires, including the deadlines for submission for reporting each set of information and the party or parties to the transaction that must submit this information to the Exchange.

OPRA Reporting

First, the proposed rule change amends Rule 6.1(a) to describe the transaction information that must be reported to the Exchange, and the required timing of these reports, so that the Exchange may report it to OPRA for time and sales reporting. Specifically, proposed Rule 6.1 requires the seller in each transaction, or the buyer if designated by the Exchange, to report or ensure that the following trade information is reported to the Exchange no more than 90 seconds after execution (the ''OPRA report'') so that the Exchange may report this trade information to OPRA:

- the identity of the executing broker;
- the underlying security or index;
- the exercise price;
- the expiration month;
- whether a put or a call;
- the number of option contracts;
- the premium per unit;
- whether a purchase or a writing transaction;
- the time of purchase or sale; and
- such other information as the Exchange may require.

This is consistent with current Rule 6.1(a) (which requires transaction information be reported within 90 seconds of execution so the Exchange can report it for purposes of time and sales) and Rule 6.1(c) (which identifies the seller, or the buyer if designated by the Exchange, as the TPH to report information for purposes of time and sales and lists this transaction information as being reportable no more than 90 seconds after execution),[8] except the proposed rule change limits the transaction information that must be included in the OPRA report. The information TPHs no longer need to report to the Exchange within 90 seconds, as proposed (such as information regarding the contra party to a transaction), does not get sent by the Exchange to OPRA for purposes of time and sales reporting.[9] Additionally, this information is not publicly disseminated. Therefore, the Exchange believes it is unnecessary to require TPHs to report this information within 90 seconds of execution.[10] The only impact on TPHs of proposed Rule 6.1(a) is the exclusion of certain information from what must be reported to the Exchange within 90 seconds of execution (as discussed below, this information must still be reported to the Exchange but no later than five minutes following the transaction time).[11]

Match and Clearance Reports

Second, the proposed rule change adopts Rule 6.1(b) to describe the transaction information that must be reported to the Exchange and contra parties for purposes of matching and clearing. Specifically, proposed Rule 6.1(b) requires each of the buyer and seller in a transaction to report or ensure that the following trade information is reported to each of the Exchange and the TPH for which the transaction was made and/or the TPH that will clear the transaction no more than five minutes after execution (the ''transaction report'') so the Exchange may match and report the trade for clearance:

- the information contained in proposed Rule 6.1(a)(2);
- the identity of the executing brokers representing both the purchasing (writing) transaction and the contra-side writing (purchasing) transactions;[12]
- the identity of the purchasing (writing) Clearing Trading Permit Holder;
- the Capacity for the purchasing (writing) account;
- if applicable, the Market-Maker account acronym for a transaction executed by or for a Market-Maker or for a non-Trading Permit Holder Market-Maker;
- except for a transaction executed by or for a Market-Maker or for a non-

[6] The Exchange notes that Rule 6.1(g) mistakenly references Rule 6.1(d), but should instead reference Rule 6.1(e). Particularly, in connection with a technology migration that took place on October 7, 2019, the Exchange relocated and reorganized a number of rules in its Rulebook, including Rule 6.1 (previously 6.51). As part of the relocation and reorganization of Rule 6.51, Rule 6.51(d) became Rule 6.1(e), but this cross-reference was inadvertently not updated to reflect this move. *See* Securities and Exchange Act Release No. 87215 (October 3, 2019), 84 FR 54236 (October 9, 2019) (SR–CBOE–2019–071).

[7] The proposed rule change deletes the redundant information regarding form and manner of submission in these current Rule 6.1 provisions.

[8] The Exchange notes that it previously issued a regulatory circular which described the trade reporting designations for purposes of Rule 6.1 (formerly Rule 6.51). *See* Cboe Options Regulatory Circular RG15–181.

[9] *See* LLC Agreement of Options Price Reporting Authority, LLC (''OPRA Plan''), Section 5.2(a) (which requires last sale reports from exchanges to include the option series, the number of contracts in each transaction, the price at which the contracts were sold, the market of execution, and appropriate codes and other messages, but nothing related to contra parties or clearing).

[10] The proposed rule change also makes nonsubstantive changes to Rule 6.1(a) to simplify the language and make it plain English.

[11] The proposed rule change deletes current Rule 6.1(c)(5) regarding submission of information for price reporting purposes when it represents the partial execution of a larger order, as it is redundant of what is included in proposed Rule 6.1(a) that applies to all transactions, regardless of whether a transaction is a partial or full execution of an order.

[12] This information must be reported to the Exchange only (and not to the TPH for which the transaction was made or the TPH that will clear the transaction).

Trading Permit Holder Marker-Maker that does not include the information, whether an opening or closing transaction; and

• such other information as the Exchange may require.

Current Rule 6.1(b), (c), and (e) requires TPHs to report this information to the Exchange and to the TPH for which a transaction is made or that will clear the transaction. The proposed rule change extends the time for which TPHs may report this trade information from no more than 90 seconds to no more than five minutes after execution. The Exchange understands it may be difficult for a TPH to report this information within 90 seconds, particularly for executions that involve multiple contra parties. For these trades, on top of reporting all other required trade information, an executing TPH must identify each of the multiple contra parties, their corresponding contra Clearing TPHs, and the corresponding number of contracts allocated to each. This difficulty further increases for complex trades, including when there are many components to the strategy. The Exchange does not believe 90 seconds is sufficient for a TPH to enter all of the information associated with these trades given the potential complexity of open outcry transactions, nor does the Exchange believe this information needs to be reported within 90 seconds since it is not reported to OPRA. This additional time will have no negative impact on the Exchange's ability to match and clear trades in the same manner as it does today. Therefore, the Exchange believes it is appropriate to provide TPHs with additional time to report this information. Pursuant to proposed Rule 6.1(a), as discussed above, any near real-time transaction information that requires public dissemination via OPRA will continue to be required to be reported within 90 seconds. Moreover, the Exchange notes that allowing TPHs to report the identity of the executing TPH(s) and Clearing TPH(s) within five minutes of the execution (rather than 90 seconds) will have no effect on the Exchange's ability to properly match and clear trades.[13]

Reorganization

The proposed rule change also reorganizes Rule 6.1 and makes nonsubstantive changes to provisions that are moved to other locations within Rule 6.1 to simplify language and make language more plain English, as well as update cross-references and terminology to conform to the changes described above.[14] The following chart provides the current location in Rule 6.1 and proposed Rule 6.1.[15]

Provision	Current rule	Proposed rule
Late reports	6.1(a)(1)	6.1(c)
Outage	6.1(a)(2)	6.1(e)
Time of receipt by Exchange	6.1(j)(1)	6.1(d)
Unknown values	6.1(h)	6.1(f)
Accurate information	6.1(i)	6.1(g)

Modernization

The proposed rule change amends Rule 6.1 to modernize and simplify the Rule, as follows:

• The proposed rule change deletes current Rule 6.1(c)(1) and (2), and (5). Current Rule 6.1(c)(1) references an electronic data transmission link approved by the Exchange or use of a paper form copy for reporting required information to the Exchange, and current Rule 6.1(c)(2) describes how TPHs not using electronic media for submission OPRA and transaction reports should report the required information. These forms of reporting outdated are obsolete. Additionally, as discussed above, the proposed change to the introductory language to Rule 6.1 indicates the Exchange determines the form and manner of reporting (which the Exchange makes public on its website), making this language in these rule provisions redundant and thus unnecessary.[16]

• The proposed rule change deletes current Rule 6.1(c)(3), which requires a TPH that receives a report from another TPH to immediately forward the report to the Clearing TPH that will clear the transaction, as this provision is covered within proposed Rule 6.1(b)(1). While proposed Rule 6.1(b)(1) requires TPHs to send transaction reports to the contra executing TPH and/or the contra Clearing TPH, TPHs and their Clearing TPH arrange for how the Clearing TPHs will get transaction reports. Therefore, current Rule 6.1(c)(3) is unnecessary.

• The proposed rule change deletes Rule 6.1(c)(4) regarding the requirement for TPHs to use best efforts to make sure the DPM for a class is aware of a transaction and its price. DPMs are in the trading pit for the relevant class and have the opportunity to hear all transactions for that class. Additionally, transactions and their prices are publicly disseminated quickly after transactions are execution. This provision is therefore obsolete and unnecessary.

• The proposed rule change deletes Rule 6.1(c)(5), which provides that a Trading Pemrit [sic] Holder must submit transaction record information for price reporting purposes in the manner prescribed above whenever the transaction represents the partial execution of a large order. Partial execution of any order is considered an execution under Exchange Rules, which would trigger reporting of the information required by Rule 6.1 (currently and as proposed). Therefore, the Exchange believes this provision is unnecessary.

• The proposed rule change deletes current Rule 6.1(d) regarding the reporting of transactions made off the Exchange. Other Rules (such as Rule 6.7) describe the requirements for off-floor transfers of positions (options transactions are otherwise not permissible off Exchange) and supersede this provision.

• The proposed rule change deletes current Rule 6.1(f) regarding the submission of orders to the Exchange. Other Rules (such as Rule 5.7) describe the requirements for order entry and supersede this provision.

[13] The proposed rule change also updates the cross-reference to Rule 6.1(d) in Rules 6.4(a) (the current cross-reference in this provision inadvertently says Rule 6.1(d) rather than Rule 6.1(e) [sic]) and to Rule 6.1(e) in Rule 8.21, Interpretation and Policy .02(j) to Rule 6.1(b)(2) to reflect this proposed change.

[14] The proposed rule change deletes outdated portions of some of these provisions, as further described below.

[15] The proposed rule change deletes the last sentence of current Rule 6.1(c) regarding failure to report a transaction, as it is redundant of the late reports provision in proposed Rule 6.1(c).

[16] As further discussed above, the proposed rule change revises and relocates certain other provisions of current Rule 6.1(c)(1) and (2) in proposed Rule 6.1.

The proposed rule change deletes current Rule 6.1(j)(2) that addresses an event in which a Clearing TPH is unable to get through to the Exchange to submit trade information. In the current Exchange environment, this would only occur in what the proposed rule change defines as an ''outage'' in proposed Rule 6.1(e), which sets forth what TPHs should do in the event of an outage. Therefore, this provision is no longer necessary.

2. Statutory Basic

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[17] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[18] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[19] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed rule change will promote just and equitable principles of trades and will foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. The proposed rule change provides all TPHs that execute transactions in open outcry with additional time to send certain transaction information to the Exchange and contra parties, which information is not required in real- or near real-time. This delay in reporting of certain pieces of transaction information will have no negative impact on the Exchange's audit trail, the Exchange's ability to match or clear trades, or the Exchange's ability submit required information to OPRA for public dissemination in a timely manner. As noted above, the information TPHs no longer need to report to the Exchange within 90 seconds (such as information regarding the contra party to a transaction) does not get sent by the Exchange to OPRA for purposes of time and sales reporting. Additionally, this information is not publicly disseminated. Therefore, the Exchange believes it is unnecessary to require TPHs to report this information within 90 seconds of execution. The Exchange understands from TPHs that receiving transaction reports no more than five minutes after the time of execution will not negatively impact them or their operations.

The Exchange believes the nonsubstantive changes to reorganize the provisions of Rule 6.1 and to make the language simpler and more plain English, as well as to delete redundant language, will protect investors and the public interest by providing further clarity and transparency and alleviating potential investor confusion. The Exchange believes clearer, more readable rules improve TPHs' ability to comply with obligations set forth in the Rules. Similarly, the Exchange believes the proposed changes to modernize Rule 6.1 and delete outdated provisions will similarly alleviate potential investor confusion and thus benefit investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any unnecessary burden on intramarket competition because it will apply equally to all TPHs that execute transactions in open outcry on the Exchange's trading floor. The Exchange does not believe that the proposed rule change will impose any unnecessary burden on intermarket competition because it relates solely to how and when TPHs must report information to the Exchange and contra parties for transactions executed on the Exchange's trading floor. The proposed rule change is not intended for competitive purposes and instead is intended to clarify and modify the Exchange's transaction reporting Rules. TPHs will continue to be required to send the same transaction information to the Exchange; as proposed, TPHs will merely have additional time to submit report certain information. TPHs will continue to report this information to the Exchange in the same form they do today.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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[20] and subparagraph (f)(6) of Rule 19b–4 thereunder.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CBOE–2026–067 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.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *Id.*

[20] 15 U.S.C. 78s(b)(3)(A)(iii).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

All submissions should refer to file number SR–CBOE–2026–067. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CBOE–2026–067 and should be submitted on or before September 2, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026–16382 Filed 8–11–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36287; File No. 812–16006]

Regan Capital Alternative Income Fund, et al.

August 7, 2026.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (''BDCs''), closed-end management investment companies and open-end management investment companies, to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: Regan Capital Alternative Income Fund, Regan Capital, LLC, Egan Capital, LLC, Regan Credit Offshore Operating Fund LP. Regan Credit Opportunities Fund, LP, Regan Credit Opportunities Fund International, Ltd., Regan Enhanced Credit Offshore Operating Fund, Regan Enhanced Credit Opportunities Fund LP, Regan Enhanced Credit Opportunities Fund International, Ltd, and Regan Special Opportunities Fund II, LP.

FILING DATES: The application was filed on March 17, 2026 and amended on May 14, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. Eastern Time on September 1, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: *The Commission: Secretarys-Office@sec.gov. Applicants:* Alyssa M. Bernard, Secretary, Regan Capital Alternative Income Fund, *alyssa.bernard@usbank.com* and Sujit Sahadevan, Chief Operating Officer and Chief Compliance Officer, Regan Capital, LLC, *ssahadevan@regancapital.com,* with copies to Nathaniel Segal *nsegal@vedder.com* and Deborah Bielicke Eades, *deades@vedder.com,* Vedder Price, P.C.

FOR FURTHER INFORMATION CONTACT: Rachel Loko, Senior Special Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' amended application, dated May 14, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/search-filings.* You may also call the SEC's Office of Investor Education and Assistance at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026–16387 Filed 8–11–26; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2026–0859]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by October 13, 2026.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 0859 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.*

Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Charles Matthews, *charles.matthews@dot.gov,* Office of the Chief Financial Officer, Federal Highway Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 6 a.m. to 3 p.m.,

Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Annual State Survey.

Background: Respondents are required to answer 29 questions regarding Federal-aid grant payments and billing cycles. FHWA reviews the prior fiscal year (FY) survey questions to determine if updates are required based on the Departmental OIG external financial statement audit and/or process changes and improvements. The survey is sent out annually to the States/division offices in the May/June timeframe. The survey responses are due from the States/division offices to FHWA in the July/August timeframe.

The responses from the annual survey are key inputs to calculating the quarterly grant accrual for the Federal-aid HTF TAS 69X8083 program by States. The responses are updated in the grant accrual data analytics Excel workbook file by State, program, project, and other data attributes. The estimated quarterly grant accrual is compared to the subsequent quarter's disbursements to validate the effectiveness of the grant accrual calculation referred to as the lookback analysis. States with a $50 million dollar variance and at least +/− 20% variance or more are required to provide FHWA with an explanation. FHWA reviews the responses from the State/division offices for adequacy, and if required, and sends a follow-up email to the States/division offices to provide additional information.

The quarterly lookback analysis and the data analytics are used to analyze payment trends, make enhancements to the grant accrual process, provide reasonable estimates for the grant liabilities and expenses, satisfy regulatory requirements, and provide support for internal and external audits. The quarterly grant accrual calculations and the lookback analyses are performed for quarters 1–4.

Respondents: 50 State DOTs, District of Columbia, Commonwealth of Puerto Rico, United States territories of American Samoa, Guam, N Marina Is., and the Virgin Islands (4 territories), etc.

Frequency: Annually.

Estimated Average Burden per Response: 3.2 hours per respondent per application per form.

Estimated Total Annual Burden Hours: The total burden hours is 47.5 hours (3.2 hours × 15 respondents).

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued on: August 10, 2026.

Jazmyne Lewis,

Information Collection Officer.

[FR Doc. 2026–16415 Filed 8–11–26; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2010–0062]

Belt Railway Company of Chicago's Request To Amend Its Positive Train Control Safety Plan

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that, on August 6, 2026, the Belt Railway Company of Chicago (BRC) submitted a request for amendment (RFA) to its FRA-certified positive train control safety plan (PTCSP) to perform necessary maintenance and optimization of its operational technology network during September and October 2026. To complete this maintenance, BRC is requesting four planned windows during which work will be performed on the network infrastructure, and during which unplanned positive train control (PTC) system outages may occur. As this RFA involves a request for FRA's approval of proposed material modifications to an FRA-certified PTC system, FRA is publishing this notice and inviting public comment on BRC's RFA to its PTCSP.

DATES: FRA will consider comments received by September 1, 2026. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

ADDRESSES: *Comments:* Comments may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA–2010–0062. For convenience, all active PTC dockets are hyperlinked on FRA's website at *https://railroads.dot.gov/research-development/program-areas/train-control/ptc/railroads-ptc-dockets.* All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information.

FOR FURTHER INFORMATION CONTACT: Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: *Gabe.Neal@dot.gov.*

SUPPLEMENTARY INFORMATION: In general, title 49 United States Code (U.S.C.) section 20157(h) requires FRA to certify that a host railroad's PTC system complies with title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTC Safety Plan (PTCSP), a host railroad must submit, and obtain FRA's approval of, an RFA to its PTC system or PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal or train control system. Accordingly, this notice informs the public that, on August 6, 2026, BRC submitted an RFA to its PTCSP for its Interoperable Electronic Train Management System (I–ETMS), which notifies FRA of four planned windows during which work will be performed on BRC's network infrastructure and seeks approval for temporary outages of I–ETMS during these planned windows. BRC does not plan to disable I–ETMS and will take measures to avoid any outages, but transient network behavior and unforeseen impacts arising from maintenance activities could result in brief losses of communication between BRC's I–ETMS Back Office Subsystem and I–ETMS Onboard Subsystem. That RFA is available in Docket No. FRA–2010–0062.

Interested parties are invited to comment on BRC's RFA by submitting written comments or data. During FRA's review of BRC's RFA, FRA will consider any comments or data submitted within

the timeline specified in this notice and, to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. *See* 49 CFR 236.1021; *see also* 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA at FRA's sole discretion.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to *https://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See *https://www.regulations.gov/privacy-notice* for the privacy notice of regulations.gov. To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

Carolyn R. Hayward-Williams,

Director, Office of Railroad Systems and Technology.

[FR Doc. 2026–16430 Filed 8–11–26; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities: Comment Request on the Burden Related to Foreign Status and U.S. Withholding Certifications

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of information collection and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before October 13, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments and recommendations to Andrés Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email at *pra.comments@irs.gov.* Please include, ''OMB Number: 1545–1621—Public Comment Request Notice'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Ronald J. Durbala, (202)-317–5746 or via email at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess its impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record and be viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Foreign Status and U.S. Withholding Certifications.

OMB Number: 1545–1621.

Form Number(s): W–8 BEN, W–8 BEN–E, W–8ECI, W–8EXP, and W–8IMY.

Abstract: The Forms W–8 series enables foreign individuals, entities, intermediaries, governments, and certain tax-exempt organizations to certify their status for U.S. withholding and reporting purposes. Withholding agents use the information to determine the correct withholding tax treatment, including eligibility for reduced withholding, exemptions, and other applicable tax provisions under the Internal Revenue Code.

Current Actions: There are no changes being made to the burden at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, not-for-profit institutions.

Estimated Number of Respondents: 3,390,700.

Estimated Time per Respondent: 9 hrs., 1 min.

Estimated Total Annual Burden Hours: 30,562,942.

Dated: August 10, 2026.

Ronald J. Durbala,

Tax Analyst.

[FR Doc. 2026–16405 Filed 8–11–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities: Comment Request on the Burden Related to the Application for Determination for Employee Benefit Plan

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of information collection and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before October 13, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments and recommendations to Andrés Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email at *pra.comments@irs.gov.* Please include, ''OMB Number: 1545–0197—Public Comment Request Notice'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Ronald J. Durbala, (202) 317–5746 or via email at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess its impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the

request for OMB approval. All comments will become a matter of public record and be viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Application for Determination for Employee Benefit Plan.

OMB Number: 1545–0197.

Form Number(s): Form 5300.

Abstract: Form 5300 is used by eligible plan sponsors to request an IRS determination letter regarding the qualification of defined benefit plans, defined contribution plans, certain individually designed section 403(b) plans, and the tax-exempt status of any related trust. The information collected enables the IRS to determine whether the plan satisfies the applicable qualification requirements of the Internal Revenue Code.

Current Actions: Several developments have dramatically reduced Form 5300 filings. Since Rev. Proc. 2016–37, individually designed plans generally no longer file on recurring remedial amendment cycles. Instead, determination letters are available only in limited circumstances (for example, initial qualification, plan termination, certain merged plans, and other situations announced by IRS guidance). The overwhelming majority of qualified retirement plans now use pre-approved plans, which generally do not require Form 5300. Form 5300 is now used primarily for; initial qualification of individually designed plans, certain terminating plans (although many use Form 5310 instead), merged plans, and a limited number of special situations described in the annual Revenue Procedure. Accordingly, this revision reflects both an adjustment in the estimated number of respondents due to the substantially reduced use of Form 5300 and a program change resulting from updated burden estimates, reducing the total annual burden to 86,265 hours.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 2,700.

Estimated Time per Respondent: 31 hrs., 57 min.

Estimated Total Annual Burden Hours: 86,265.

Dated: August 10, 2026.

Ronald J. Durbala,

Tax Analyst.

[FR Doc. 2026–16397 Filed 8–11–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE TREASURY

United States Mint

Establish Prices for 2026 United States Mint Numismatic Products

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing pricing for United States Mint numismatic gold and clad products in accordance with the table below:

Product	Retail price
2026 Semiquincentennial President Donald J. Trump 24K One-Ounce Gold Proof Coin	TBD.
2026 Semiquincentennial President Donald J. Trump $1 Coin Rolls & Bags (25-Coin Roll)	$61.00.
2026 Semiquincentennial President Donald J. Trump $1 Coin Rolls & Bags (100-Coin Bag)	154.50.

The new numismatic product prices will be effective August 14, 2026.

The complete 2026 Pricing of Numismatic Gold, Commemorative Gold, Palladium, and Platinum Products Grid will be available at Pricing Grid for Precious Metal Products.

Pricing can vary weekly dependent upon the London Bullion Market Association (LBMA) gold price weekly average. The pricing for all United States Mint numismatic gold, palladium, and platinum products is evaluated every Wednesday and modified, as necessary.

FOR FURTHER INFORMATION CONTACT: Ann Bailey, Product Management, United States Mint; 801 9th Street NW, Washington, DC 20220; or call 202–354–7601.

Authority & Public Law: 31 U.S.C. 5112.

Eric Anderson,

Executive Secretary, United States Mint.

[FR Doc. 2026–16409 Filed 8–11–26; 8:45 am]

BILLING CODE 4810–37–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0060]

Agency Information Collection Activity Under OMB Review: Claim for One Sum Payment Government Life Insurance, EZ-Beneficiary Claim for One Sum Payment Government Life Insurance, Claim for Monthly Payments Government Life Insurance, and Claim for One Sum Payment Government Life Insurance (DocuSign)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent by September 11, 2026.

ADDRESSES: To submit comments and recommendations for the proposed information collection, please type the following link into your browser: *www.reginfo.gov/public/do/PRAMain,* select ''Currently under Review—Open for Public Comments'', then search the

list for the information collection by Title or ''OMB Control No. 2900–0060.''

FOR FURTHER INFORMATION CONTACT: VA PRA information: Dorothy Glasgow, (202) 461–1084, *VAPRA@va.gov.*

SUPPLEMENTARY INFORMATION:

Title: VA Form 29–4125, Claim for One Sum Payment Government Life Insurance, VA Form 29–4125EZ, EZ-Beneficiary Claim for One Sum Payment Government Life Insurance, VA Form 29–4125a Claim for Monthly Payments National Service Life Insurance., VA Form 29–4125e (DocuSign) Claim for One Sum Payment Government Life Insurance.

OMB Control Number: 2900–0060 *https://www.reginfo.gov/public/do/PRASearch*.

Type of Review: Revision of a currently approved collection.

Abstract: These forms are used by beneficiaries applying for proceeds of Government Life Insurance policies. The VA Form 29–4125EZ has been added to this collection. This is an easier, simple version of the 29–4125. This form was created so individual beneficiaries can have a less complicated form to complete without all the additional content for other types of beneficiaries. This will not affect the number of respondents but will make it easier and reduce the time it takes for beneficiaries to receive their insurance proceeds. The information requested on the forms is required by law, 38 U.S.C. 1917 and 1952.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 91 FR 32513 on June 1, 2026.

Affected Public: Individuals or Households.

Estimated Annual Burden: 12,020 hours.

Estimated Average Burden per Respondent: 6 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 120,100.

Authority: 44 U.S.C. 3501 *et seq.*

Shunda Willis,

Alternate, VA PRA Clearance Officer, Office of Information Technology, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2026–16411 Filed 8–11–26; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 91 Wednesday,
No. 154 August 12, 2026

Part II

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Parts 5, 24, 25, et al.

Federal Deposit Insurance Corporation

12 CFR Parts 345 and 346
Community Reinvestment Act Regulations; Proposed Rule

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 5, 24, 25, and 35

[Docket ID OCC–2026–0694]

RIN 1557–AF57

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 345 and 346

RIN 3064–AG31

Community Reinvestment Act Regulations

AGENCY: The Office of the Comptroller of the Currency, Treasury, and the Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) are proposing to amend their Community Reinvestment Act rules by making certain substantive, technical, and process-oriented changes to refocus on the statutory objective of encouraging banks to meet the credit needs of their communities; to better ensure that community development grants reach the communities they are intended to benefit; to reduce unnecessary burden, particularly for community banks; and to provide greater clarity for how to obtain CRA consideration. The OCC and the FDIC are also proposing certain technical changes to their rules implementing the Community Reinvestment Act sunshine requirements of the Federal Deposit Insurance Act. In addition, the OCC is proposing similar technical changes to its Public Welfare Investments rule and its Rules, Policies, and Procedures for Corporate Activities.

DATES: Comments must be received on or before October 13, 2026.

ADDRESSES: Comments should be directed to the agencies as follows:

OCC: Commenters are encouraged to submit comments through the Federal eRulemaking Portal. Please use the title ''Community Reinvestment Act Regulations'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

• *Federal eRulemaking Portal—Regulations.gov:*

Go to *https://regulations.gov/.* Enter Docket ID ''OCC–2026–0694'' in the Search Box and click ''Search.'' Public comments can be submitted via the ''Comment'' box below the displayed document information or by clicking on the document title and then clicking the ''Comment'' box on the top-left side of the screen. For help with submitting effective comments, please click on ''Commenter's Checklist.'' For assistance with the *Regulations.gov* site, please call 1–866–498–2945 (toll free) Monday–Friday, 9 a.m.–5 p.m. EST, or email *regulationshelpdesk@gsa.gov.*

• *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 1E–216, Washington, DC 20219.

• *Hand Delivery/Courier:* 400 7th Street SW, Suite 1E–216, Washington, DC 20219.

Instructions: You must include ''OCC'' as the agency name and Docket ID ''OCC–2026–0694'' in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information provided such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this action by the following method:

• *Viewing Comments Electronically—Regulations.gov:*

Go to *https://regulations.gov/.* Enter Docket ID ''OCC–2026–0694'' in the Search Box and click ''Search.'' Click on the ''Dockets'' tab and then the document's title. After clicking the document's title, click the ''Browse All Comments'' tab. Comments can be viewed and filtered by clicking on the ''Sort By'' drop-down on the right side of the screen or the ''Refine Comments Results'' options on the left side of the screen. Supporting materials can be viewed by clicking on the ''Browse Documents'' tab. Click on the ''Sort By'' drop-down on the right side of the screen or the ''Refine Results'' options on the left side of the screen checking the ''Supporting & Related Material'' checkbox. For assistance with the *Regulations.gov* site, please call 1–866–498–2945 (toll free) Monday–Friday, 9 a.m.–5 p.m. EST, or email *regulationshelpdesk@gsa.gov.*

The docket may be viewed after the close of the comment period in the same manner as during the comment period.

FDIC: Comments should be directed to the FDIC, identified by RIN 3064–AG31, by any of the following methods:

• *Agency Website: https://www.fdic.gov/resources/regulations/federal-register-publications/.* Follow instructions for submitting comments on the FDIC website.

• *Mail:* Jennifer M. Jones, Deputy Executive Secretary, Attention: Comments—RIN 3064–AG31, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

• *Hand Delivered/Courier:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street NW) on business days between 7 a.m. and 5 p.m.

• *Email: comments@FDIC.gov.* Include RIN 3064–AG31 on the subject line of the message.

• *Public Inspection:* Comments received, including any personal information provided, may be posted without change to *https://www.fdic.gov/federal-register-publications.* Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of this notice will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT:

OCC: Emily Boyes, Special Counsel; Marjorie Dieter, Special Counsel; or Kevin Behne, Counsel, Chief Counsel's Office, (202) 649–5490; Michelle Newell, Lead Expert; Cassandra Remmenga, CRA Modernization Program Manager; Chief National Bank Examiner's Office (202) 649–5470, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

FDIC: Stephanie M. Baroody, Senior Examination Specialist, Compliance and CRA Examinations Branch, Division of

Depositor and Consumer Protection, (571) 858–8311; Kristopher M. Rengert, Senior Policy Analyst, Supervisory Policy Branch, Division of Depositor and Consumer Protection, (202) 898–3593; Cassandra Duhaney, Counsel, Legal Division, (202) 898–6804; Alys V. Brown, Senior Attorney, Legal Division, (202) 898–3565, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Introduction

The OCC and the FDIC (together, the agencies) are proposing targeted changes to their regulations implementing the Community Reinvestment Act (CRA) in order to better align with the statutory mandate, reduce unnecessary burden, and improve clarity.[1] Because these rules generally date back to 1995,[2] the agencies have decades of experience applying them to the insured depository institutions they supervise (hereinafter, banks).[3] Based on this experience, as well as feedback the agencies have received through various initiatives described below, these targeted changes are designed to retain the key elements of the current regulatory framework to provide continuity and minimize disruptions while making revisions to accomplish the goals listed above.

Congress enacted the CRA in 1977 based on its express findings that: ''(1) regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business; (2) the convenience and needs of communities include the need for credit services as well as deposit services; and (3) regulated financial institutions have continuing and affirmative obligation[s] to help meet the credit needs of the local communities in which they are chartered.'' [4] Congress codified its intent in enacting the statute, stating that its purpose ''is to require each appropriate Federal financial supervisory agency . . . to encourage [the institutions that each agency regulates] to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of the institutions.'' [5]

To achieve this purpose, the CRA requires each agency to ''assess [an] institution's record of meeting the credit needs of its entire community, including low- and moderate-income [(LMI)] neighborhoods, consistent with the safe and sound operation of such institution.'' [6] Upon completing this assessment, the statute requires the agency to ''prepare a written evaluation of the institution's record of meeting the credit needs of its entire community, including [LMI] neighborhoods.'' [7] The statute further provides that the agency must ''take such record into account in its evaluation of an application for a deposit facility by such institution.'' [8] The CRA also directs each agency to publish a rule to carry out the statute's purposes.[9]

In recent years, the agencies have undertaken numerous initiatives, on an interagency basis and individually, to revise and modernize their CRA rules. As a result of these efforts, they have received significant public feedback. For example, from 2013 to 2016, the agencies solicited feedback on their CRA regulatory framework as part of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA) review process.[10] In 2018, the OCC published an advance notice of proposed rulemaking to solicit ideas for a new CRA regulatory framework and received more than 1,500 comment letters.[11] In 2019, the agencies issued a joint notice of proposed rulemaking to update their CRA rules and received over 7,500 comment letters,[12] and in 2020, the OCC finalized that rule (2020 CRA rule).[13] In 2021, the OCC rescinded the 2020 CRA rule and replaced it with a rule based largely on the 1995 CRA rules.[14]

In 2022, the agencies, along with the Board (together with the agencies, the Federal banking agencies), issued a joint notice of proposed rulemaking to modernize their CRA rules.[15] Approximately 950 unique comment letters were submitted in response. After considering public comments received, the Federal banking agencies issued final rules (2023 CRA rules) on October 24, 2023.[16] On February 5, 2024, several trade association plaintiffs jointly sued the Federal banking agencies in the U.S. District Court for the Northern District of Texas, challenging the 2023 CRA rules.[17] On February 9, 2024, these trade associations sought preliminary injunctive relief,[18] which the court granted on March 29, 2024, preliminarily enjoining the Federal banking agencies from enforcing the 2023 CRA rules against the plaintiffs

[1] Public Law 95–128, 91 Stat. 1147 (1977) (codified at 12 U.S.C. 2901 *et seq.* (as amended) and implemented by the OCC at 12 CFR part 25, subparts A through D, and by the FDIC at 12 CFR part 345). For reasons explained below, the currently applicable rules, promulgated in 1995, can be found on the website for the Electronic Code of Federal Regulation at *https://www.ecfr.gov/on/2024-03-29/title-12/chapter-I/part-25* and *https://www.ecfr.gov/on/2024-03-29/title-12/chapter-III/subchapter-B/part-345. See* 12 CFR part 25 (version effective as of Mar. 29, 2024); 12 CFR part 345 (version effective as of Mar. 29, 2024). References to ''current rule'' or ''current rules'' in this **SUPPLEMENTARY INFORMATION** refers to these rules.

[2] The agencies, along with the Board of Governors of the Federal Reserve System (Board) and the Office of Thrift Supervision (OTS), first promulgated CRA rules in 1978 and established the standards for evaluating a bank's CRA performance. 43 FR 47144 (Oct. 12, 1978). In 1995, the four agencies significantly revised and clarified the 1978 rules (1995 CRA rules). *See* 60 FR 22156 (May 4, 1995). As discussed below, the substance and structure of the agencies current rules are primarily based on the 1995 CRA rules.

[3] For purposes of the CRA, ''insured depository institution'' is defined by cross-reference to 12 U.S.C. 1813(c)(2) as ''any bank or savings association the deposits of which are insured'' by the FDIC pursuant to the Federal Deposit Insurance Act (FDIA). 12 U.S.C. 2902(2). The FDIA defines ''bank'' as ''any national bank and State bank, and any Federal branch and insured branch.'' 12 U.S.C. 1813(a)(1). It defines ''savings association'' to include any Federal or State savings association. 12 U.S.C. 1813(b)(1). As used in this **SUPPLEMENTARY INFORMATION**, the term ''bank'' or ''banks'' includes uninsured Federal branches that result from an acquisition described in the International Banking Act of 1978 (12 U.S.C. 3103(a)(8)). The CRA defines ''appropriate Federal financial supervisory agency'' as the OCC, FDIC, and Board. 12 U.S.C. 2902(1). Pursuant to the CRA, the OCC is the appropriate Federal financial supervisory agency for national banks and Federal savings associations. 12 U.S.C. 2902(1)(A). The FDIC is the appropriate Federal financial supervisory agency for state-chartered non-member banks and savings associations. 12 U.S.C. 2902(1)(C). For purposes of this **SUPPLEMENTARY INFORMATION**, the agencies use the term ''appropriate agency'' instead of ''appropriate Federal financial supervisory agency.''

[4] 12 U.S.C. 2901(a). The CRA defines ''regulated financial institution'' as an insured depository institution as defined in 12 U.S.C. 1813(c)(2). 12 U.S.C. 2902(2).

[5] 12 U.S.C. 2901(b).

[6] 12 U.S.C. 2903(a)(1).

[7] 12 U.S.C. 2906(a).

[8] 12 U.S.C. 2903(a)(2).

[9] 12 U.S.C. 2905. Pursuant to Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376, 1522 (2010) (Dodd-Frank Act), Congress transferred the OTS's rulemaking authority for all savings associations to the OCC and its supervisory authority for State savings associations to the FDIC. As a result, the OCC's CRA regulation applies to both State and Federal savings associations (in addition to national banks), and the FDIC enforces the OCC's CRA regulation with respect to State savings associations.

[10] *See* 82 FR 15900 (Mar. 30, 2017) (EGRPRA report to Congress). The Board and the National Credit Union Association joined this report.

[11] 83 FR 45053 (Sept. 5, 2018).

[12] 85 FR 1204 (Jan. 9, 2020).

[13] 85 FR 34734 (June 5, 2020).

[14] 86 FR 71328 (Dec. 15, 2021).

[15] 87 FR 33884 (June 3, 2022).

[16] 89 FR 6574 (Feb. 1, 2024).

[17] Complaint for Declaratory and Injunctive Relief, *Tex. Bankers Ass'n* v. *Office of the Comptroller of the Currency,* Civ. A. No. 2:24–cv–00025–Z (N.D. Tex. Feb. 5, 2024), ECF No. 4.

[18] Plaintiffs' Motion for a Preliminary Injunction, *Tex. Bankers Ass'n* v. *Office of the Comptroller of the Currency,* Civ. A. No. 2:24–cv–00025–Z (N.D. Tex. Feb. 9, 2024), ECF No. 19.

pending resolution of the litigation.[19] The District Court also extended the effective date of and all implementation dates for the 2023 CRA rules for each day that its preliminary injunction would remain in place.[20] As a result of these actions, the Federal banking agencies have been continuing to apply the rules that were in effect when the District Court issued its order (the current rules).[21]

In its memorandum opinion and order, the District Court concluded that the plaintiffs had demonstrated a substantial likelihood of success on the merits of their claim that the Federal banking agencies exceeded their authority in issuing the 2023 CRA rules.[22] For example, the District Court determined that the Federal banking agencies' interpretation of ''entire community'' in the 2023 CRA rules clashed with the statutory text.[23] It also concluded that the plaintiffs' argument about the required nexus between a bank's ''community'' and its physical location was stronger than the Federal banking agencies' contrary argument.[24] Additionally, the District Court considered the Major Questions Doctrine and rejected the Federal banking agencies' assertion that Congress granted the authority to assess a bank CRA performance wherever the bank makes loans.[25]

On April 18, 2024, the Federal banking agencies appealed the District Court's preliminary injunction to the U.S. Court of Appeals for the Fifth Circuit.[26] On March 28, 2025, during the pendency of the appeal, the Federal banking agencies filed an unopposed motion to stay the appeal pending completion of new rulemakings that would propose to rescind the enjoined 2023 CRA rules and reinstate the prior CRA framework.[27] On April 1, 2025, the Fifth Circuit granted the Federal banking agencies' motion.[28]

On July 16, 2025, the Federal banking agencies published a notice of proposed rulemaking to rescind the 2023 CRA rules (rescission proposal) and, with minor conforming and technical edits, to replace it with the rules in effect on March 29, 2024 (the date on which the District Court enjoined the 2023 CRA rules).[29] The Federal banking agencies explained that this approach aligned with their shared objectives of restoring certainty to the CRA regulatory framework and limiting regulatory burden on banks.[30]

The Federal banking agencies received approximately 47 comments on the rescission proposal. After considering these comments, as well as public feedback from the initiatives outlined above, the litigation related to the 2023 CRA rules, and their extensive supervisory experience with the current rules, the OCC and the FDIC have decided not to finalize the rescission proposal but to issue this new proposal instead.[31]

On July 1, 2026, the OCC and FDIC filed an unopposed motion with the Fifth Circuit to dismiss their appeal of the District Court's injunction against their 2023 CRA rules.[32] The Fifth Circuit dismissed the agencies' appeal on July 9, 2026.[33]

The OCC and FDIC are now moving the District Court for the entry of a final judgment against them. The language of the OCC's and FDIC's proposed judgment would, if entered by the Court, declare that future amendments to the OCC's and FDIC's CRA regulations could neither be based on (1) an expansive view of ''entire community'' that provides for or permits the assessment of regulated institutions' retail lending activities outside the geographic areas where they operate and maintain deposit-taking facilities; nor (2) an expansive view of ''credit needs'' that provides for or permits the assessment of regulated institutions' deposit products.

II. Summary of the Current Rules[34]

The agencies' current rules address a variety of components intended to implement the statute. They set out a performance assessment framework, which includes performance tests or standards the agencies use to evaluate a bank's CRA performance depending on its asset size or business strategy. They also explain CRA assigned ratings; data collection, maintenance, and disclosure requirements; the public's right to access information about how a bank meets the credit needs of its community; and the effect of a CRA rating on certain bank applications. To provide guidance on the current rules, the Federal banking agencies have periodically published the Interagency Questions and Answers Regarding Community Reinvestment (Interagency Questions and Answers).[35] The components of the current rules, as well as certain applicable guidance, are described below.

A. CRA Regulatory Framework

Small banks, including intermediate small banks. Under the current rules, a bank that meets the definition of a ''small bank''—currently, those with assets of less than $1.649 billion as of December 31 of either of the prior two calendar years—is evaluated under a lending test for small banks.[36] A subset of small banks that are ''intermediate small banks''—currently, those with assets of at least $412 million as of December 31 of both of the prior two calendar years—are also evaluated under a community development (CD) test.[37]

Large banks. Under the current rules, a bank with assets that exceed the small bank asset size threshold—currently, those with assets greater than $1.649 billion as of December 31 of both of the prior two calendar years (commonly referred to as a ''large bank'')—is evaluated under separate lending, investment, and service tests.[38] The

[19] *Tex. Bankers Ass'n* v. *Office of the Comptroller of the Currency,* 728 F. Supp.3d 412, 429–30 (N.D. Tex. 2024). The District Court issued the injunction just days before April 1, 2024, when the 2023 CRA rules would have become effective and certain parts of those rules would have applied to banks. *See* 89 FR at 6574, 7137.

[20] *Tex. Bankers Ass'n,* 728 F. Supp.3d at 430.

[21] *See id.* at 429–30 and *supra* note 1. The proposal would recodify the text of the current rules, revised as discussed in this **SUPPLEMENTARY INFORMATION.**

[22] *Tex. Bankers Ass'n,* 728 F. Supp.3d at 420–25.

[23] *See id.* at 420–23.

[24] *See id.* at 421.

[25] *See id.* at 425.

[26] Defendants' Notice of Appeal, *Tex. Bankers Ass'n* v. *Office of the Comptroller of the Currency,* Civ. A. No. 2:24–cv–00025–Z (N.D. Tex. Apr. 18, 2024), ECF No. 79.

[27] Defendants-Appellants' Unopposed Motion to Stay Pending Completion of New Rulemaking Proceedings, *Tex. Bankers Ass'n* v. *Bd. of Governors of the Fed. Reserve Sys.,* No. 24–10367 (5th Cir. Mar. 28, 2025), ECF No. 165. As discussed above, the prior CRA framework refers to the agencies' current rules.

[28] Order, *Tex. Bankers Ass'n* v. *Bd. of Governors of the Fed. Reserve Sys.,* Civ. A. No. 24–10367 (5th Cir. Apr. 1, 2025), ECF No. 174.

[29] 90 FR 34086 (July 18, 2025).

[30] 90 FR at 34089.

[31] This notice of proposed rulemaking is being issued jointly by the agencies. Any decisions about the Board's next steps with respect to the rescission proposal rest exclusively with its Governors.

[32] Motion to Voluntarily Dismiss Appeal in Part, *Tex. Bankers Ass'n* v. *Bd. of Governors of the Fed. Reserve Sys.,* Civ. A. No. 24–10367 (5th Cir. July 1, 2026), ECF No. 197.

[33] Clerk Order, *Tex. Bankers Ass'n* v. *Bd. of Governors of the Fed. Reserve Sys.,* Civ. A. No. 24–10367 (5th Cir. July 9, 2026), ECF No. 201–1.

[34] As noted above, the current rules are the rules in effect when the 2023 CRA rules were enjoined on March 29, 2024.

[35] *See* 81 FR 48506 (July 25, 2016). ''Interagency Questions and Answers'' refers to the ''Interagency Questions and Answers Regarding Community Reinvestment'' guidance in its entirety. ''Q&A'' refers to an individual question and answer within the Interagency Questions and Answers.

[36] *See* current 12 CFR ____.12(u), ____.21(a)(3), and ____.26(b). As discussed below, the OCC has recently performed its annual asset size threshold adjustments through a bulletin process. While the FDIC often makes the same adjustments through a final rule, the FDIC has also used **Federal Register** announcements that do not revise the regulatory text of its current rule.

[37] *See* current 12 CFR ____.12(u) and ____.26(c).

[38] *See* current 12 CFR ____.21(a)(1) and ____.22 through____.24 (lending, investment, and service

lending and service tests consider both retail and CD activities,[39] and the investment test focuses on qualified investments. To facilitate the agencies' CRA examinations, a large bank is required to collect, maintain, and report annually certain data on CD loans, small business loans, and small farm loans; these banks are also required to report annually the census tracts included in their assessment area(s).[40] In contrast, small banks, including intermediate small banks, are not required to report these data unless they opt to be evaluated under the large bank lending test.[41]

Wholesale and limited purpose banks. A bank that is designated as either a wholesale bank (*i.e.,* a bank that is not in the business of extending retail loans to retail customers) [42] or a limited purpose bank (*i.e.,* a bank that offers only a narrow product line to a regional or broader market) [43] is evaluated under a standalone CD test.[44] In order for an agency to designate a bank as a wholesale bank or limited purpose bank, the bank must file a request with and receive approval from the appropriate agency.[45]

Strategic plans. Any bank may elect to be evaluated under a tailored strategic plan in lieu of one of the otherwise applicable tests or standards discussed above.[46] A bank that elects to be evaluated under a strategic plan must develop that plan with community input and receive plan approval from the appropriate agency.[47]

Retail and CD activities. Under the current rule, the appropriate agency evaluates a bank's record of meeting the credit needs of its community by assessing its retail and CD activities under the applicable performance tests or standards. The retail activities considered under the current rules are (1) consumer, home mortgage, small business, and small farm lending, as applicable; and (2) retail banking services and delivery systems. The current rules also consider as CD activities a bank's loans, investments, and services that have a primary purpose of community development.[48] The current rules define ''community development'' to mean: (1) affordable housing; (2) community services targeted to LMI individuals; (3) economic development that finances small businesses and small farms; and (4) activities that revitalize or stabilize LMI geographies, designated disaster areas, and distressed or underserved nonmetropolitan middle-income geographies.[49] Qualified investments are defined to include investments, grants, deposits, and membership shares.[50] CD services are generally volunteer services provided by a bank that, in addition to having a primary purpose of community development, also are related to the provision of financial services.[51]

Assessment areas. A bank is required to delineate one or more assessment areas in which the appropriate agency evaluates its record of helping to meet the credit needs of its community through the provision of retail and CD activities.[52] An assessment area must include the geographies (*i.e.,* census tracts) in which the bank's main office, branches, and deposit-taking automated teller machines (ATMs) are located, as well as the surrounding census tracts where a substantial portion of its loans are originated or purchased.[53] A bank may adjust the boundaries of its assessment areas to include only the portion of a political subdivision that it reasonably can be expected to serve, subject to certain limitations.[54]

B. Performance Tests

Lending test. Under the current lending test, the appropriate agency evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through its lending activities by considering (1) its retail lending (*i.e.,* consumer, home mortgage, small business, and small farm lending, as applicable); and (2) its CD lending.[55] The agency evaluates consumer lending in one or more specific product lines (*i.e.,* motor vehicle, credit card, other secured, and other unsecured loans) either at a bank's option or if consumer lending constitutes a substantial majority of the bank's business. If a bank opts to have the appropriate agency evaluate its consumer lending, the bank must collect and maintain the data required by 12 CFR ____.42 for each category of consumer lending that it elects to have the agency evaluate. In considering a bank's CD lending, the agency considers the number and amount of the bank's CD loans, as well as the complexity and innovativeness of the lending.

Investment test. Under the current investment test, the appropriate agency evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through qualified investments that benefit (1) the assessment area(s); or (2) a broader statewide or regional area that includes the assessment area(s).[56] The agency considers the dollar amount of the qualified investments, as well as their complexity, innovativeness, and responsiveness and the extent to which they are not routinely provided by private investors.[57] Generally, an activity considered under the lending or service tests may not be considered under the investment test.[58]

Service test. Under the current service test, the appropriate agency evaluates a bank's record of helping to meet the credit needs of its assessment area(s) by analyzing (1) the availability and effectiveness of the bank's systems for delivering retail banking services; and (2) the extent, innovativeness, and responsiveness of the CD services that benefit the bank's assessment area(s) or the broader statewide or regional area(s) that includes the bank's assessment area(s).[59] In evaluating a bank's retail banking services, the agency considers its (1) distribution and record of opening and closing branches; (2) alternative systems for delivering retail banking services; and (3) the range of services that the bank provides.[60]

Small bank performance standards. The current rules include small bank performance standards, which include a small bank lending test. Under that test, the appropriate agency assesses a small bank's (including an intermediate small bank's) lending and other lending-related activities, as applicable, under several performance criteria, including (1) its loan-to-deposit ratio and the percentage of loans in its assessment area(s); (2) the borrower distribution and geographic distribution of its loans; and (3) its record of taking action in response to written complaints.[61] For a small bank that is not an intermediate small bank, the agency may also consider its CD lending under the lending test. For an intermediate small

tests). The current rules do not define ''large bank,'' but their existence is implied for banks that exceed the asset-size threshold for the intermediate small bank definition.

[39] Throughout this **SUPPLEMENTARY INFORMATION**, the term ''activity'' refers to a loan, investment, grant, or service, as applicable.

[40] *See* current 12 CFR ____.42(a), (b), and (g).

[41] *See* current 12 CFR ____.42(f).

[42] *See* current 12 CFR ____.12(x).

[43] *See* current 12 CFR ____.12(n).

[44] *See* current 12 CFR ____.21(a)(2) and ____.25.

[45] *See* current 12 CFR ____.25(b).

[46] *See* current 12 CFR ____.21(a)(4) and ____.27.

[47] *See* current 12 CFR ____.27(g).

[48] *See* current 12 CFR ____.12(h), (i), and (t).

[49] *See* current 12 CFR ____.12(g).

[50] *See* current 12 CFR ____.12(t).

[51] *See* current 12 CFR ____.12(i).

[52] *See* current 12 CFR ____.41(a).

[53] *See* current 12 CFR ____.41(b) and (c).

[54] *See* current 12 CFR ____.41(d) and (e).

[55] *See* current 12 CFR ____.22(a).

[56] *See* current 12 CFR ____.23(a).

[57] *See* current 12 CFR ____.23(e).

[58] *See* current 12 CFR ____.23(b).

[59] *See* current 12 CFR ____.24(a) and (b).

[60] *See* current 12 CFR ____.24(d).

[61] *See* current 12 CFR ____.26(b).

bank, the agency also assesses its performance under a CD test that considers: (1) the number and amount of CD loans and investments; (2) the extent to which the bank provides CD services; and (3) the responsiveness of a bank's CD activities to community needs.[62]

Wholesale and limited purpose bank tests. Under the current CD test for wholesale and limited purpose banks, the appropriate agency assesses (1) the number and amount of a wholesale or limited purpose bank's CD activities; (2) its use of innovative or complex CD activities; and (3) the responsiveness of its CD activities.[63] The agency considers CD activities that benefit: (1) the bank's assessment area(s); and (2) if the bank has adequately addressed the needs of its assessment area(s), then areas outside of its assessment area(s).[64]

Strategic plan. For a bank of any size or business strategy that elects to be evaluated under a strategic plan under the current rule, the appropriate agency assesses the bank's strategic plan under measurable goals that the bank establishes for lending, investments, and services, as applicable.[65] A bank must establish measurable goals for a ''satisfactory'' rating and may establish measurable goals for an ''outstanding'' rating.[66] The approval of a plan does not affect a bank's obligation, if any, to report required data.[67]

Performance context. Under the current rules, the appropriate agency also considers applicable performance context information to inform its analysis and conclusions regarding a bank's CRA performance when conducting a CRA examination or approving a strategic plan.[68] Performance context is comprised of a broad range of economic, demographic, bank-specific, and community-specific information that the agencies consider to inform their assessment of a bank's efforts to meet the needs of and understand the opportunities in its local communities.

C. Ratings, Data and the Public File, and the Effect of CRA Performance on Applications

Ratings. Consistent with the statute, the appropriate agency assigns each bank a rating of ''outstanding,'' ''satisfactory,'' ''needs to improve,'' or ''substantial noncompliance'' following a CRA examination.[69] The agencies rate a bank's overall record of performance and the bank's record of performance in applicable States and multistate metropolitan statistical areas (multistate MSA), as provided in the statute.[70]

To assign the bank, State, and multistate MSA ratings, the agencies rate a bank's performance under the applicable performance tests and then combine those ratings, if necessary. Specifically, under the current large bank examination procedures, the appropriate agency uses a rating scale to convert the rating assigned for each performance test into point values, which are added together to determine a bank's overall bank rating.[71] The lending test generally accounts for 50 percent of a large bank's rating, and the investment test and service test each generally account for 25 percent.[72]

In addition, an intermediate small bank may not receive an overall ''satisfactory'' rating unless it receives at least a ''satisfactory'' rating on both the lending test and the CD test.[73] An intermediate small bank that receives an ''outstanding'' on one test and at least ''satisfactory'' rating on the other test may receive an overall rating of ''outstanding.''[74] A small bank that is not an intermediate small bank may receive an ''outstanding'' rating based on its performance only under the lending test.[75] The appropriate agency may consider qualified investments, services, and delivery systems that enhance the availability of credit in a bank's assessment areas for an ''outstanding'' rating, but only if the bank meets or exceeds the standards for a ''satisfactory'' rating under the lending test in the small bank performance standards.[76] In assigning a bank's ratings, the appropriate agency considers any evidence of discriminatory or other illegal credit practices in connection with home mortgage, small business, small farm, consumer, and CD lending.[77]

Data and public file requirements. Under the current rules, a bank other than a small bank, is generally required to collect, maintain, and report certain data related to small business loans, small farm loans, CD loans, and assessment areas.[78] The current rules also include optional data collection requirements for: (1) a bank that elects to be evaluated based on consumer lending; and (2) a small bank (including an intermediate small bank) that elects to be evaluated under the lending, investment, and services tests.[79] In addition, the current rules require a bank to maintain a public file with information related to its CRA performance[80] and to provide a copy of this information in response to a request.[81] Finally, the current rules require a bank to post a CRA public notice in the public lobby of its main office and in each of its branches.[82]

Effect of CRA performance on applications. Under the current rules, the appropriate agency is required to take into account a bank's CRA performance when considering certain applications from the bank, including an application for: (1) the establishment of a domestic branch or other facility with the ability to take deposits; (2) a merger, consolidation, acquisition of assets, or assumption of liabilities; (3) the relocation of its main office or branch; (4) deposit insurance; (5) a transaction subject to the Bank Merger Act or the Home Owners' Loan Act; and (6) a charter application.[83] The bank's CRA performance may be the basis for denying or conditioning approval of an application.[84] These provisions implement the CRA statutory

[62] *See* current 12 CFR ____.26(c).

[63] *See* current 12 CFR ____.25(c).

[64] *See* current 12 CFR ____.25(e).

[65] *See* current 12 CFR ____.27(f) and (g).

[66] *See* current 12 CFR ____.27(f)(3).

[67] *See* current 12 CFR ____.27(b).

[68] *See* current 12 CFR ____.21(b).

[69] 12 U.S.C. 2906(b)(2), implemented by current 12 CFR ____.28(a). The narrative descriptions of the ratings for performance under each evaluation method are in appendix A to the current rules. *See also* Q&A appendix A to part____—Ratings.

[70] An agency also assigns ratings for a bank's performance in each State in which the bank maintains one or more branches or other facilities that accept deposits and in each multistate metropolitan statistical area (MSA) in which the bank maintains branches or other facilities that accept deposits in two or more states within the multistate MSA. 12 U.S.C. 2906(d). Prior to reaching these overall ratings, an agency assigns performance test ratings at the State, multistate MSA, and institution level for each applicable performance test. With one exception, the current rating scale used for performance test ratings mirrors that of the four statutory institution-level ratings. For large banks, however, the agency bifurcates the ''satisfactory'' rating for each of the three performance tests into ''high satisfactory'' and ''low satisfactory.'' *See* Q&A § ____.28(a)—3; current 12 CFR ____, appendix A, paragraph (b); Interagency Large Institution CRA Examination Procedures (Apr. 2014), *https://www.ffiec.gov/sites/default/files/data/cra/pdf/cra_exlarge.pdf.*

[71] *See* Q&A § ____.28(a)—3; current 12 CFR ____, appendix A, paragraph (b); *see also* Interagency Large Institution CRA Examination Procedures.

[72] *See* Q&A appendix A to part ____—1.

[73] *See* current 12 CFR ____, appendix A, paragraph (d)(3)(i).

[74] *See* current 12 CFR ____, appendix A, paragraph (d)(3)(ii)(A).

[75] *See* current 12 CFR ____, appendix A, paragraph (d)(3)(ii)(B).

[76] *See* Q&As §§ ____. 26—1, ____.26(b)—1, and ____.26(b)—2.

[77] *See* current 12 CFR ____.28(c).

[78] *See* current 12 CFR ____.42(a) and (b).

[79] *See* current 12 CFR ____.42(c) and (f).

[80] *See* current 12 CFR ____.43.

[81] *See* current 12 CFR ____.43(d). The copy can be either in paper form or another form that is acceptable to the requestor.

[82] *See* current 12 CFR ____.44 and appendix B.

[83] *See* current 12 CFR ____.29(a) and (b).

[84] *See* current 12 CFR ____.29(d).

requirement that, in evaluating a bank's ''application for a deposit facility,'' an agency must take into account its record of meeting the credit needs of its entire community, including LMI neighborhoods, consistent with the bank's safe and sound operation.[85]

III. Overview of the Proposal

Based on the extensive feedback the agencies have received on the current rules, the results of the litigation regarding the 2023 CRA rules, and the agencies' supervisory experience examining banks for compliance with the CRA, the agencies are proposing targeted changes to their current rules. These changes seek to refocus the agencies' CRA supervision on their statutory mandate to encourage the banks under their supervision to meet the credit needs of their local communities, including by increasing the focus on lending and by better ensuring the community development grants benefit communities. These changes are also intended to address specific and known challenges associated with the current rules by improving clarity and reducing unnecessary burden, especially for community banks, and to better ensure that, when banks receive credit for providing certain types of community development funding, the funds reach the communities they are intended to benefit instead of being diverted to other activities or excessive operating costs.

Before describing the proposed changes, however, it is important to note that as a general matter, the proposal leaves much of the current framework unchanged. For example, large banks would remain subject to lending, investment, and service tests that evaluate their retail lending and services, as well as their CD activities. Small banks and a new category—intermediate banks (which would replace the current rule's intermediate small bank category)—would remain subject to a tailored lending test, with a tailored CD test for intermediate banks. Banks would retain the option to be evaluated, as appropriate: (1) as a wholesale or limited purpose bank based on their CD activities; or (2) under a strategic plan based on specified measurable goals.

Notably, the proposal would also leave the current assessment area framework largely unchanged.[86] While the agencies recognize that banks' customer bases are increasingly geographically dispersed, the CRA statute focuses on the geographic area(s) surrounding a bank's physical facilities. For this reason, the agencies are not proposing significant changes to the current assessment area framework, which is largely tied to a bank's physical location(s).

A. Increase Focus on Lending

As discussed above, 12 U.S.C. 2903(a) requires an agency to assess a bank's record of meeting the credit needs of its entire community, including LMI neighborhoods. In the agencies' judgment, a community's credit needs are best and most directly met through activities that involve lending.[87] To further encourage this lending, the agencies are proposing several targeted revisions to the current rules.

The proposal would modify how the agencies consider bank services.[88] Specifically, the proposal would narrow the range of services considered as retail banking services under the current rules to limit them to the range and availability of an institution's ''credit services''—thereby excluding deposit services—as well as the distribution and availability of an institution's retail banking facilities.

Additionally, the proposal would clarify the concept of ''responsiveness,'' a qualitative consideration that would apply to the evaluation of retail and CD activities under the proposal, and would define the term of ''complexity,'' one component of responsiveness to encourage a focus on lending. Under the proposed definition, CD investments, grants, or services that are a necessary or otherwise beneficial component of a multicomponent financing transaction involving a loan would be considered complex, as would CD lending and certain CD investments that require specialized lending expertise.

B. Ensure That Community Development Grants Benefit Communities

The proposal would modify the treatment of grants and donations for purposes of qualifying grants and donations as CD activities. Currently, grants and donations are considered qualified investments, but they differ from other types of qualified investments that involve more structured financing and are more akin to lending, such as securities that are the functional equivalent of a loan, or securities backed by loans, bonds, and other equity investments. Under the proposal, a bank would only be permitted to receive CRA consideration for grants and donations directly used by the recipient for a program, project, or initiative with a primary purpose of community development in the bank's local community. For large banks, the proposed rules would also impose a 15 percent cap on the indirect costs that recipients could incur as a part of administering a grant or donation. The proposal would also require more transparency regarding a bank's CD activities. The agencies intend that these modifications would ensure that CD grants, like CD loans and CD investments, would provide direct financing to banks' communities, consistent with the CRA's focus. For example, a bank recently received CRA consideration for a grant to a community development organization engaged in directly providing homeownership counseling to LMI individuals and health care services to individuals experiencing homelessness. Approximately 25 percent of this grant was reported to be used for the organization's internal expenses, with the remaining share expended for direct service costs. Under the proposed rules, this grant would not qualify as a CD grant for a large bank due to the recipient using over 15 percent of its proceeds for indirect expenses.

C. Reduce Burden

As discussed in greater detail below, the agencies propose three categories of changes to the current rules to reduce burden, especially for community

[85] *See* 12 U.S.C. 2902(3) and 2903(a).

[86] The CRA statute instructs the agencies to assess a bank's record of meeting the credit needs of its ''entire community, including [LMI] neighborhoods, consistent with the safe and sound operation of such institution, and to take such record into account in its evaluation of an application for a deposit facility by such institution.'' 12 U.S.C. 2903(a). While the statute does not prescribe the delineation of assessment areas, the assessment area framework in the current rules requires banks to identify areas around their physical locations within which the agencies evaluate the bank's record of helping to meet the credit needs of its community.

[87] Retail and CD lending are not the only ways that a bank can meet the credit needs of its community under CRA. The Financial Institutions Reform, Recovery and Enforcement Act of 1989 (''FIRREA'') added a section to the CRA entitled ''Written Evaluations,'' which requires that the written evaluation of a bank's overall CRA performance and its performance in each evaluation area must: ''state the appropriate [agency's] conclusions for each assessment factor identified in the regulations prescribed . . . to implement this chapter.'' 12 U.S.C. 2906(b)(1)(A) (emphasis added). The CRA rules in place in 1989, which the agencies adopted in 1978, included 12 ''assessment factors,'' which included the bank's ''record of . . . providing services at offices'' and ''participation, including investments, in local community development and redevelopment projects or programs.'' 12 CFR 25.7 and 345.7 (1978). Although the current rules do not use the term ''assessment factors,'' it continues to consider the 12 items included in the 1978 assessment factors (referenced by Congress in the FIRREA), including investments and services. As discussed below, this proposal would enhance the focus of these activities on meeting community credit needs.

[88] *See id.*

banks. First, the agencies propose three general asset size thresholds: (1) below $1 billion for a small bank; (2) $1 billion to $10 billion for an intermediate bank; and (3) above $10 billion for a large bank. These changes would reflect the significant growth in the asset sizes of banks since the agencies set the current asset size thresholds.[89] As a result of these changes, banks with $10 billion or less in assets (proposed small banks and proposed intermediate banks) would be subject to fewer data collection, maintenance, and reporting requirements.

Second, the agencies propose that under both the large bank lending test and the small and intermediate bank lending test, they would consider only a bank's major product line(s) when assessing its retail lending (*i.e.,* consumer, home mortgage, small business, and small farm loans). These changes would reduce regulatory burden for banks by tailoring the lending test to focus on the product lines that make up most of a bank's record of serving community credit needs, thus enabling banks to better focus their resources to more effectively manage their CRA programs.

Finally, the agencies also propose to revise the public file and public notice requirements by: (1) no longer requiring a bank to provide a paper copy of the information in its public file; (2) permitting a bank to make the information in its public file available on its public website; and (3) allowing a bank to satisfy its public notice requirement by identifying the website on which the bank posts information about its CRA performance. These changes would reduce burden on banks by allowing them to use readily accessible technology to satisfy these requirements, while continuing to ensure that the public can easily access important information about a bank's CRA performance.

D. Increase Clarity and Objectivity

The proposal would also make a number of changes to the implementation of the current rules that would increase the clarity, transparency, and objectivity associated with evaluating a bank's CRA performance. These changes are in response to public feedback that the agencies have received about the provisions addressed below.

First, the agencies propose several changes with respect to CD activities. Specifically, they propose to revise the current principles-based definition of community development by clarifying when loans, investments, grants, and services qualify as CD activities. This change would largely codify and clarify current guidance on this topic. In addition, the agencies propose to codify a process under which a bank could seek agency confirmation that a CD activity (*i.e.,* a loan, investment, grant, or service with a primary purpose of community development) would receive CRA consideration. Further, they propose to clarify when an agency would provide CRA consideration for a CD activity that benefits an area other than a bank's assessment area(s) (assuming the bank has already demonstrated that it is helping to meet the credit needs of its assessment area(s)). Lastly, as discussed above, the proposal would clarify the information a bank must collect from the recipients of CD grants to ensure that the bank receives consideration.

Second, the agencies propose to make the strategic plan option a more viable and less burdensome option for banks by: (1) clarifying how to submit, amend, and implement a strategic plan; and (2) providing additional information regarding a plan's contents, particularly the measurable goals. These proposed changes also respond to public feedback, namely that the current strategic plan provisions are inaccessible, complex, and burdensome, particularly for community banks.

IV. Detailed Description of the Proposal

Set forth below is a detailed description of the proposed changes referenced above, as well as a description of other proposed conforming, technical, and clarifying changes.

A. Asset Size Thresholds

As described above, the performance tests or standards under which an agency evaluates a bank's CRA performance are generally determined by virtue of the bank's asset size.[90] The current asset size thresholds have not, however, evolved with changes in the banking industry over the past few decades, including bank consolidations. Although the CRA statute does not require the agencies to tailor the performance tests by asset size, the agencies first established a small bank category in the 1995 CRA rules and set the asset size threshold at $250 million.[91] At that time, small banks represented approximately 80.4 percent of all banks and held approximately 13.8 percent of the total industry assets.[92] Large banks represented approximately 19.6 percent of all banks and held approximately 86.2 of total industry assets.[93]

In contrast, using year-end 2024 and 2025 Consolidated Reports of Condition and Income (Call Report) data about the banks with CRA obligations that the agencies supervise (a total of approximately 3,577 banks), small banks that were not intermediate small banks [94] represented approximately 57.0 percent of these banks (2,040 banks) and held approximately 2.0 percent of total industry assets.[95] Comparing the 1995 data to the 2024 and 2025 data, small banks represent a significantly smaller percentage of the total number of banks and a significantly smaller percentage of total assets. The nature and degree of the change in the distribution of small banks sizes demonstrate how the banking industry has changed and why the agencies are proposing asset size threshold changes.[96]

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[89] *See* 60 FR at 22180, 22202 (setting the small bank asset size threshold at $250 million in 1995); 70 FR 44256, 44266, 44269 (Aug. 2, 2005) (setting the large bank asset size threshold at $1 billion and introducing annual inflation adjustments).

[90] This is, however, not always the case. For some banks, the applicable test or standard is a function of the bank's business strategy (*e.g.,* wholesale or limited purpose banks or banks that elect to be evaluated under a strategic plan). Banks that are evaluated as a wholesale or limited purpose bank or under a strategic plan are also considered a small, intermediate, or large bank, as applicable, and requirements other than performance tests or standards apply to a wholesale, limited purpose, or strategic plan bank based on the bank's asset size-based category. For example, a wholesale, limited purpose, or strategic plan bank that is a large bank is subject to data collection, maintenance, and reporting requirements.

[91] Specifically, the 1995 CRA rules set the small bank threshold at $250 million in assets with an additional requirement that a small bank must also be independent or an affiliate of a holding company with less than $1 billion in total banking assets. 60 FR at 22180, 22202. The agencies removed these requirements related to a holding company's asset size from their CRA regulations in 2005. *See* 70 FR at 44256, 44264. Also in 2005, the agencies raised the asset size threshold for small banks to $1 billion, added intermediate small banks as a subset of small banks assets between $250 million and $1 billion, and provided for future indexing for inflation of both the $250 million and $1 billion threshold. *See id.* at 44266, 44269.

[92] *See* 69 FR 51611, 51612 (Aug. 20, 2004) (FDIC proposed rule).

[93] *See id.*

[94] Although, under the current rules, intermediate small banks are a subset of small banks, it is appropriate to look only to small banks for purposes of comparison to the 1995 CRA rules, because small banks at that time were subject to similar performance standards (*i.e.,* a lending test without CD obligations) as small banks other than intermediate small banks under the current rules.

[95] Using year-end 2024 and 2025 Call Report data, intermediate small banks represented approximately 30.0 percent of these banks (1,060 banks) and held approximately 4.6 percent of total industry assets.

[96] The agencies have adjusted the thresholds annually since 2005 based on an inflation index, but these adjustments have not been sufficient to keep up with changes in the industry, including its overall growth and consolidation. For the most recent inflation adjustments, *see* FDIC change at 91

To address the mismatch that has emerged between the current thresholds and a dynamic industry, the agencies propose to adjust the asset size thresholds for all of the banks they supervise. Specifically, the proposal would define ''small bank'' as a bank with less than $1 billion in total assets, reflecting an increase from the current small bank asset threshold of less than $412 million. The proposal would replace the ''intermediate small bank'' category with a new ''intermediate bank'' category for a bank with at least $1 billion and up to and including $10 billion in assets, reflecting an increase from the current intermediate small bank threshold range of between $412 million and $1.649 billion.[97] Finally, the proposal would define ''large bank'' as a bank with assets of more than $10 billion, reflecting an increase from the current large bank threshold of over $1.649 billion. Asset size will continue to be calculated based on a bank's assets included in Call Report data as of December 31 of a calendar year, for two consecutive calendar years, with the bank belonging to the lower asset size category that applied during either of these two calendar years.

These changes would reduce the associated data collection, maintenance, and reporting requirements for many smaller banks and would subject smaller banks to performance standards with greater flexibility, which the agencies expect would enable these banks to meet the credit needs of their communities without the burden of regulatory requirements that have not kept pace with changes in the banking industry. In addition, under the proposal, the distribution of banks of different sizes across the performance tests and standards would be substantially similar to the proportions of their distribution in 1995. Accordingly, the changes would realign the CRA regulatory framework with the original regulatory drafters' conceptions about the CRA's application to different sizes and types of banks. The agencies invite feedback regarding the methodology and data used to set thresholds for small, intermediate, and large banks.

Set forth below is a detailed discussion of each of the proposed thresholds.

Small bank threshold. Under the agencies' proposed small bank asset size threshold, the percentage of banks that qualify as small banks would significantly increase to about 79.8 percent of all banks subject to the CRA that the agencies supervise—a close alignment with the overall percentage of small banks at the time of the implementation of the 1995 CRA rules. While the percentage of total industry assets held by these banks would only increase to approximately 4.9 percent, when combined with the new category of intermediate banks (with asset sizes between $1 billion and $10 billion), together these banks would hold approximately 14.6 percent of total industry assets.[98]

One goal and effect of the proposal to raise the small bank asset threshold to up to $1 billion is to reduce the CRA regulatory burden on banks with between $412 million and $1 billion dollars. Under the current framework, these banks are considered intermediate small banks and subject to the applicable CD test which considers the number, amount, and responsiveness of their CD loans, investments and services. As a result, when small banks transition to intermediate small banks under the current framework, their CD activities are explicitly evaluated, which typically results in these banks adjusting their CRA programs. Under the proposal, banks below $1 billion in assets would no longer be subject to the CD test.

With respect to the current annual inflation adjustment for the small bank asset size threshold, the agencies are not proposing substantive changes, and it will remain keyed to Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W) (not seasonally adjusted). The agencies are, however, considering an alternative approach that would align the small bank threshold with the size standard that the Small Business Administration (SBA) uses to identify small banks.[99] Under this alternative, the agencies would define a small bank using the SBA's current standard for commercial banks of $850 million (calculated as of December 31 of either of the prior two calendar years).[100] Based on year-end Call Report data for 2024 and 2025, approximately 76.1 percent of agency supervised banks that are subject to the CRA (2,721 banks) would be small banks under the current SBA standard, representing about 4.2 percent of total industry assets.

If the agencies were to cross-reference the SBA size standard in its CRA framework, the small bank asset threshold would automatically adjust when the SBA size threshold changes, rather than yearly, based on CPI–W inflation adjustments. The historical difference between these two approaches is clear when changes based on the CPI–W are compared to adjustments by the SBA. For example, between December 2005 and January 2026, the agencies' small bank asset size threshold went from $250 million to $412 million, an increase of approximately 64.8 percent. During this same period, the SBA's small bank size standard for commercial banks increased from $150 million to $850 million, an increase of approximately 466.7 percent.[101]

The agencies invite comments on both the proposed small bank asset size threshold of $1 billion and the alternative proposal to align it with the SBA at $850 million, as well as other options and supporting justifications. The agencies also solicit comment on whether to continue making annual inflation-based adjustments to the small bank asset threshold based on the CPI–W or align changes with SBA adjustments to small bank size standard for commercial banks, as well as other options and supporting justifications. The agencies also intend to occasionally evaluate the proposed asset size thresholds, if adopted, to consider

FR 509 (Jan. 7, 2026) and OCC change at OCC Bulletin 2025–48, ''Community Reinvestment Act: Revision of Small and Intermediate Small Bank and Savings Association Asset Thresholds'' (Dec. 23, 2025), *https://www.occ.gov/news-issuances/bulletins/2025/bulletin-2025-48.html.*

[97] *See id.*

[98] The agencies added the intermediate small bank category of small banks to the current rules in 2005. *See* 70 FR at 44258.

[99] The SBA establishes small business size definitions, usually referred to as ''size standards,'' for private sector industries in the United States to determine eligibility for Federal small business assistance. It adjusts size standards based on inflation at least once every five years and also adjusts based on industry structure. *See, e.g.,* 90 FR 41168, 41171 (Aug. 22, 2025). The primary factors that the SBA evaluates to examine industry structure include average firm size, startup costs and entry barriers, industry competition, and distribution of firms by size. *Id.* The SBA also evaluates small business success in receiving Federal contracting assistance under the current size standards. *Id.* These are generally the five most important factors that the SBA examines when establishing, reviewing, or revising a size standard for an industry. *Id.* at 41172. However, the SBA will also consider and evaluate secondary factors that it believes are relevant to a particular industry (such as technological changes, growth trends, SBA financial assistance, other program factors). *Id.* The SBA also considers the possible impact of size standard revisions on eligibility for Federal small business assistance, current economic conditions, the Administration's policies, and suggestions from industry groups and Federal agencies. *Id.*

[100] *See* 13 CFR 121.201. On August 22, 2025, the SBA proposed to increase the size standard for commercial banks to $925 million. 90 FR at 41271.

[101] As discussed above, the SBA small bank size standard reflects not only inflation but other variables such as the number of institutions, total industry assets, and the distribution of those institutions and assets within the SBA's size standards. The SBA small bank size standard also considers and adjusts for secular trends in the banking industry such as the overall consolidation of industry assets.

whether additional adjustments are needed, beyond annual inflation-based adjustments, to better reflect changes in the banking industry and invite comment on the appropriate frequency for such evaluation (*e.g.,* every 3 years; every 5 years). In particular, the agencies invite comment on whether the proposal's predictable adjustments are preferable to the SBA's less regular asset size changes, even if the proposed adjustments are less effective at keeping pace with changes in the banking industry.

The agencies are proposing additional revisions to the small bank definition. Specifically, the agencies propose that their rules would expressly state that the annual adjustment to the small bank asset threshold (as reflected in the proposed ''small bank'' definition) is published on the agencies' websites. Since 2020, the OCC has announced the annual changes to asset size thresholds through OCC bulletins posted to *OCC.gov* but there is nothing in the OCC's current rule to alert a stakeholder of threshold changes. The FDIC also intends to publish the annual adjustment to the small bank asset threshold on the FDIC's website. This proposed amendment would ensure that banks and the public are informed that these asset thresholds are subject to change and direct them to the agency's website where the current thresholds are posted.

Intermediate bank threshold. The agencies are proposing to replace the defined term ''intermediate small bank'' with ''intermediate bank,'' which they would define as any bank that is not a small bank with assets of $10 billion or less as of December 31 for either of the prior two calendar years.[102] Generally, intermediate banks would be those banks with assets between $1 billion and $10 billion. Based on 2024 and 2025 year-end Call Report data, approximately 636 out of the approximately 3,577 banks with CRA obligations that the agencies supervise fell within this asset size range. This would result in the inclusion of approximately 17.8 percent of all banks in the classification. However, the same intermediate bank asset size thresholds would result in 9.7 percent of total industry assets being classified as intermediate banks. In comparison to values for current intermediate small banks, 1,060 banks are intermediate small banks, representing about 29.6 percent of all banks in the classification and 4.6 percent of total industry assets.

In setting the intermediate bank asset threshold cap at $10 billion, the agencies note that Congress has used this figure for a number of relevant thresholds. For example, in the Dodd-Frank Act, it imposed certain requirements on banks with greater than $10 billion in assets and declined to impose other requirements on banks with $10 billion or less in assets.[103] The agencies are using this same threshold in their CRA rules to differentiate between intermediate and large banks.

The agencies are aware that, under the current framework, there is an increased regulatory burden and associated cost when a bank moves from one size category to a larger one (*e.g.,* from the intermediate small bank to the large bank category). Although current intermediate small banks and large banks are evaluated on many of the same CRA activities, the three tests applicable to large banks are more comprehensive in scope and, as a result, tend to impose larger compliance costs on banks seeking to maintain a similar level of performance.[104] In addition, large banks are subject to data collection, maintenance, and reporting requirements while small banks, including intermediate small banks, are not. The agencies intend that the proposed changes regarding intermediate banks would relieve regulatory burden for these banks and would better align bank categories with the historical distribution of banks subject to CRA under the 1995 CRA rules.

The agencies are also considering an alternative intermediate bank asset threshold cap of $3.252 billion as of December 31 of either of the prior two calendar years. This figure comes from the OCC's 2020 CRA rule in which the intermediate bank cap was $2.5 billion,[105] adjusted for inflation since June 2020 using the CPI–W, not seasonally adjusted.[106] If the agencies were to finalize rules using this alternative, they would adjust it further for any additional inflation between the proposal and issuance of any final rule.

The agencies invite comments on all aspects of the proposed intermediate bank definition and alternative, as well as other options, such as retaining the current asset size threshold that applies to intermediate small banks. Because the proposed intermediate bank threshold is aligned with other thresholds that do not adjust and is much higher than the current threshold for intermediate small banks, the agencies are not proposing annual adjustments but could consider adjustments as part of a future rulemaking, if warranted. The agencies invite comment on this decision as well.

Large bank threshold. The agencies are proposing to define ''large bank'' as a bank with more than $10 billion in assets as of December 31 of both of the prior two calendar years. Using 2024 and 2025 year-end Call Report data, approximately 2.4 percent of banks (86 banks) would have been large banks under this definition and held 85.4 percent of total industry assets. Given that in 1995, ''large banks'' held approximately 86.2 percent of total industry assets, this proposed definition would align with the historical distribution.[107]

The agencies invite comments on all aspects of the proposed large bank definition, as well as other options such as retaining the current implicit concept and asset threshold for large banks.

Request for Feedback

Question 1: To better align with agency policies that establish an asset size of less than $30 billion as a threshold for certain supervisory approaches, such as being considered a community bank or being subject to the continuous examination process,[108]

[102] In addition to replacing the current ''intermediate small bank'' definition with a proposed ''intermediate bank'' definition, the agencies are proposing a number of additional technical and conforming changes to the CRA framework. Among other things, these changes would subject intermediate banks to the same performance tests or standards that are currently applicable to intermediate small banks.

[103] *See, e.g.,* 12 U.S.C. 5515(a) and 5516(a); 15 U.S.C. 1693o–2(a)(6). Congress has also referenced $10 billion in assets in subsequent legislation providing regulatory relief to certain financial institutions. *See, e.g.,* Public Law 115–174, 132 Stat. 1296 (2018).

[104] Under the current CRA rules, small banks, including intermediate small banks, may elect to be evaluated under the lending, investment, and service tests that are generally applicable to larger banks if they collect the data required under 12 CFR ____.42. *See* current 12 CFR ____.21(a)(3). The proposed rules would permit small banks and intermediate banks to elect to be evaluated under the lending, investment, and service tests that would generally be applicable to large banks if they collect the data required under 12 CFR ____.42.

[105] 85 FR at 34794.

[106] This calculation is based on CPI–W data available for the month of April 2026.

[107] It should be noted that the current rules have never actually defined ''large bank.'' Instead, their existence has been implied for banks that do not meet the ''small bank'' definition, which includes ''intermediate small banks.'' Likewise, the applicable low end of the asset threshold for large banks has been implicit in the threshold for intermediate small banks. In this rulemaking, the agencies propose to make express that which has, to date, been implied.

[108] *See, e.g.,* OCC News Release 2025–89 (Sept. 18, 2025), *https://www.occ.gov/news-issuances/news-releases/2025/nr-occ-2025-89.html* (identifying ''community banks'' as institutions with up to $30 billion in assets); Then-Acting Chairman Travis Hill, Testimony, Committee on Financial Services, U.S. House of Representatives (Dec. 2, 2025), *https://www.fdic.gov/news/speeches/*

should the agencies consider adjusting the intermediate bank asset size threshold to include all banks with an asset size of less than $30 billion that do not qualify as small banks? If the agencies establish $30 billion as the appropriate threshold to delineate between intermediate banks and large banks, should the agencies also adopt a larger threshold for small banks, such as the $10 billion currently proposed as the intermediate bank threshold?

Question 2: Should the agencies clarify in the rules that designation as a wholesale or limited purpose bank or election of a strategic plan does not override the bank's asset-based definition (*e.g.,* a bank can be both a large bank and a wholesale bank)?

Question 3: Should the final rules include a definition for ''assets'' or to be used in setting asset size thresholds and assessing a bank's position relative to these thresholds? For example, should the agencies define ''assets'' to mean a bank's total assets as reported in Schedule RC of the Consolidated Reports of Condition and Income (Call Report) as filed under 12 U.S.C. 161, 1464, or 1817, as applicable, or Schedule RAL of the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks as filed under 12 U.S.C. 1817 or 3102(b) or (c)(5), as applicable?

B. Performance Tests

The current rules, as discussed above, set forth general information about the CRA performance tests and standards. For large banks, the applicable performance tests are a lending test (in § ____.22), an investment test (in § ____.23), and a service test (in § ____.24). Small banks, including intermediate small banks, are subject to performance standards that include a lending test, and, for intermediate small banks, there is also a CD test (all in § ____.26). Wholesale and limited purpose banks are subject to a specialized CD test (in § ____.25).

The proposal would retain this general framework for the CRA performance tests and standards. Under the proposal, large banks would continue to be subject to the lending test, investment test, and service test and wholesale and limited purpose banks would continue to be subject to a specialized CD test. Generally, the proposal would also retain the current performance standards for small banks but would retitle § ____.26 and the applicable tests, as appropriate, to refer, separately, to small banks and intermediate banks.[109]

With respect to the requirements of the performance tests and standards themselves, the agencies are proposing targeted changes that would tailor CRA examinations to: (1) focus on the statutory mandate of assessing a bank's record of meeting community credit needs; (2) more closely align with a bank's business model; and (3) reduce burden. As discussed in detail below, these targeted changes would, among other things:

- Base a bank's retail lending evaluation on its major product lines, regardless of the bank's asset size;
- Prescribe standards to ensure that the agencies conduct meaningful assessments of banks' lending activities;
- Clarify that the evaluation of a bank's CRA performance includes:
  - The range of retail credit services, as opposed to any retail deposit services;
  - CD activities and retail banking services as part of performance context, to the extent that activities and services are not considered under another performance test; and
  - The responsiveness of all retail and CD activities;
- Adjust small bank and intermediate bank performance standards regarding written complaints;
- Allow an intermediate bank to receive a ''satisfactory'' or ''outstanding'' rating overall, provided that it receives at least a ''satisfactory'' rating on the lending test; and
- Modify how the agencies consider CD activities, as discussed in section IV.C of this **SUPPLEMENTARY INFORMATION**.

Retail lending product lines. Under the current rules, most banks are evaluated based on their retail lending, with large banks evaluated under the lending test in § ____.22, and small banks, including intermediate small banks, under the small bank lending test in § ____.26(b).[110]

For purposes of CRA, retail lending refers to home mortgage, small business, small farm, and consumer lending (collectively, retail lending product lines). Large banks are generally evaluated on home mortgage, small business, and small farm lending and, at the bank's option or if consumer lending constitutes a substantial majority of its business, they are also evaluated on their consumer lending in one or more of the following categories: motor vehicle, credit card, other secured, and other unsecured loans.[111]

In contrast, small banks, including intermediate small banks, are evaluated only with respect to those retail lending product lines that are considered to be their major product lines. Examiners select a small bank's major product lines for evaluation based on a review of relevant information, including the retail lending product lines where the bank did the most lending by dollar amount and loan count. If consumer loans are selected, examiners may either evaluate all of a small bank's consumer loans together or select a category of consumer lending (*e.g.,* credit card or motor vehicle) if that category is deemed to constitute a major product line.

The agencies propose adopting a major product line approach for all banks and are considering two alternatives, both of which are reflected in the proposed regulatory text. Under the first alternative (Option 1), the agencies would generally use a quantitative, bank level approach to evaluate a bank's retail lending in two of the four retail lending product lines (home mortgage, small business, small farm, and consumer lending). The two product lines evaluated would be considered the bank's major product lines. Under the second alternative (Option 2), the agencies would use an assessment area level approach that is both qualitative and quantitative to determine a bank's major product lines, similar to the current rules' methodology for determining major product lines for small banks, including intermediate small banks. Under either

2025/oversight-prudential-regulators (''The FDIC recently raised the threshold for presumptive inclusion in the continuous examination process from $10 billion to $30 billion in assets, while retaining the ability to, on occasion, include a bank below $30 billion in assets if warranted.''); 91 FR 10491 (Mar. 4, 2026) (OCC Community Bank Licensing Amendments final rule).

[109] *See supra* section IV.A of this **SUPPLEMENTARY INFORMATION** (describing small banks and intermediate banks under the proposal). As needed, the agencies are also proposing conforming changes throughout their CRA rules to amend current references to refer to ''intermediate banks'' in lieu of ''intermediate small banks.''

[110] As discussed in this section of this **SUPPLEMENTARY INFORMATION**, wholesale and limited purpose banks are not evaluated based on their retail lending activities. Further, the agencies would only evaluate a bank under a strategic plan for its retail lending activities to the extent it includes retail lending goals in its plan.

[111] Under the current large bank lending test, a bank's consumer lending is evaluated at the bank's option or if consumer lending constitutes a ''substantial majority'' of its business. *See* current 12 CFR ____.22(a). In the CRA Interagency Questions and Answers, the agencies have interpreted ''substantial majority'' to be so significant a portion of a bank's lending activity, by number and dollar volume of loans, that the lending test evaluation would not meaningfully reflect its lending performance if consumer loans were excluded. *See* Q&A § ____.22(a)(1)–2. Generally, the agencies have considered consumer lending to constitute a substantial majority where consumer lending makes up the majority of a bank's overall business by dollar and number of loans. *See id.*

proposed approach, the agencies would only consider consumer lending to be a major product line if consumer lending constitutes a majority of the bank's retail lending by both dollar amount and loan count, or at the bank's option.

Under Option 1 for proposed new paragraph § ____.21(g), an agency would select the two product lines based on a bank's total retail lending activity, determined at the bank level and based on both loan count and dollar volume during the evaluation period.[112] This would be the two largest product lines by dollar volume and loan count, as set forth in proposed Appendix C, provided the bank makes loans in at least two of the product lines. If a bank makes loans in only one product line, the agency would only evaluate the bank in that product line.

As noted above, even if consumer lending is one of the bank's two largest product lines by dollar volume and loan count, the agencies would only evaluate consumer lending if the bank's consumer loans constitute more than 50 percent of its retail lending by both dollar volume and loan count (*i.e.,* majority consumer lender) or at the bank's option.[113] If consumer lending is among the two largest product lines but this majority consumer lender standard is not met, the agency would not evaluate the bank's consumer lending and would instead evaluate the largest two product lines of home mortgage, small business, and small farm lending. The proposal would treat major product lines in consumer lending differently than home mortgage, small business, and small farm lending because of differences in the data collection requirements for consumer lending for large banks, as discussed below.

The agencies intend that the quantitative major product line standard described in Option 1 would help ensure that a bank's CRA examination is tailored to its retail lending business model to provide a consistent and objective standard for when the agencies would assess specific product lines. To provide a consistent evaluation of lending across assessment areas, the agencies would assess a bank's major product lines at the bank level. This approach would also resolve issues that have arisen under the current rules where the requirement for the agencies to evaluate home mortgage, small business, and small farm lending has resulted in the assessment of performance in product lines that are not a meaningful component of a bank's business model. This has increased burden for banks that feel the need to manage their lending activity in each of these product lines despite the fact that they do not meet the proposed major product line standard are rarely a significant factor in the agencies' conclusions on a bank's CRA performance. Based on the agencies' supervisory experience and feedback received, this can result in banks expending resources that could otherwise have been deployed towards more impactful activities. As discussed below, proposed section § ____.21(g) provides the standards the agencies would apply for determining how to assess a bank's retail lending in its major product lines at the assessment area level.

The agencies considered that reducing the product lines that they evaluate as retail lending under the applicable lending test could raise concerns that banks would no longer be incentivized to engage in those activities going forward, which could have a negative impact on communities. However, the agencies preliminarily believe the potential negative impact is unlikely to be significant because, in many instances, banks provide those loans primarily for business reasons rather than to address CRA obligations. The agencies also note that any small reduction in lending may be outweighed by the benefits of reducing burden for banks, which would allow them to focus CRA resources on other retail lending or CD activities. Further, as discussed in section IV.C of this **SUPPLEMENTARY INFORMATION**, as a result of a change in the definition of CD loan, the proposal would allow banks to receive consideration for loans in non-major product lines that meet the definition of community development. Based on other proposed changes to the definition of affordable housing and economic development, the proposed change to the definition of CD loan would mean that certain home mortgage, small business, and small farm loans that were previously considered as retail loans may now be considered as CD loans. This would modify the form of CRA consideration that these loans receive but would still provide a potential incentive for banks to engage in these activities.

Alternatively, the agencies are considering a standard that is both qualitative and quantitative to determine a bank's major product lines (Option 2). Under Option 2 for proposed new paragraph § ____.21(g), the agencies would assess a bank's retail lending in major product line(s) based on certain considerations at the assessment area level. Under this approach, a bank could have more or less than two major product lines. Whether home mortgage, small business, small farm, or consumer lending would be a major product line in an assessment area would be based on: (i) the bank's overall lending volume and business strategy; (ii) the bank's capacity to lend in that assessment area; and (iii) the extent to which lending in the product line meaningfully contributes to the bank's record of meeting the credit needs of that assessment area.

Under Option 2, an agency would select major product lines in each assessment area through consideration of a bank's overall lending volume and business strategy; a bank's capacity to lend in that assessment area; and the extent to which lending in the product line meaningfully contributes to the bank's record of meeting the credit needs of that assessment area. For example, a bank that is primarily a home mortgage lender (as determined by overall lending volume and business strategy) would have home mortgage loans considered as a major product line in all assessment areas. If overall, however, the bank does not have a significant volume of small farm lending, but in the bank's nonmetropolitan assessment area the bank is a significant provider of small farm loans and the small farm loans meaningfully contribute to the bank meeting the assessment area credit needs, the agencies could factor that information into their qualitative determination of the bank's major product lines. In that instance, small farm loans would be considered as a major product line in the nonmetropolitan assessment area along with home mortgage loans. This approach would maintain flexibility in the lending test evaluation by considering different community credit needs and bank lending product emphases in different assessment areas.

As proposed, the major product line standard would apply to large, intermediate, and small banks. The agencies also are considering whether to retain the current standard for small and intermediate banks, which permits more discretion if Option 1 is adopted.

[112] Under the proposal, ''consumer loan'' would mean a loan to one or more individuals for household, family, or other personal expenditures as defined in Schedule RC–C of the instructions for preparation of Call Reports, including the categories of credit cards, other revolving credit plans, automobile loans, and other consumer loans. The proposal would revise this definition to include a cross-reference to the Call Report instructions instead of including the text of those instructions.

[113] This determination would not be based on averaging dollar volume and loan count, as provided in proposed appendix C.

Request for Feedback

Question 4: With respect to Option 1 for the major product line standard, should the agencies specify a de minimis amount of lending that would not count as making loans in a product line? For example, should the agencies consider whether a bank did not make 30 loans in the product line overall or 30 loans in the product line in any assessment area? Should the agencies use the proposed definition of ''incidental basis'' to find that a bank does not make loans in a product line if it only makes loans in that product line on an incidental basis?

Question 5: Should the agencies consider consumer lending—

a. By type of consumer loans, rather than in the aggregate, when consumer loans constitute a major product line?

b. When consumer loans account for less than a majority of retail lending but is one of a bank's largest two product lines? In this circumstance, should the agencies permit the optional consideration of consumer lending?

c. At the bank's request, regardless of whether the consumer loans constitute a major product line?

Question 6: Should the agencies rely on dollar volume, loan count, or both to determine a bank's major product line(s), and, if so, should the agencies do so consistent with the methodology in proposed appendix C?

Question 7: If the agencies adopt Option 1, should the agencies determine a bank's major product lines by assessment area, as opposed to at the institution level as proposed?

Lending test borrower distribution. The current lending test considers the distribution, particularly in a bank's assessment area(s), of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, based on borrower characteristics, including the number and amount of retail loans to low-, moderate-, middle-, and upper-income individuals and small businesses and small farms.[114] This language suggests that the agencies may consider borrower distribution in a geographic area beyond a bank's assessment area(s). In guidance, the agencies have addressed when they will currently consider loans (other than CD loans) made outside a bank's assessment area(s) and have indicated consideration will be given for loans to low- and moderate-income persons and small business and farm loans outside of a bank's assessment area(s), provided the bank has adequately addressed the needs of borrowers within its assessment area(s).[115]

The proposal would modify the borrower characteristics provision of the lending test and make conforming changes in proposed appendix A to omit language that would consider borrower characteristics particularly in a bank's assessment area(s). The agencies intend that this change would mean that the agencies would only consider borrower characteristics in a bank's assessment area(s) and would supersede Q&A § ____.22(b)(2) & (3)—4. The agencies find that the current rules do not adequately explain when and how the agencies may consider borrower characteristics outside of a bank's assessment area(s). Consideration of retail lending outside of a bank's assessment area(s) would exceed the agencies' statutory authority.

Limited purpose bank category. In addition to the proposed major product line standard, the agencies are considering whether to eliminate the category of limited purpose banks. By definition, a limited purpose bank would be a consumer lender (*i.e.,* a bank that offers only a narrow product line, such as credit card or motor vehicle loans). If a bank is instead not in the business of extending retail loans to retail customers, it would be a wholesale bank. Because the current rules do not require the evaluation of consumer lending in most circumstances, and the lending test focuses on assessing home mortgage, small business, and small farm lending, banks that meet the current definition of limited purpose bank may request that designation and be examined solely on the basis of their CD activities. Under the proposal, however, banks would be evaluated based on their consumer lending if that lending was determined to be a major product line for the bank, as discussed above. Therefore, the agencies could apply the proposed lending test to banks that would be limited purpose banks under the current or proposed rules. The agencies recognize, however, that this may be a significant change for a handful of banks that the agencies currently evaluate only under the CD test for wholesale or limited purpose banks and now would be evaluated under the otherwise applicable tests or standards based on their asset size category, including on their consumer retail lending. Even if the agencies were to retain the limited purpose bank definition and designation, because seeking a limited purpose designation is optional, under the proposal, banks that meet the limited purpose bank definition could elect not to seek such a designation, in which case, the bank would be examined under the applicable test or standard based on their retail lending. The agencies invite comment on the proposed changes to the consideration of consumer lending and how those proposed changes relate to the definition of limited purpose bank.

Meaningful assessment. The agencies are proposing a new § ____.21(h) to discuss their approach to assessing a bank's major product lines in an assessment area of the applicable lending test. Proposed § ____.21(h) would provide that, if possible, the agencies will evaluate a bank's lending performance under the lending test based on a number of retail loans that allows the agency to perform a meaningful analysis. This provision would apply to the agencies' consideration of a bank's major product lines, discussed above, for each performance criterion in the applicable lending test.

The agencies generally believe that using 30 or more loans, whether a sample or the entire population of loans, will result in a meaningful analysis of the bank's lending performance. In statistical analysis, at least 30 observations are a general standard for a large sample because the mean of 30 randomly drawn values from a population will have a distribution that is approximately normal.[116] Therefore, the proposal would provide that the agencies will consider 30 loans from a product line to be a sufficient number of loans to perform a meaningful analysis under any applicable performance criterion.[117]

Given that 30 loans are not always available for analysis under each performance criterion, the agencies are also including a provision in proposed § ____.21(h) that would allow them to consider less than 30 loans if they determine that a smaller number of loans would allow for a meaningful assessment. This determination would be based on examiner judgment and the appropriate agency's supervisory experience. For instance, for small banks, the agencies have effectively

[114] *See* current 12 CFR ____.22(b)(3). *See also, e.g.,* current 12 CFR ____, appendix A, paragraph (b)(1)(i)(D).

[115] Q&A § ____.22(b)(2) & (3)—4 (also providing this consideration to small banks, including intermediate small banks).

[116] *See* Sheldon M. Ross, Introductory Statistics 398 (4th ed. 2017); Robert V. Hogg *et al.,* Probability and Statistical Inference 303 (9th ed. 2015).

[117] For some performance criteria (*e.g.,* borrower and geographic characteristics under the lending test), this applies to the number of loans in a major product line in an assessment area. For other performance criteria (*e.g.,* the percentage of loans located in a bank's assessment area(s)), this would apply to the number of loans in a product line overall.

used samples of 20 loans in the past with meaningful results. This provision would allow the agencies to consider a smaller number of loans with the understanding that the resulting analysis may have less precision and a larger risk of random variation (*e.g.,* that one loan will cause a large change in the analysis). In addition, in the agencies' experience there is a point at which the number of loans is small enough that it does not support a meaningful analysis. For example, if a bank only made five home mortgage loans in an assessment area and one of those loans was to an LMI individual, concluding on the fact that 20 percent of the bank's home mortgage loans went to LMI individuals would not be meaningful given that 20 percent is a reference to a single loan. For that reason, the agencies are also proposing a provision that would explain how they will conclude on a bank's lending performance when a meaningful assessment of the bank's loan data cannot be performed.

If there is insufficient loan data to perform a meaningful assessment of a bank's lending performance for a particular performance criterion, the agencies are proposing that they will assess the bank's lending performance based on other performance criteria for which a meaningful assessment may be conducted or consideration of applicable performance context factors described in § ____.21(b) that inform the bank's lending activity in the assessment area. This provision is intended to allow the agencies to conclude on a bank's lending test performance by: (1) only considering those performance criteria that the agencies can conduct a meaningful assessment of using the available lending data, such as the loan-to-deposit ratio and the in-out ratio; (2) only considering the performance context factors that inform the bank's lending activity in the applicable assessment area; or (3) a combination of both the performance criterion with meaningful assessments and applicable performance context.

The agencies believe that the proposed meaningful analysis provision will improve consistency in the application of the applicable performance tests and standards while still allowing for flexibility to account for bank-specific and assessment area-specific factors that influence a bank's retail lending activity. The agencies believe this provision also supports the proposed major product lines approaches (Option 1 and Option 2), by explaining how the agencies will consider variations in lending across those product lines at the assessment area level. Taken together, the agencies believe that the proposed meaningful analysis provision is consistent with the agencies supervisory experience for the best practices in assessing lending performance while clarifying consideration of retail lending under the current rules and new aspects of the proposal.

Range of retail services. Under the current rules, the agencies assess a bank's retail banking services as part of the service test in § ____.24.[118] Specifically, the service test includes a performance criterion that considers ''[t]he range of services provided in low-, moderate-, middle-, and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies.'' [119] Under the current Interagency Questions and Answers, the agencies have explained that this examination includes ''services generally offered at [the bank's] branches, including their hours of operation; available loan and deposit products; transaction fees, as well as descriptions, where applicable, of material differences in the availability or cost of services at particular branches.'' [120] The agencies also consider additional information provided by the bank, including ''data regarding the costs and features of loan and deposit products.'' [121]

Under the proposal, the agencies would modify the retail banking performance criterion in current § ____.24(d)(4) (proposed § ____.24(c)(4)) by adding the term ''credit'' to specify that the agencies would consider only the ''[t]he range of *credit* services provided in low-, moderate-, middle-, and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies.'' (emphasis added). In the agencies' view, this limitation is appropriate in light of the agencies' statutory mandate to assess a bank's ''record of meeting the credit needs of its entire community.'' The proposed rules would supersede the Interagency Questions and Answers to the extent they provide that the agencies' evaluation of a bank's retail banking services includes deposit products.

Responsiveness. The proposal would add a new provision addressing the qualitative factors considered in assessing a bank's CRA performance. Specifically, the proposal would codify and clarify certain guidance in the Interagency Questions and Answers in proposed § ____.14, Responsiveness. Under the current rules, responsiveness is referenced in several of the performance criteria used to assess a bank's CD activities; however, the current regulatory framework is qualitative and responsiveness and has been incorporated into the consideration of the retail components of the performance tests and standards.[122] For example, in assessing retail lending activities the agencies have considered a bank's use of flexible lending products to meet community credit needs.

The agencies considered how qualitative considerations have factored into their assessment of bank's CRA performance historically and are clarifying in the proposal that responsiveness is a factor considered with respect to both retail and CD activities. As such, the performance tests and standards were revised to include a new or amended, as applicable, performance criterion regarding the responsiveness of the bank's retail loans and community development loans in meeting community credit needs. Section IV.C of this **SUPPLEMENTARY INFORMATION** provides further discussion of proposed § ____.14 and related provisions, particularly as those provisions relate to CD activities.

Performance context. As part of their current assessment of CRA performance, the agencies consider certain performance context factors in applying the applicable performance tests and standards and also when considering whether to approve a proposed strategic plan.[123] The proposal would largely retain the current rules' performance context provision in § ____.21(b). The agencies are proposing, however, to add a new performance context factor to proposed § ____.21(b). The new performance context factor would provide that the agencies would consider a bank's CD activities and retail banking services, to the extent not considered under another performance test. The proposed performance context factor would codify how the agencies have applied certain provisions of the current rules.

In practice, the agencies have considered ''other lending-related activities'' described in current

[118] *See* current 12 CFR ____.24(d). Under the current rules, retail banking services tailored to the needs of LMI individuals may be considered as CD services in certain circumstances. *See, e.g.,* Q&A § ____.26(c)(3)—1 (consideration of retail banking services for intermediate small banks).

[119] Current 12 CFR ____.24(d)(4).

[120] Q&A § ____.24(d)(4)—1.

[121] *Id.*

[122] *See, e.g.,* current 12 CFR ____.25 and appendix A, paragraph (b)(1); Q&As §§ ____.22(a)—1 and ____.22(b)(5)—1.

[123] *See* current 12 CFR ____.21(b).

§ ____.26(b) as performance context under the small bank lending test. The agencies are proposing to include the new performance context factor in proposed § ____.21(b) to better reflect how these activities are considered in CRA examinations. Other lending-related activities inform the agencies' assessment of the retail and CD lending activities considered directly under the performance criteria in the lending test by providing context that explains a bank's lending capacity. The agencies also propose conforming revisions to remove the current references to ''other lending-related activities'' included in § ____.26(b).

Small and intermediate bank performance standards. The agencies are proposing to remove the consideration of a small or intermediate bank's record of taking action in response to written complaints about its performance in helping to meet the credit needs in its assessment areas (current § ____.26(b)(5)). It is the agencies' view that this factor would be duplicative of considerations contemplated with respect to bank performance under new provisions in the proposal. In particular, proposed clarification regarding responsiveness (proposed § ____.14), a factor that would apply across all bank performance tests, renders this aspect of small banks' performance standards redundant.

Intermediate bank ratings. To better focus CRA examinations on lending performance for intermediate banks and to improve flexibility, the agencies are also proposing to modify a limitation in the current rules for when an intermediate bank (currently, an intermediate small bank) may receive an overall rating of ''satisfactory.'' Specifically, the agencies are proposing an amendment to paragraph (d)(3) of appendix A regarding ratings. In its current form, paragraph (d)(3) of appendix A requires an intermediate small bank to receive a rating of at least ''satisfactory'' on both the lending test and the CD test to receive an overall rating of ''satisfactory.'' The agencies are proposing a change so that intermediate banks must receive a rating of at least ''satisfactory'' on only the lending test to receive an overall rating of ''satisfactory.''

In comparison to the current approach in appendix A, the proposed amendment is intended to allow stronger performance on the lending test to compensate for weaker performance on the CD test, thereby emphasizing lending performance consistent with the CRA's statutory focus on credit needs. Since intermediate banks do not know the exact performance rating they will receive before it is assigned, the agencies do not believe that it will create a strong incentive for banks to intentionally scale back their performance on either the lending test or the CD test. Instead, the agencies believe that the more likely outcome is that banks will have improved incentives to perform better on both tests because there is no longer an artificial constraint that prevents banks from receiving an overall rating of ''satisfactory'' without a ''satisfactory'' rating on both tests.

Other changes to performance tests. The agencies are proposing several other clarifying changes regarding performances tests and appendix A—Ratings. Specifically, the agencies are proposing conforming edits throughout appendix A to account for other proposed changes to the regulations (*e.g.,* to address changes related to ''responsiveness'' and including considerations like innovativeness and flexibility within the consideration of responsiveness). The agencies are also proposing to remove factors that require specific consideration of serving credit needs of highly disadvantaged areas and low-income people. Highly disadvantaged areas is not a defined term and the agencies believe this factor is already considered in factors related to borrower and geographic characteristics.

C. CD Activities

Under the current rules, the agencies consider CD activities (*i.e.,* CD loans, qualifying investments, and CD services) across several tests: the lending, investment, and service tests for large banks; the CD test for wholesale or limited purpose banks; the CD test for intermediate small banks; and for banks evaluated using strategic plans to the extent a bank's plan includes goals for CD activities. Consideration of CD activities has been a component of the agencies' CRA rules since they were first promulgated in 1978.[124] Under the proposal, the agencies would revise the definitions of CD loan, qualifying investment, and CD service to improve consistency and clarity in how CD activities are treated across tests.

The agencies would add a new definition of ''community development grant.'' As explained in greater detail below, grants and donations (including in-kind donations) are currently included within the definition of ''qualifying investment.'' Under the new definition, however, the agencies would restrict grants and donations that may be considered for CRA credit to those that a bank can demonstrate will be directly used by the recipient to deploy the funds to meet community credit needs. For large banks, the proposed rules would further require that the grant or donation be directed to a recipient whose indirect costs for administering the grant or donation would not exceed 15 percent. In the agencies' experience, inefficient use of funds is most common in grants and donations, particularly because middlemen are more frequently relied upon to indirectly deploy funds. This results in increased indirect costs and less funds directly serving LMI individuals, LMI census tracts, small businesses, and small farms.

As described below, the agencies would also add a new section to their CRA rules to identify when a CD activity would be considered responsive, a qualitative factor under applicable tests, and would make other revisions to standardize the discussion of qualitative factors in each test.

CD loans. Under the current rules, a CD loan is a loan that has as its primary purpose community development and, except in the case of a wholesale or limited purpose bank, has not been reported or collected by the bank for its assessment as a retail loan evaluated under CRA and benefits the bank's assessments areas or the broader statewide or regional area. The proposal would generally retain this definition with certain modifications. First, the definition would clarify that a CD loan also includes a legally-binding commitment to lend. In the CRA context, the agencies regard a legally binding commitment to lend as the functional equivalent of a loan because the bank is bound to provide the funding, which limits the bank's resources available for other activities. Second, the revised definition clarifies that a CD loan must not have been considered by the appropriate Federal financial supervisory agency as a part of the bank's assessment as a home mortgage, small business, small farm, or consumer loan unless the loan is for a multifamily dwelling or for a low-cost education loan. This revision would have two effects: (1) it would allow a low-cost education loan to be considered as both a retail loan and a CD loan, akin to multifamily affordable housing under current guidance [125] and

[124] *See* 43 FR at 47148 (evaluating the bank's participation, including investments, in local CD and redevelopment projects or programs in § ____.7(h) of the 1978 CRA rule).

[125] *See* current 12 CFR ____.12(h)(2)(i); Q&A § ____.42(b)(2)–2.

(2) it would mean that some lending that is a retail loan but not included in a major product line could be considered as a CD loan, to the extent it otherwise met the CD definition. This revision would extend to all banks a modified form of the treatment provided to intermediate small banks under the Interagency Questions and Answers.[126] For example, if small farm lending is not considered one of a bank's major product lines, certain small farm loans may qualify as a CD loan under the economic development category of community development.[127] Finally, the definition in the proposal provides that, for all banks, a CD loan would need to benefit the bank's assessment area(s), except as provided in proposed § ____.13(e). This revision would expand geographic consideration of CD activities in some instances, as explained in the CD activities outside assessment area(s) discussion in section IV.E of this **SUPPLEMENTARY INFORMATION.**

In addition, the agencies are proposing a new § ____.21(f) to clarify that, similar to CD investments, the agencies will consider prior period CD loans. This provision would create parity with the current treatment of CD investments. The agencies believe that this provision appropriately encourages longer-term lending. By considering the amount of prior period CD loans, as well as CD investments, in addition to the new originations and purchases, the proposal would provide an incentive for banks to extend the length and type of financing needed for a project. The agencies invite comment on whether a prior period CD loan or CD investment should receive consideration based on whether it is on a bank's balance sheet at the (1) end of the year, (2) end of the evaluation period, or (3) an alternative. The agencies also invite comment on whether consideration for CD loans should be limited to one time per evaluation period even if the CD loan is renewed multiple times during an evaluation period so that renewal decisions and loan terms are not influenced by their consideration under this rule.

Request for Feedback

Question 8: Does annual or evaluation period-based consideration better serve the goal of encouraging banks to meet the credit needs of their communities better than the other?

CD investments. Under the current rule, a qualified investment is a lawful investment, deposit, membership share, or grant that has community developments as its primary purpose.[128] Under the proposal, the agencies would change the term ''qualified investment'' to ''community development investment'' for clarity and to create alignment with CD loans and CD services.

The agencies would also redefine the term ''community development investment'' to mean a security or a deposit or membership share in a financial institution, including a legally-binding commitment to invest, that has as its primary purpose CD; is permissible under applicable laws and rules; and, except as specified in § ____.13(e), benefits the bank's assessment area(s). The agencies intend the term ''security'' to provide greater clarity regarding what the agencies mean by an ''investment'' and would broadly include equity investments as well as debt instruments like bonds.[129] The term would not include loans, which are considered for CRA purposes under applicable lending tests. The proposed definition would also clarify that, to qualify as an investment, a deposit or membership share would need to be in a financial institution, which is consistent with the agencies' intended meaning of these terms under the current rule.[130] For example, membership shares in a low-income credit union may qualify as a CD investment. This is distinct from membership fees in a community group, which would not qualify. The proposal would remove grants from the scope of the term CD investment and would add a new ''community development grant'' definition, discussed below.

The agencies would also replace the qualifier that a CD investment be ''lawful'' with the requirement that an investment be permissible under applicable laws and rules. This requirement is necessary because the CRA does not provide a separate source of investment authority for banks. As described regarding CD loans, the cross reference to § ____.13(e) provides for expanded geographic consideration of CD activities in some instances.

CD grants. Under the current rule, qualified investments include both structured equity and debt investments, such as state and municipal affordable housing bonds and certain mortgage-backed securities, and unstructured activities, such as grants and donations to non-profit entities. In their supervisory experience, the agencies have found that the latter type of activities may be susceptible to rent extraction, in which entities divert funds away from local communities, including LMI individuals, small businesses, and small farms. This may be particularly true when banks provide indirect grants (*i.e.,* grants to organizations that do not directly provide services to local communities but provide financing to other non-profit organizations) because such grants may increase the total amount of funds that go to aggregate overhead costs and thus are not available to contribute directly to community development projects or initiatives.

Accordingly, the proposal would narrow the circumstances in which banks may receive CRA consideration for grants or donations to ensure that a grant or donation would directly benefit the bank's assessment area(s). Specifically, the agencies are proposing to add a new ''community development grant'' definition to proposed § ____.12 and define the term to mean a grant or donation that: (1) will be directly used by the recipient for a program, project, or initiative with a primary purpose of community development; (2) except as specified in § ____.13(e), benefits the bank's assessment area(s); and (3) for a large bank, is provided to a recipient whose indirect costs for administering the grant or donation do not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR part 200, or a comparable standard. The agencies believe this third requirement will help ensure the vast majority of community development grant dollars are used to benefit the large bank's assessment area, rather than the organization administering the community development program, project, or initiative. The agencies also believe this requirement would better prevent rent extraction and ensure the vast majority of grant funds are provided directly to the large bank's local communities.

The agencies are proposing a 15 percent limit on indirect costs based on guidance from the Office of Management and Budget (OMB) and propose to calculate those costs using the OMB's Uniform Guidance for

[126] *See* Q&A § ____.12(h)–3.

[127] The agencies recognize that if loans currently considered as retail loans were able to be considered CD loans then banks would need to provide additional documentation during a CRA examination to demonstrate that the loans qualify as CD loans. Additionally, large banks would need to collect and maintain data for these CD loans as explained in proposed § ____.42(a)(2) and would need to report data for these loans as explained in proposed § ____.42(b)(2).

[128] *See* current 12 CFR ____.12(t).

[129] *See* 15 U.S.C. 77b(a)(1) and 78c(a)(10) (defining ''security'' for the Securities Act of 1933 and the Securities Exchange Act of 1934).

[130] *See* 60 FR at 22161.

Federal Awards, which is an established standard that is applied to recipients of Federal grants and awards. Under the proposal, banks could provide grants and donations to entities that directly engage in affordable housing, civic assistance, economic development, or revitalization and stabilization, as discussed in section IV.D of this **SUPPLEMENTARY INFORMATION**. For example, a bank could receive CRA consideration for a grant or donation to a non-profit organization that develops and builds owner-occupied housing for LMI individuals or provides disaster relief services in a designated disaster area. A bank could also receive CRA consideration for a grant or donation to a local non-profit organization that provides technical assistance to small businesses or that provides financial literacy programming to the community. A grant or donation to a non-profit organization made by a large bank to a recipient whose indirect costs to administer the grant or donation exceeds 15 percent of the grant or donation dollar amount, however, would not qualify for CRA consideration.[131]

Under the proposal, a bank could demonstrate that a grant or donation would be directly used for a program, project, or initiative with a primary purpose of CD consistent with current guidance regarding primary purpose, discussed below. As discussed in section IV.G of this **SUPPLEMENTARY INFORMATION**, a large bank would have additional requirements to demonstrate that the definition is satisfied, specifically the recipient's written commitment to use the funds to provide specific qualifying activities in the bank's assessment area(s); the recipient's written attestation that their indirect costs for administering the grant or donation will not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR part 200, or a comparable standard; and documentation provided by the recipient supporting the attestation, including IRS Form 990 (Return for Tax Exempt Organizations) with annual operating and program budgets. In the agencies' view, these guardrails are important to prevent banks from receiving CRA consideration for grants and donations that do not sufficiently benefit the bank's local community.

The agencies invite comment on the new proposed definition for community development grants. In particular, the agencies request comment on whether the proposed use of the indirect cost rate from the Uniform Guidance for Federal Awards is an appropriate standard for considering a CD grant recipient's indirect costs associated with grant administration.

Request for Feedback

Question 9: Are there alternative standards the agencies should consider relying on in the context of limiting indirect costs for CD grants? Do the proposed guardrails do enough to ensure the majority of grant and donation funds go directly towards benefiting the bank's assessment area(s)?

Question 10: As an alternative, should the agencies eliminate all grants and donations from CRA consideration?

CD services. Under the current rule, a CD service means a service that has CD as its primary purpose, is related to the provision of financial services; and has not been considered in the evaluation of the bank's retail banking services under § ____.24(d). Generally, the agencies would retain this definition, with several modifications for clarity. Specifically, consistent with current agency practices, the proposal would provide that a CD service is a volunteer service performed by a bank employee representing the bank or savings association. With this clarification that a CD service is a ''volunteer service,'' the requirement that the CD service has not been considered in the evaluation of the bank's retail banking services is not necessary because there would not be any overlap. This is not intended as a substantive change. The proposed definition would also add ''or the employee's area of expertise at the bank'' to the requirement that a CD service relate to the provision of financial services, which would incorporate guidance found in the Interagency Questions and Answers.[132] This addition is intended to capture instances where bank employees utilize their expertise, whether related to the provision of financial services or not, in providing a CD service. In addition, as with CD loans and CD investments, the proposed definition would provide that the CD service must, except as specified in § ____.13(e), benefit the bank's assessment area(s).

Definition of CD activity. The proposal would add a definition of ''community development activity,'' that would include ''a community development grant, community development investment, community development loan, or community development service.'' The agencies intend to use this definition throughout their CRA rules as a streamlined reference for the collective discussion of CD grants, investments, loans, and services.

Primary purpose. Generally, all CD activities are required to have a primary purpose of community development, in addition to other requirements in the applicable definition of the CD activity.[133] Under the proposal, the agencies expect to continue to interpret the term ''primary purpose'' consistent with current guidance. Generally, CD loans, CD investments, CD grants or CD services have community development as their primary purpose when they are designed for the express purpose of affordable housing, civic assistance, economic development, or revitalization and stabilization. To determine whether an activity is designed for an express CD purpose, the agencies apply one of two approaches. First, if a majority of the dollars or beneficiaries of the activity are identifiable to one or more of the CD purposes in the ''community development'' definition, then the activity will be considered to possess the requisite primary purpose. Alternatively, where the measurable portion of any benefit bestowed or dollars applied to the CD purpose is less than a majority of the entire activity's benefits or dollar value (or cannot be specifically measured), then the activity may still be considered to possess the requisite primary purpose, and the institution may receive CRA consideration for the entire activity, if: (1) the express, bona fide intent of the activity, as stated, for example, in a prospectus, loan proposal, or community action plan, is primarily one or more CD purposes in the definition of ''community development;'' (2) the activity is specifically structured (given any relevant market or legal constraints or performance context factors) to achieve the expressed CD purpose; and

[131] OMB guidance guarantees a de minimis rate for indirect costs of 15 percent to ''allow for a more reasonable and realistic recovery of indirect costs, particularly for new or inexperienced organizations that may not have the capacity to undergo a formal rate negotiation but still deserve to be fully compensated for their overhead costs.'' *See* 89 FR 30046, 30093 (Apr. 22, 2024); *see generally* 2 CFR part 200, subpart E.

[132] *See* Q&A § ____.12(i)—3.

[133] For example, as discussed above, in addition to being directly used by the recipient for a program, project, or initiative that has as its primary purpose of community development, a grant for a large bank must be provided to a recipient whose indirect costs for administering the grant or donation do not exceed 15 percent to qualify as a CD grant. Also as discussed above, in addition to having as its primary purpose community development, a loan must not have been considered as a retail loan to qualify as a CD loan. Finally, as discussed above, in addition to having as its primary purpose community development, a service must be related to the provision of financial services or the employee's area of expertise at the bank to qualify as a CD service.

(3) the activity accomplishes, or is reasonably certain to accomplish, the CD purpose involved.[134] The agencies invite comment on whether the agencies should codify a definition of ''primary purpose.''

Request for Feedback

Question 11: Should the agencies provide guidance regarding how primary purpose would be determined for each CD purpose in the definition of ''community development''?

Qualitative factors. Under the current rule, the applicable performance tests and standards include certain qualitative factors that enhance the extent to which a particular CD activity factors into a bank's assigned ratings. Consideration of the qualitative aspects of a bank's CRA performance recognizes that CD activities sometimes require special expertise or effort on the part of the institution or provide a benefit to the community that would not otherwise be made available. These qualitative factors necessarily rely on examiner judgment and are informed by a bank's performance context. The qualitative factors in the current rules are complexity, innovativeness, flexibility, and responsiveness. The current rules do not define these terms. Moreover, the agencies apply these qualitative factors inconsistently (*i.e.,* different performance tests and the performance criterion within those tests use different qualitative factors without clear differentiation as to why one qualitative factor applies and not another and examiners apply varying levels of consideration to the qualitative aspects of a bank's performance).

Over time, banks, community groups, and others have provided feedback on the challenges presented by the lack of clarity in the meaning of these terms, when they apply, how they differ, and the potential impact on a bank's ratings. To provide clarity, the agencies have issued several Interagency Questions & Answers to rationalize the application of these qualitative factors [135] and clarify their meaning. In general, a bank's performance under the qualitative factors may augment the consideration given to a bank's performance under the criteria that consider quantitative factors, such as the number and dollar amount of CD activities, resulting in a higher level of performance and ratings. Complex, innovative, and flexible activities are not required to obtain a specific rating but can enhance a bank's CRA performance because these types of activities are considered more responsive to community credit needs. Despite efforts to explain the agencies' consideration of qualitative factors in the context of CRA examinations, particularly in the 2016 revisions to the Interagency Questions & Answers, questions related to these factors persist.

The agencies are proposing to clarify these concepts by: (1) applying uniform terminology across the performance tests and standards by explaining the concept of responsiveness in a new provision of the rule; and (2) clarifying the meaning of complexity. Specifically, the proposal would add a provision addressing responsiveness consistent with the guidance in the Interagency Questions & Answers.[136] The concept of ''responsiveness'' would encompass all of the qualitative factors examiners consider as a part of an assessment of a banks' CRA performance, including impact, innovativeness, flexibility, and complexity. With respect to ''complexity,'' the agencies are proposing to add a definition to their rules to both explain the qualitative factor and enhance the rule's focus on credit needs. The agencies are not proposing to define ''innovativeness'' and ''flexibility'' because these terms have not caused the same level of confusion as complexity and the agencies believe that the Interagency Questions & Answers provide sufficient guidance.[137] Under the proposal, the agencies' consideration of qualitative factors in assessing a bank's CRA performance would continue to function as a potential enhancement to the bank's CD performance with respect to quantitative considerations.

The agencies are proposing to largely codify the guidance contained in the Interagency Questions & Answers.[138] The proposed responsiveness provision would explain that when applying the applicable performance tests or standards the agencies assess the responsiveness of a bank's CD activities in meeting CD needs. The proposed section would also provide the factors that the agencies consider in assessing the responsiveness of a CD activity. The factors would include: (1) the innovativeness,[139] flexibility,[140] complexity, or impact [141] of the CD activity, as applicable; and (2) the quality of a bank's CD activities as demonstrated, for example, by the success of the CD activity in meeting an identified credit or CD need or opportunity. In applying this provision, the agencies would consider the bank's CD activities individually and in the aggregate, as appropriate.

As noted above, the agencies are also proposing to define the term ''complexity'' to provide clarity and enhance the rule's focus on credit needs. Under the proposal, the term ''complexity'' would have two components, both of which would have a focus on lending. The first component, applicable to CD investments, grants, and services, would provide that complexity means the extent to which an activity is a necessary or otherwise beneficial component of a multicomponent financing transaction involving a loan. This component of the definition excludes CD loans, which are addressed under the second component of the definition. The second component, applicable to CD loans and CD investments that are the functional equivalent of a loan would consider the extent to which the loan or investment otherwise requires specialized expertise in order to consummate the transaction. The proposal would also provide as an example of what this component of the definition would mean ''a community development activity that is not routinely provided by private investors, such as an activity that relies on public subsidies.'' The agencies included this example in the proposed definition to provide clarity and incorporate an existing component of the current performance tests that the revisions to the qualitative factors would otherwise have eliminated.

The proposed ''complexity'' definition would capture the vast majority of the types of CD activities the agencies have considered to be complex under the current rules while also enhancing the rule's focus on lending. Under the proposal, if an examiner were to determine that a bank's CD activities demonstrate complexity, those activities would be considered responsive and thus receive greater weight in the CRA performance evaluation. Nonetheless, the agencies acknowledge that the introduction of the proposed ''complexity'' definition may result in

[134] *See* Q&A § ____.12(h)–8.

[135] *See, e.g.,* Q&As §§ ____.21(a)—2, ____.21(a)—3, and ____.21(a)–4.

[136] *See* Q&A § ____.21(a)—3.

[137] *See, e.g.,* Q&As §§ ____.21(a)—4 and ____.22(b)(5)—1.

[138] *See* Q&A § ____.21(a)—3.

[139] The innovativeness of a bank's CD activities would continue to be considered consistent with the guidance in Q&A § ____.21(a)–4.

[140] In evaluating the flexibility of a bank's CD activities, the agencies consider the terms and conditions of a CD activity, as applicable, and the extent to which any flexible terms or conditions augment the success and effectiveness of the bank's CD activity in meeting credit and CD needs. *See, e.g.,* Q&A § ____.22(b)(5)—1.

[141] In considering the impact of a CD activity, the agencies consider not only the size of the activity but also the benefits received by a community. *See, e.g.,* Q&A § ____.24(e)—2.

certain CD activities that would be considered complex under the current rules no longer meeting the complexity standard under the proposed definition. Some activities previously considered complex may, depending on the facts and circumstances, still be considered more responsive to community credit needs if they are innovative, flexible, or impactful. By rationalizing the use of qualitative factors across the tests through the proposed responsiveness provision, the agencies would be better able to determine if an activity is responsive even if the activity is not complex.

The agencies invite comment on the proposed approach to the consideration of qualitative factors in assessing a bank's CD activities and the impact on a bank's CRA performance.

Request for Feedback

Question 12: Does the proposed definition of ''complexity'' enhance the rule's focus on meeting community credit needs by providing greater consideration to CD investments, grants, and services that are linked to CD lending activities or are otherwise the functional equivalent of loans?

Question 13: Should the first component of the ''complexity'' definition apply to loans and activities that are the functional equivalent of loans?

Question 14: Are there additional opportunities for the agencies to further enhance the rule's focus on lending, such as by requiring that CD investments and CD services be complex? If so, should complex CD activities be a requirement for all banks or only banks that exceed a certain asset size, such as banks that would be large banks under the proposal?

Question 15: Should complex CD activities be considered more responsive than innovative, flexible, or impactful CD activities?

Question 16: Should the agencies provide a definition of innovativeness or flexibility?

a. If so, should the definition of innovativeness codify the guidance in the Interagency Questions & Answers,[142] which applies a varying standard based on the size and sophistication of the bank, or should the agencies consider other definitions or concepts of innovativeness?

b. If the agencies codified the guidance from the Interagency Questions & Answers, should the innovativeness standard be applied uniformly regardless of a bank's size?

c. If the agencies define flexibility, should the agencies define it based on the terms and conditions of the activity, the way it enhances access to credit, or based on another concept?

Question 17: Should the rules limit the concept of responsiveness to consideration in the evaluation of a bank's CD activities?

D. Community Development Definition

As discussed above, under the current rules, the agencies' assessment of a bank's record of meeting community credit needs includes consideration of CD activities (*i.e.,* loans, investments (which include grants), and services that have CD as their primary purpose). The current definition of ''community development'' in § ____.12 is comprised of four broad principles-based categories: (1) affordable housing, (2) community services, (3) economic development, and (4) revitalization and stabilization. To provide guidance, the agencies have issued several Q&As that clarify the CD definition and provide certain examples of qualifying CD activities.[143] The guidance, however, has not provided sufficient clarity for banks to understand whether certain activities qualify for consideration under the principles-based CD definition. For banks and other interested parties, the lack of clarity with respect to the meaning of community development has been one of the most prominent and consistent concerns with the current rules.

To address the issues with the current CD definition, the agencies are proposing to maintain the four categories of ''community development'' but further define each category to make the CD definition clearer and more objective. The proposed definition would codify several aspects of the agencies' guidance currently provided in the Interagency Questions and Answers. The proposed definition would also provide certain targeted expansions to the scope of the current criteria based on feedback the agencies have received about other areas of community need that are consistent with the agencies' view of community development, explained below. The proposed revisions to the four categories of community development are discussed below.

Affordable housing. Under the current rules, the CD definition includes as a category ''affordable housing (including multifamily rental housing) for LMI individuals.'' [144] The agencies have stated in the Interagency Questions and Answers that LMI individuals must benefit or be likely to benefit from the housing in order for an activity to qualify and meet the existing primary purpose standard.[145] Currently, the agencies consider affordable housing to include activities that support both single-family (1–4 family units) and multifamily (more than 4-family units) affordable housing. Single-family home mortgage loans are generally considered as part of the lending test; however, other activities that are not home mortgage loans and that support single-family affordable housing may be considered as community development.[146] Multifamily loans are considered separately and may qualify for both retail lending and community development consideration if they meet the definition of affordable housing.[147]

The proposal would clarify that multifamily housing qualifies under two different categories of affordable housing: subsidized or unsubsidized housing. Housing that is financed or supported by a government affordable housing program or a government set-aside is considered subsidized affordable housing. Subsidized affordable housing is generally viewed as qualifying under affordable housing criteria if the government program or set-aside [148] has a stated purpose of providing affordable housing to LMI individuals, thereby satisfying the Interagency Questions and Answers guidance that LMI individuals benefit, or are likely to benefit, from the housing.[149] The proposed rules would clarify that subsidized housing may have a mixed-income component, in which case the pro rata dollar amount of the total activity would be based on the percentage of units set aside for affordable housing to LMI individuals.

Multifamily housing with affordable rents, but that is not financed or supported by a government affordable housing program or a government set-aside, is generally considered unsubsidized affordable housing, and is also referred to as ''naturally occurring affordable housing.'' Although banks may receive consideration for activities that support naturally occurring

[142] Q&A § ____.21(a)—4.

[143] *See, e.g.,* Q&As §§ ____.12(g)—1, ____.12(g)—2, ____.12(g)(2)—1.

[144] Current 12 CFR ____.12(g)(1).

[145] *See* Q&A § ____.12(g)(1)—1.

[146] Single-family home mortgage loans may be included as CD under the intermediate small bank methodology. *See* Q&A § ____.12(h)—3.

[147] *See* Q&A § ____.42(b)(2)—2.

[148] Under the current rules and Interagency Questions and Answers, affordable housing that is in connection with a government set-aside is eligible for partial consideration based on the portion of the activity that helps to provide affordable housing to low- or moderate-income individuals.

[149] *See* Q&A § ____.12(g)(1)—1.

affordable housing under the current rules, the rules do not expressly reference these activities, and the Interagency Questions and Answers are not sufficiently clear about whether they qualify as community development or the standards for demonstrating that a property is naturally occurring affordable housing. The proposed rules would clarify that naturally occurring affordable housing can qualify as affordable housing if the rents are affordable to LMI individuals, and if it is clear that LMI individuals benefit, or are likely to benefit, from this housing. As discussed below, the proposal would provide a standard for determining the benefit or likely benefit to LMI individuals. Further, the proposal would also clarify that naturally occurring affordable housing in high-cost areas can qualify as affordable housing if the rents are affordable to low-, moderate-, or middle-income individuals, and if it is clear that low-, moderate-, and middle-income individuals benefit, or are likely to benefit, from this housing. This component of the proposed affordable housing definition would codify guidance in the Interagency Questions and Answers providing that the agencies may consider housing to middle-income individuals in high-cost areas.[150] Although not defined in the Interagency Questions and Answers, the agencies have considered as a high-cost area any county in which the percentage of households who have monthly housing costs greater than 30 percent of their monthly income is greater than 40 percent.[151] This housing cost burden standard is derived from certain U.S. Bureau of the Census data regarding cost-burdened households.[152] The agency seeks comment on whether the definition of affordable housing should include affordable housing for middle-income individuals residing in high-cost areas. High-cost areas generally have an inadequate supply of housing that is affordable for middle-income individuals and families and expanding the definition would provide additional flexibility for banks to identify opportunities to address community needs. However, the agencies recognize that broadening the definition could reduce the emphasis on activities that serve LMI individuals more directly and areas where the need is more acute.

Under the proposal, consideration for naturally occurring affordable housing would continue to include affordable housing activities conducted in collaboration with a non-profit organization, even though non-profits are not expressly referenced. The agencies seek comment on whether it is sufficiently clear that affordable housing activities in partnership with non-profit organizations are included in the meaning of affordable housing or whether these partnership activities need to be expressly addressed in the rule.

The agencies are proposing the changes to clarify the treatment of unsubsidized affordable housing. Clarifying the standards for unsubsidized affordable housing in the CD definition would help encourage banks to engage in efforts to preserve and add to the nation's affordable housing stock. The agencies invite comment on the proposal to clarify that naturally occurring affordable housing would qualify as community development and, in particular, on the affordability standard included in the proposed rules, discussed below.

Under the proposal, affordable housing would include activities that finance or support owner-occupied housing purchased, refinanced, or improved by LMI individuals or families, except for home mortgage loans provided directly to LMI individuals or families. This aspect of the affordable housing criteria would encompass, for example, an investment provided to a non-profit organization that constructs or rehabilitates affordable housing for purchase by LMI individuals. Additionally, consistent with the current rules, this criterion would capture mortgage-backed securities (MBS) while excluding retail home mortgage loans.

Under the current rules, there is no specified standard for determining when a property or unit is considered affordable to LMI individuals. Although alternatives exist,[153] the agencies propose adopting the approach used by banks and examiners to calculate an affordable rent based on what is affordable to a moderate-income renter, assuming that 30 percent of the renter's income is spent on rent. In high-cost areas, the affordable rent calculation would be based on what is affordable to a middle-income renter, assuming that 30 percent of the renter's income is spent on rent. The agencies believe this approach would provide a clear and consistent standard for affordability. The agencies seek feedback on whether an alternative standard for affordable rent should be considered.

Request for Feedback

Question 18: Should the definition of affordable housing be expanded to include rental housing for middle-income individuals in high-cost areas as proposed? For example, should banks be incentivized to support affordable workforce housing that would allow public servants, such as teachers, firefighters, and police officers, to live in the communities they serve? [154]

Question 19: Should the agencies clarify what constitutes a high-cost area, for example by providing a definition? If so, should the definition be based on the standard for housing cost-burdened households referenced above? Is the 40 percent threshold appropriate or should it be set higher to ensure that the definition meaningfully captures counties where middle-income families or households are housing cost burdened, for instance should it be set at 50 percent? Are there other definitions of ''high-cost areas'' that the agencies should consider?

Question 20: Should the agencies incorporate a consideration of the cost of providing housing, such as the High Opportunity Area defined and used by the Federal Housing Finance Agency,[155] either as a component of responsiveness factors or as a separate category for affordable housing, to encourage the creation or preservation of affordable housing in areas where housing is difficult to develop?

Question 21: Should naturally occurring affordable housing

[150] *See* Q&A § ____.12(g)—3.

[151] Because there is no defined standard for identifying high-cost areas, the agencies have used different methodologies in applying the guidance in the Interagency Questions and Answers. However, since issuing the 2020 CRA rule, the OCC has generally considered as a high-cost area any county in which the percentage of households who have monthly housing costs greater than 30 percent of their monthly income is greater than 40 percent. This standard is based on agency practice, analysis conducted during the 2020 rulemaking process, and consideration of the population thresholds for when housing cost burden is likely to impact middle-income individuals. The 40 percent threshold is set above the national LMI cutoff and, therefore, would capture areas where cost burdened extends beyond the LMI population, indicating that middle-income households are also experiencing housing cost pressure. *See* U.S. Census Bureau, ''2016–2020 American Community Survey 5-Year Estimates'' (2022), *https://data.census.gov* (American Community Survey 2016–2020 5-year estimates indicate that approximately 39 percent of families nationally are low- or moderate-income).

[152] *See, e.g.,* U.S. Census Bureau, ''Nearly Half of Renter Households Are Cost-Burdened, Proportions Differ by Race'' (Sept. 12, 2024), *https://www.census.gov/newsroom/press-releases/2024/renter-households-cost-burdened-race.html.*

[153] *See, e.g.,* U.S. Department of Housing and Urban Development ''Fair Market Rent (FMR),'' *https://www.hudexchange.info/homelessness-assistance/coc-esg-virtual-binders/coc-leasing-rental-assistance-requirements/fmr/.*

[154] *See* Congressional Research Service, ''Workforce or Middle-Income Housing: Analysis and Policy Considerations'' (Mar. 25, 2026), *https://www.congress.gov/crs-product/R48886.*

[155] *See* 12 CFR 1282.1 (defining a ''high opportunity area'').

partnerships with non-profit organizations be exempt from the requirement that median rents not exceed 30 percent of 80 percent of the area median income?

Question 22: Should naturally occurring affordable housing partnerships with non-profit organizations be exempt from the requirement that median rents not exceed 30 percent of 120 percent of the area median income in high-cost areas?

Question 23: Should the rules modify the definition of affordable housing such that home mortgage loans provided directly to LMI individuals or families would qualify as CD loans if not considered as a major product line for the bank?

Civic assistance. The current CD definition includes ''community services targeted to LMI individuals.'' The current rules do not further define community services, but the Interagency Questions and Answers include examples of activities that qualify for consideration as community services, such as programs for LMI youth, homeless centers, soup kitchens, healthcare facilities, domestic violence shelters, and alcohol and drug recovery programs serving LMI individuals.[156] The proposed rules recategorize these same activities as ''civic assistance'' [157] and provide additional detail and clarity about the covered activities.

First, the proposed definition would provide a non-exhaustive list of examples of activities that would be considered civic assistance. Current guidance states that community development includes support or financing for educational programs targeted to LMI persons,[158] and the proposal would further clarify that support or financing for education includes providing low-cost education loans. Next, the proposed rules incorporate the standard that civic assistance serves, or is reasonably expected to serve, LMI individuals or families. For example, services provided by a free community clinic would be reasonably expected to serve LMI individuals or families. Finally, workforce development and job training programs, which currently qualify as a component of economic development, would be reclassified as civic assistance. The current rules do not address workforce development and job training programs, but the Interagency Questions and Answers provide that these activities should be considered under the economic development definition as well as more broadly as under the CD definition.[159] However, under the current guidance, economic development activities are tied to a financing activity for a small business.[160] Although the agencies believe that the economic development definition could include workforce development and job training activities, such activities are better aligned with the focus of the proposed civic assistance definition, which does not restrict the size of the business involved. Therefore, the agencies are keeping the current treatment of these activities as CD but changing the category of CD in which they are considered.

Economic development. Under current guidance, activities qualify as economic development if they meet both a ''size test'' and a ''purpose test.'' [161] An institution's loan, investment, or service meets the size test if it finances, either directly, or through an intermediary, businesses or farms that either meet the size eligibility standards of the U.S. Small Business Administration's Development Company (SBDC) or Small Business Investment Company (SBIC) programs, or have gross annual revenues of $1 million or less.[162] In connection with the size test, the term ''financing'' is considered broadly and includes technical assistance that readies a business that meets the size eligibility standards to obtain financing.[163] To meet the purpose test, current guidance states that a bank's loan, investment, or service must promote economic development by creating, retaining, and/or improving permanent jobs for LMI persons, in LMI geographies, in areas targeted for redevelopment, or by financing certain intermediaries.[164] As discussed above, activities that support Federal, State, local, or Tribal economic development initiatives that create or improve access for LMI persons to jobs or job training or workforce development are also considered to meet the purpose test.

The proposed rules outline a standard for what constitutes economic development by organizing the activities into three categories. The first category would cover financing for a business or farm that meets the size requirements of the SBDC or SBIC programs or has gross annual revenues of $1 million or less, and expands, improves, or preserves the business's or farm's productive capacity, physical presence, or employment bases, excluding financing primarily used for ongoing operating liquidity. Additionally, the proposed rules provide a non-exhaustive list of examples of qualifying economic development activities. The agencies propose removing the requirement for the activity to create, improve, or retain jobs for LMI individuals or in an LMI area. However, an activity would not qualify as economic development if it is reasonably likely to result in a reduction in jobs at a business or farm. For example, the financing for the purpose of purchasing technology that would replace employee functions without simultaneously resulting in hiring new employees would not meet the proposed economic development definition. The agencies believe banks will be able to more easily implement this standard compared to the difficulties implementing the current requirements, which lack objective criteria. As discussed below, although the agencies recognize that in the interest of providing a clear and objective standard, the proposed definition would expand the activities that would qualify as economic development. The agencies believe that the proposed definition is consistent with the language in the current rules (which do not expressly reference the purpose test in the Interagency Questions and Answers) and would appropriately encourage support for businesses and farms in banks' communities that drive economic growth for those communities. The agencies seek comment on this proposal.

The second category of economic development covers technical assistance and support services for a business or farm that meets the size requirements of the SBDC or SBIC programs or has gross annual revenues of $1 million or less. These activities are not expressly referenced in the current rule, but they are considered CD activities in the Interagency Questions and Answers.[165] The agencies determined that these activities also provide support for businesses and farms that drive economic growth for banks' communities. Specifically, in the agencies' supervisory experience, some small businesses and small farms may not be prepared to obtain traditional bank financing and may need technical assistance and other services to obtain

[156] *See* Q&As §§ ____.12(g)—1 and ____.12(t)—4.

[157] The agencies are proposing to change the current term ''community services'' to ''civic assistance'' to minimize the potential for confusion with CD services, a term the agencies are retaining under the proposal.

[158] *See* Q&A § ____.12(g)—1.

[159] *See* Q&As §§ ____.12(g)(3)—1 and ____.12(g)–1.

[160] *See id.*

[161] *See* Q&A § ____.12(g)(3)—1.

[162] *Id.*

[163] *See id.*

[164] *See id.*

[165] *See* Q&A § ____.12(g)(3)—1.

credit in the future. Supporting these activities fills a gap in needed services for small businesses and small farms and plays a critical role in helping small businesses and small farms grow and thrive. This category would be a clarifying revision to the current rules that would codify existing guidance.

The third category of economic development would include Federal, State, local, or Tribal government programs, projects, or initiatives that serve small businesses or small farms, as defined by those programs. The current CD definition does not include stand-alone criteria for economic development activities aligned with Federal, State, local, or Tribal programs, but these activities are referenced in the Interagency Questions and Answers.[166] Consistent with the guidance in the Interagency Questions and Answers, the proposed definition would highlight SBDCs, SBICs, New Markets Tax Credit-eligible Qualified Community Development Entities, U.S. Department of Agriculture Rural Business Investment Companies, and Community Development Financial Institutions that finance small businesses or small farms as examples. Although the current rules do not specifically address activities with these entities, the Interagency Questions and Answers state that the agencies will presume that activities with these entities promote economic development.[167] As a result, the proposal is intended to provide greater clarity and encourage the continued participation in, and support of, programs offered through these providers of small business and small farm financing. The agencies believe that aligning economic development activities with government programs that address identified needs for small businesses and small farms would encourage coordination amongst banks, government agencies, and other program participants for activities that can be highly responsive to the unmet needs of communities. The agencies seek feedback on the non-exhaustive list of examples of Federal, State, local, or Tribal government programs, projects, or initiatives that serve small businesses or small farms.

Taken together, the proposed economic development categories would continue to capture the types of activities that the agencies consider to promote economic development by financing small businesses or small farms today with certain expansions discussed above. The rules would, however, do so through a more objective set of criteria than provided in the current rules as interpreted in the Interagency Questions and Answers. In particular, the proposal would eliminate the purpose test component of the Interagency Questions and Answers guidance.[168] As a result, banks would no longer need to demonstrate, for example, LMI job creation in order for a loan to a small business that meets the size standards in the rules to be considered an economic development activity. Instead, banks would demonstrate that the type of activity or program through which the activity was made is one the agencies identified in the definition as being economic development. The agencies decided to eliminate the purpose test due to the subjective nature of the test. Elimination of the purpose test also would be responsive to concerns that the focus on job creation for LMI individuals does not account for the quality of those jobs and may divert the focus of the provision away from the benefit to businesses and farms in the bank's community, which were the intended beneficiaries of the economic development prong of community development. The agencies believe that the proposed approach focuses on the type of activities that are likely to help support a business's or farm's growth and profitability, in turn benefiting the community in which the business or farm is located. As a result, the agencies believe that the proposal would be more likely to support the creation of quality jobs, including for LMI individuals and areas.

The agencies invite comment on their proposed changes to the economic development category of community development.

Request for Feedback

Question 24: Should the agencies further limit the businesses or farms that qualify under the first category of economic development (proposed § ____.12, definition of economic development paragraph (3)(i)(A)), for example, by excluding startups that are expected to quickly exceed the size test or excluding small businesses that are affiliated with non-small businesses?

Question 25: Should the agencies retain the requirement that the activity create, improve, or retain jobs for LMI individuals or in an LMI area in the first category of economic development?

Question 26: Should any of the example government programs included in the third category of economic development (proposed § ____.12, definition of economic development paragraph (3)(iii)) be removed from the list of examples? Should additional programs, projects, or initiatives be included in the list of examples?

Question 27: Are the proposed revisions to eliminate the purpose test provided in the Interagency Question and Answers and include more objective criteria in the definition of ''economic development'' likely to encourage banks to finance businesses and farms that benefit communities, for example through the job creation?

Question 28: Are there any activities that would qualify under the proposal as economic development that should not be considered economic development, for example because they relate more to a business's or farm's ongoing operations and not to its growth and profitability?

Question 29: Are there activities that would be considered economic development under the current rules that would not qualify under the proposed definition of economic development?

Question 30: Are there other programs that should be presumed to promote economic development, such as programs that support Indian country residential development? Alternatively, should these activities be presumed to qualify as community development but instead be considered as a revitalization and stabilization activity that helps to attract or retain businesses or residents (*see* discussion of revitalization and stabilization activities below)?

Revitalization and stabilization. Under the current rules, the revitalization and stabilization component of the CD definition is intended to encourage banks to direct additional resources toward broader efforts to rebuild certain targeted communities, rather than solely focusing on the needs of LMI individuals in these communities. The current rules define four types of eligible census tracts [169] where revitalization and stabilization activities qualify: LMI census tracts; distressed nonmetropolitan middle-income census tracts; underserved nonmetropolitan middle-income geographies; and designated disaster areas.[170] In general,

[166] *See, e.g.,* Q&As §§ ____.12(g)(4)(i)—1 and ____.12(g)(3)—1.

[167] *See* Q&A § ____.12(g)(3)—1. New Markets Venture Capital companies were an example highlighted in the Interagency Questions and Answers but not carried over to the proposed rules because program funding has since been exhausted. This change from the Interagency Questions and Answers is intended to clarify the rules but not substantively reduce the activities that would receive consideration.

[168] *See id.*

[169] As noted in section IV.I of this **SUPPLEMENTARY INFORMATION**, the agencies are proposing a non-substantive, technical revision to the current rules to change the term ''geography'' to ''census tract.''

[170] *See* 12 CFR ____.12(g)(4).

activities that revitalize or stabilize a census tract are ones that help to attract new or retain existing businesses or residents.[171] Current guidance also states that an activity will be presumed to revitalize or stabilize a census tract if the activity is consistent with a government plan for the revitalization or stabilization of the area.[172] However, the standards in the guidance for the types of plans that can be used to determine eligibility vary.

Consistent with the current rules and guidance, the proposed rules would continue to include revitalization and stabilization of LMI census tracts and distressed or underserved nonmetropolitan middle-income census tracts.[173] In addition, the proposed rules would include activities that revitalize or stabilize Indian country [174] or other Tribal and native lands as a new targeted geographic area. The agencies believe that adopting a criterion for specified activities in Indian country or other Tribal and native lands will further the purpose of the CRA to encourage banks to meet the credit needs of their entire communities, including those of LMI communities. Available data indicate that communities in Indian country or other Tribal and native lands face significant and unique CD challenges similar to the census tracts referenced in the current rules.

The agencies also are proposing to include areas targeted by a government entity for redevelopment that qualify for significant economic incentives, such as tax credits, tax abatements, or grants as a new targeted area in the revitalization and stabilization category of community development. Often, a governmental entity or agency, which could include a Federal, State, local or Tribal government entity, designates a neighborhood, district, or other geographic area for redevelopment through a formally adopted redevelopment plan that may include special activities, benefits, and funding from public and private sector resources. The activities in those areas typically are designed to help attract and retain businesses and residents. Examples of formally designated redevelopment areas include LMI qualified opportunity zones,[175] Federal empowerment zones, State enterprise zones, or city tax incremental financing districts. The agencies propose adding this criterion to encourage continued bank participation in revitalization and stabilization activities responsive to identified community needs. The agencies considered adding a criterion for particular specified areas, such as qualified opportunity zones, but determined that a more general category would provide flexibility as government programs evolve and would prevent components of the rules from becoming obsolete.

The agencies are also proposing to clarify the CD definition with respect to revitalization and stabilization by codifying certain other aspects of the Interagency Questions and Answers. Specifically, the Interagency Questions and Answers provide that activities that revitalize or stabilize underserved nonmetropolitan middle-income census tracts include those that meet essential community needs, such as certain essential community facilities or infrastructure projects.[176] The proposal builds on this guidance by clarifying that both essential community infrastructure [177] activities and essential community facilities [178] activities would be considered if they provide financing or other support for the infrastructure or facility that benefits or serves: LMI census tracts; distressed or underserved nonmetropolitan middle-income census tracts; Indian country or other tribal and native lands; or any other area targeted by a government entity for redevelopment and that qualifies for significant economic incentives, such as tax credits, tax abatements, or grants (collectively, targeted areas). Current guidance explicitly notes that these activities are eligible in underserved middle-income nonmetropolitan census tracts, but these activities are only qualified in LMI census tracts, distressed nonmetropolitan middle-income census tracts or designated disaster areas if they help attract or retain businesses or residents.[179] Consequently, the current treatment of these activities in targeted census tracts is inconsistent, and the agencies' proposal aims to provide more clarity and certainty for when these activities can be considered and to do so consistently across the different categories of targeted areas. By expressly referencing essential community facilities in the definition of community development, the proposal would clarify when these activities receive consideration and incentivize banks' activities related to these facilities. The addition of an express reference to essential infrastructure in the proposed rules would acknowledge the importance of these types of projects to communities by ensuring that essential infrastructure activities receive CRA consideration if they benefit LMI census tracts or other targeted areas. The addition also would recognize that essential infrastructure projects are often community-wide projects for which it is not feasible to allocate the benefit to specific populations or areas.

[171] *See, e.g.,* Q&As §§ ____.12(g)(4)—2, ____.12(g)(4)(i)—1, ____.12(g)(4)(ii)—2, and ____.12(g)(4)(iii)—3.

[172] *See* Q&As §§ ____.12(g)(4)(i)—1, ____.12(g)(4)(ii)—2, and ____.12(g)(4)(iii)—3.

[173] The proposal would codify the guidance in the Interagency Questions and Answers that include the agencies' standards for identifying distressed or underserved nonmetropolitan middle-income census tracts. Under the proposal, ''distressed or underserved nonmetropolitan middle-income census tract'' would mean (1) a middle-income census tract designated by the Board, FDIC, and the OCC as distressed or underserved based on the criteria identified in the definition, compiled in a list, and published annually by the FFIEC. A nonmetropolitan middle-income census tract would be designated as distressed if it is in a county that meets one or more of the following criteria (1) An unemployment rate of at least 1.5 times the national average; (2) A poverty rate of 20 percent or more; or (3) a population loss of 10 percent or more between the previous and most recent decennial census or a net migration loss of 5 percent or more over the five-year period preceding the most recent census. A nonmetropolitan middle-income census tract would be designated as underserved if it meets the criteria for population size, density, and dispersion that indicate the area's population is sufficiently small, thin, and distant from a population center that the census tract is likely to have difficulty financing the fixed costs of meeting essential community needs. The criteria for these designations are based on the Urban Influence Codes established by the U.S. Department of Agriculture's Economic Research Service numbered ''6,'' ''8,'' or ''9.''

[174] The agencies propose to define ''Indian country'' and ''other Tribal and native lands'' typically covered by these terms. Under the proposal, ''Indian country'' would be defined by reference to the definition in 18 U.S.C. 1151 but would also include Census Bureau-designated Tribal Census Tracts, Oklahoma Tribal Statistical Areas, Tribal Designated Statistical Areas, American Indian Joint-Use Areas, and Alaska Native Village Statistical Areas. The proposal would also include a definition of the term ''other Tribal and native lands'' which would be defined to include State Designated Tribal Statistical Areas, as defined by the Census Bureau, and Hawaiian Home Lands.

[175] *See* 26 U.S.C. 1400Z–1(a).

[176] *See, e.g.,* Q&A § ____.12(g)(4)(iii)—4.

[177] The proposal would define ''essential community infrastructure'' to mean (1) public infrastructure, including, but not limited to, public roads, bridges tunnels; and (2) essential telecommunications infrastructure, mass transit, water supply and distribution, utilities supply and distribution, sewage treatment and collection, industrial parks, or other similar infrastructure that is provided as part of a public and private partnership. The proposed definition would codify the guidance in the Interagency Questions and Answers and agency practice in considering CD activities. *See id.*

[178] The proposal would define an ''essential community facility'' to mean a facility that is open to the public and that provides a valuable resource or service, including, a school, library, park, supermarket, hospital or health-care facility, public safety facility, or youth or community facility. The proposed definition is a codification of the guidance in the Interagency Questions and Answers and agency practice in considering CD activities. *See id.*

[179] *See* Q&A § ____.12(g)(4)(iii)—3.

The agencies propose adding a component to the definition of revitalization or stabilization for Federal, State, local, or Tribal government programs, projects, or initiatives that are consistent with a bona fide government revitalization or stabilization plan in targeted areas. Although many programs, projects, or initiatives covered by this component of revitalization and stabilization would be eligible to receive consideration under the current CD definition, this proposed component of the CD definition would provide clarity in the rules to ensure that all activities consistent with this component of the definition receive CRA consideration. The agencies believe that, in many circumstances, communities are in the best position to identify their needs and design projects, programs, and initiatives that help to address those needs. This category of revitalization and stabilization would ensure that activities related to both existing and future programs that benefit certain populations and areas of need will receive CRA consideration, even if the activities do not meet one of the other components of the CD definition, such as affordable housing. Including this component of revitalization and stabilization in the CD definition would reduce the circumstances in which sections or subsections of the rules become obsolete due to the inclusion of specific programs that expire or are repealed.

Similar to the current rules, the proposed rules' definition of activities that revitalize and stabilize targeted areas includes activities that attract or retain a major employer (*i.e.,* activities that are reasonably likely to have a meaningful direct or indirect impact on unemployment in the area) that will create long-term job opportunities. This proposal restates current guidance in the Interagency Questions and Answers [180] and further clarifies that banks should be able to demonstrate the activity is reasonably likely to have a meaningful direct or indirect impact on unemployment in the area. The agencies believe the proposal provides reasonable assurance that the activity is likely to meaningfully benefit the targeted area while also recognizing the difficulty in projecting, at or before initiation, the activity's impact on unemployment. This category of the definition is meant to capture the aspect of the current Interagency Questions and Answers that focuses on attracting or retaining new or existing businesses or residents. Under the current rules, job creation for LMI individuals for small businesses is largely addressed through the economic development component of community development. To the extent that job creation or retention is considered as part of revitalization or stabilization, it is generally focused on larger businesses that provide more significant employment opportunities for a geographic area with the effect of revitalizing or stabilizing the area overall, as opposed to supporting the business. This proposed category is intended to have a similar focus and ensure that activities that would qualify under the current rules continue to receive consideration under the proposal.

The proposed definition of revitalization or stabilization activities includes certain activities in designated disaster areas. Consistent with current guidance, this includes activities that revitalize or stabilize geographic areas subject to a Major Disaster Declaration administered by the Federal Emergency Management Agency (FEMA), and activities in designated disaster areas that meet this eligibility standard would be considered, regardless of the income level of the designated census tracts. The agencies believe activities that promote the recovery of designated disaster areas benefit the entire community, including, but not limited to, LMI individuals and LMI communities. The proposed definition provides further clarity that the support is not limited to financial support and may include activities that help communities prepare for, adapt to, or withstand other natural disasters. The proposal would codify and expand the current guidance by adding a definition for designated disaster area that is based on the Interagency Questions and Answers but eliminates the limitation excluding counties designated to receive only FEMA Public Assistance Emergency Work Category A (Debris Removal) and/or Category B (Emergency Protective Measures).[181] The agencies are proposing to remove these exclusions to allow banks to receive consideration for activities in these areas. In making this change, the agencies are deferring to FEMA's expertise in designating disaster areas and recognizing the exception that they made to the exclusion to allow consideration for the COVID–19 designation, which was a Category B designation. The proposal would also codify the agencies' guidance on the length of the consideration provided but grant the agencies discretion to extend the 36-month time frame, consistent with the agencies practice in certain instances (*e.g.,* following Hurricane Katrina).

Outside of activities related to disaster recovery, the current rules and guidance do not expressly identify as eligible for CRA consideration activities related to helping LMI individuals, LMI communities, small businesses, or small farms prepare for disasters.

The proposed definition of community development as it concerns activities in designated disaster areas would also encompass activities that assist individuals and communities in targeted areas to prepare for, adapt to, or withstand natural disasters, such as earthquakes, severe storms, droughts, flooding, and forest fires. Examples of eligible activities could include, but would not be limited to, developing financial products and services that help residents, small businesses, and small farms in targeted areas prepare for and withstand the impact of future disasters; supporting the establishment of flood control systems in a flood prone LMI or underserved or distressed nonmetropolitan middle-income census tract; and retrofitting affordable housing to withstand future disasters.

Request for Feedback

Question 31: Should the agencies retain the exclusion from the designated disaster area definition for counties designated to receive only FEMA Public Assistance Emergency Work Category A (Debris Removal) and/or Category B (Emergency Protective Measures) and instead add a provision to the rules that would provide the agencies with discretion to make exceptions to the exclusion when a disaster has a longer term and broader impact on affected communities?

E. Consideration of CD Activities

As previously discussed, one of the main challenges banks historically have had with the current rules is the lack of clarity in what counts as a CD activity. The sources of that challenge have been twofold. First, as discussed above, the current principles-based CD definition lacked clarity and relied on guidance and examiner judgment to determine whether a particular loan, investment, or service met the CD definition. Second, the guidance, predominantly in the form of Interagency Questions and Answers was at a high level and the examples did not address many scenarios. These circumstances left banks questioning whether certain activities would receive consideration in a CRA examination. Despite these legitimate questions, the agencies' policy was not to confirm whether an activity qualified as a CD activity until

[180] *See* Q&A § ____.12(g)(4)(iii)—3.

[181] *See* Q&A § ____.12(g)(4)(ii)—1.

the bank provided documentation during a CRA examination.

In 2020, the OCC decided to change its policy to resolve this longstanding pain point by codifying an illustrative list and CD activity confirmation process in its 2020 CRA Rule. These changes were favorably received by banks and other interested parties. Although the OCC ultimately rescinded its 2020 CRA rule, it retained its confirmation process as a matter of policy. Due to the positive reception to these components of the OCC's 2020 CRA Rule, the agencies again sought to codify these processes in the 2023 CRA Rule. The agencies' views on the benefits of an illustrative list and CD activity confirmation process have not changed, and, as discussed below, the proposal includes both of these process improvements.

Illustrative list. The agencies are proposing to codify the existence of a publicly available non-exhaustive, illustrative list of examples of CD activities. The agencies believe that providing this list will reduce uncertainty regarding what qualifies for CD consideration and give banks greater ability to manage their CRA programs. Specifically, proposed § ____.13(a)(1) would provide that the agencies separately maintain a publicly available non-exhaustive, illustrative list of examples of CD activities, as this term is defined in the proposed revisions to § ____.12, that qualify for consideration under the applicable CD test. Although proposed § ____.13(a)(1) would not require the agencies to compile a joint list, the agencies intend that they would coordinate on their lists. The agencies' illustrative lists may include examples of activities that the agencies have determined are not CD activities. Further, proposed § ____.13(a)(2) would state that each agency would periodically update its illustrative list.

Codifying the publication of an illustrative list of CD activities is intended to promote transparency and consistency, provide banks and others with greater certainty, and help clarify the application of the CD definition. Additionally, the agencies believe that, on balance, these benefits outweigh the potential concern that the illustrative list might limit innovation by unintentionally leading banks to focus primarily on examples on the list. The agencies note, however, that the illustrative list is a guidance document only. Whether an activity qualifies for CRA consideration as a CD activity is determined not by the addition or removal of the activity from the list, but instead by the terms of the CD definition. Banks would not be limited to conducting activities on the illustrative list and, in fact, certain innovative activities that are considered highly responsive to community needs may not be on the list due to the new and unique nature of such activities.

Confirmation of CD activity eligibility. Proposed § ____.13(b)(1) would establish an optional confirmation process through which a bank may request the appropriate agency's review to confirm whether a loan, investment, grant, or service qualifies for consideration as a CD activity in a bank's CRA examination.[182] The agencies intend that this optional process would be used primarily for novel potential CD activities that implicate significant legal or policy questions because, as discussed above in section IV.D of this **SUPPLEMENTARY INFORMATION**, the agencies have also provided clarity on the meaning of community development such that there should be fewer questions about what qualifies in the future. Further, the optional confirmation process would not replace a bank's ability to discuss whether a loan, investment, grant, or service qualifies for CD consideration with its examiners or to make its own determination, by applying the CD definition in proposed § ____.12.

Process for confirming eligibility. To promote transparency, proposed § ____.13(b)(2) would codify the factors the appropriate agency would consider in confirming the eligibility of a loan, investment, grant, or service for which a request has been submitted under proposed § ____.13(b)(1). These factors would focus on the information that describes the CD purpose and otherwise supports the request (*i.e.,* the information that explains why the requestor believes the activity meets the CD definition); whether the activity is consistent with safety and soundness, as required by statute; and any other information the appropriate agency deems relevant. It would also provide authority for the agencies to impose limitations or requirements on a confirmation that a loan, investment, grant, or service qualifies as a CD activity.

Notification of eligibility. Proposed § ____.13(b)(3) would establish the process and time frame by which the appropriate agency would provide any confirmation under proposed § ____.13(b)(2). The appropriate agency would also provide the rationale for any such determination under proposed § ____.13(b)(2). These proposed changes would codify the OCC's existing practice with respect to its confirmation process. Under the proposal, the appropriate agency would communicate a response within 90 days after the request is received by the appropriate agency, unless that agency notifies the requestor that additional time is needed to consider a request. Lastly, the proposal would provide that a bank must retain any notification of eligibility issued pursuant to proposed § ____.13(b)(3)(i) until the completion of its next CRA examination.

The agencies reiterate that because the optional confirmation process would not replace a bank's ability to determine on its own, by applying the CD definition in proposed § ____.12, that a loan, investment, grant, or service qualifies for CD consideration, even if a bank submits a request pursuant to proposed § ____.13(b)(1), the requestor need not wait to receive a response from the appropriate agency before making its own determination in accordance with proposed § ____.12. Nonetheless, the agencies propose codifying the optional confirmation process to provide banks with greater certainty as to whether a specific activity, and in particular novel activities, would qualify as CD activities.

Request for Feedback

Question 32: Should a bank be required to retain a notification of eligibility of a CD loan or CD investment issued in connection with the proposed CD activity confirmation process for the period of time that the activity remains on the bank's balance sheet?

Question 33: Should the agencies provide an outer limit for the time frame in which they would provide a response following any notification to the requestor that additional time is needed to consider a request? If yes, what would be an appropriate length of time, for example would an additional 60 days be appropriate? Or a lesser amount of time such as 30 days? Should the agencies be required to specify the length of the extension in their notification to the requestor that additional time is needed?

Eligible community development activities, consideration. In § ____.13(c), the agencies are proposing a provision that would address consideration for any CD activity that was eligible for CRA consideration at the time the bank conducted the activity in a bank's CRA

[182] The agencies generally expect to treat the information provided to them through this process as nonpublic and to maintain the confidentiality of that information subject to applicable law. Banks and interested parties may designate information as confidential or request confidential treatment. The OCC will treat confidential commercial information submitted to the agency in accordance with 12 CFR 4.16. The FDIC will treat confidential commercial information submitted to the agency in accordance with 12 CFR 309.6.

examination if the activity was conducted during the evaluation period or remains on a bank's balance sheet. This would extend the treatment provided by the OCC's transition provision in its current rule to all CD activities in response to changes to the treatment of prior period CD loans and to clarify the treatment of prior period CD investments. If the appropriate agency later determines, during the same or a subsequent CRA evaluation period, that an activity is not eligible for CRA consideration, the bank will continue to receive consideration for the activity if it was eligible at the time that the bank conducted the activity and it is being considered in the evaluation period in which it was conducted or the activity is a loan or investment that remains on the bank's balance sheet (*i.e.,* originates, makes, purchases, grants, or provides the activity).

The OCC included a similar section as a transition provision in the agency's 2021 rulemaking due to the changing definition of CD activities from those that qualified under the OCC's 2020 rule and the agency's current rule. The agencies now believe that this provision should have broader applicability given the potential for changing facts, many of which are outside a bank's control, in addition to changing regulatory requirements. The agencies recognize that banks rely on confirmations of eligibility, whether provided through the proposed confirmation process or in the context of a CRA examination, and that replacing CD activities can be challenging in the short term due to competition and the lead time involved in certain financing projects. Therefore, the agencies' historical practice has been to qualify CD activities at the time that the activities are conducted. Proposed § ____.13(c) would recognize these reliance interests, codify the agencies' existing practice, and extend the concept codified in the OCC's existing transition provision to make it generally applicable. As a result, the OCC is also removing the existing transition provision as it would be redundant.

CD activities in assessment areas. In § ____.13(d) the agencies are proposing to clarify when a CD activity benefits or serves a bank's assessment areas, as well as standards for allocating CD activities across assessment areas when the CD activities benefit or serve more than one assessment area. The proposed approach would clarify the current rules and largely capture the same set of CD activities that would currently be considered in the bank's assessment area performance. To the extent that some CD activities that would have been considered in an assessment area under the current rules no longer would be under the proposal, the agencies believe the benefit of the clear approach outweighs the cost because the proposed framework would provide the potential for those activities to be considered at the bank-level. Further, as explained in the discussion of consideration of CD activities outside of a bank's assessment area below, if a bank sufficiently demonstrates that it is helping to meet the credit needs of its assessment areas it would be eligible to receive consideration in its State-, multistate MSA-, and bank-level ratings.

Assessment area allocation. In proposed § ____.13(d)(2), the agencies would allocate CD activities that benefit or serve more than one assessment area to the assessment areas benefited or served based on documentation of the physical address of the recipient of the proceeds or the beneficiary of the activity, if available, or by the weight assigned to each assessment area benefited or served as provided in proposed § ____.13(d)(3). With proposed § ____.13(d)(2), the agencies' intention is to afford banks greater flexibility to allocate CD activities to assessment areas. Thus, a bank may decide whether to allocate CD activities based on documentation of the physical address or by the weight assigned. A bank would select how to allocate CD activities through the documentation it provides about the physical address or assessment area weights and may allocate by weight even if documentation of the physical address is available. The agencies request comment on whether proposed § ____.13(d)(2) sufficiently conveys this flexibility.

Assigning assessment area weight(s). Proposed § ____.13(d)(3) would codify how CD loans, investments, and grants that benefit or serve more than one assessment area are allocated based on the weight assigned to each assessment area benefited or served. Proposed § ____.13(d)(3) would explain that for purposes of allocating CD loans, CD investments, and CD grants to assessment areas, the appropriate agency will assign a weight to the assessment area based on the proportion of deposits in the assessment area as determined by the Summary of Deposits survey data published by the FDIC for the latest year in the evaluation. This option would apply the methodology provided in proposed appendix C. Alternatively, a bank could, at the bank's option, weight assessment areas using another reasonable methodology provided at the time of the evaluation and approved by the appropriate agency. For example, if a bank invested in an economic development fund with a purpose, mandate, or function of financing Gulf Coast businesses, and the bank had one assessment area in Alabama and one assessment area in Louisiana, each with 50 percent of the bank's deposits, and the investment was allocated under proposed § ____.13(d)(2)(B), then 50 percent of the investment would be allocated to each assessment area. Alternatively, if a bank invested in an economic development fund with a purpose mandate or function of serving the ''rust belt'' and the bank had assessment areas in Pennsylvania, Ohio, Indiana, and Michigan, the bank could provide as a methodology and the agencies could approve weighting the consideration for the investment in each assessment area based on documentation from the fund that would provide an allocation methodology based on the investments in the fund, including their locations and dollar amount. The agencies are proposing this provision to provide clarity on the dollar amount of consideration that will be allocated to a bank's assessment area(s). Understanding the applicable assessment area weighting methodology in advance would allow banks to manage their CRA programs more effectively.

The agencies request comment on whether the explanation of how assessment area weight(s) are assigned in proposed § ____.13(d)(3) is sufficient, especially with regard to how the proportion of deposits in an assessment area is determined. Relatedly, the agencies request comment on whether they should provide examples of ''another reasonable methodology,'' as used in proposed § ____.13(d)(3)(i)(B), either in addition to the guideposts in proposed § ____.13(d)(3)(ii), or in a separate guidance document.

The proposal includes a new provision clarifying the allocation of activities across affiliated banks, although this is permitted under the current rules in certain circumstances. The agencies would continue to apply their existing examination practices with respect to allocation of CD activities across affiliates consistent with the current rules and any applicable guidance. The agencies request feedback on whether they should provide standards for the allocation of CD activities in different circumstances in the rule.

CD activities outside assessment area(s). Under the current rules, the agencies generally consider bank performance, including with respect to CD activities, in the bank's assessment

area(s).[183] The current rules also provide for consideration of CD activities that benefit a broader statewide or regional area that includes a bank's assessment area(s).[184] In addition, the current rules and applicable guidance recognize certain limited exceptions to the evaluation of CRA performance within assessment area(s).[185]

The geographic limitations imposed by the current framework have presented challenges for banks as bank business models and the areas in which they operate have evolved. Specifically, the current framework has resulted in geographic areas with significant competition for CRA activities due to a high number of banks with a physical presence in the area (*i.e.,* CRA hot spots) and other areas where banks do not engage in or engage in only limited CRA activities (*i.e.,* CRA deserts). Because of the geographic limitations, the current framework fails to incentivize CD activity in CRA deserts, including many rural areas, or provide banks with sufficient opportunities to meet credit needs when they operate in competitive markets.

Proposed § ____.13(e) would set forth a new approach for where the agencies consider CD activities. Under the proposed rules, the agencies would consider a bank's CD activities that benefit or serve areas outside of the bank's assessment area(s) at a bank's option if the bank meets or exceeds the applicable geographic flexibility standard(s) and the other requirements of the proposed section. Proposed § ____.13(e)(1)(ii) would provide that a CD activity benefits or serves an area outside of a bank's assessment area(s) if that CD activity does not benefit or serve an assessment area under proposed § ____.13(d)(1).

The agencies believe that providing consideration in CRA examinations for CD activities conducted outside of banks' assessment areas could have tangible benefits for banks and communities. Under the proposal, banks would have the flexibility to conduct CD activities outside of their assessment area(s) at their option. This flexibility could help in addressing CRA hotspots and CRA deserts, the phenomena discussed above, which have resulted in CD activities becoming concentrated in some areas and dissipated in others due to the locations of banks and their resulting assessment areas.

While proposed § ____.13(e) would provide banks the flexibility to have the agencies consider CD activities that benefit or serve areas outside of a bank's assessment area(s), a bank would not be required to conduct CD activities outside of assessment areas in order to achieve a ''satisfactory'' or ''outstanding'' rating because the agencies are not proposing to revise the current framework for concluding on and rating bank performance, which focuses on assessment area activities. The agencies determined that providing banks the flexibility to receive consideration for CD activities outside of assessment areas without imposing a requirement to engage in such activities would appropriately balance the challenges that banks and communities have with the geographic limitations of the CRA and the community focus of the statute.

The agencies recognize that the CRA statute requires the agencies to assess banks' records meeting the credit needs of their entire communities.[186] Building flexibility into the CRA regulatory framework to consider, however, at a bank's option, CD activities conducted outside of assessment areas when a bank has demonstrated that it is helping to meet credit needs in its assessment areas acknowledges both the limits of the agencies' authority under the statute and bank's efforts to meet community development needs. Under the proposal, a bank would be able to obtain a ''satisfactory'' or ''outstanding'' rating based solely on its performance in its assessment areas but would also receive consideration in its State-, multistate MSA-, or bank-level ratings for CD activities outside its assessment areas.[187] As described below, the proposal would set forth two options for providing flexibility to consider CD activities outside of assessment areas in proposed section § ____.13(e)(2)—(4)—a quantitative option and a qualitative option.

Under proposed Option 1, the quantitative option, § ____.13(e)(2) would explain how the quantitative geographic flexibility standard(s) would be calculated on an assessment area basis for large banks, and, separately, intermediate banks, wholesale banks, and limited purpose banks. The proposal would provide that the geographic flexibility standard would be calculated on an assessment area basis for each year in the evaluation period. These standards would establish the level of CD activity that a bank must conduct in order to receive consideration for CD activities outside of assessment areas. The principle underlying the quantitative standards is that a bank must demonstrate that it is engaging in activities that meet community credit needs before it is appropriate for the agencies to consider activities that they are not required to assess under the statute. As proposed, if a bank expended a sufficient percent of the bank's tier 1 capital allocated based on the weight assigned to the assessment area toward CD loans, CD investments, and CD grants in all of its assessment areas—as demonstrated by meeting or exceeding the geographic flexibility standards—it would receive consideration for CD activities outside of assessment areas. The proposal would establish as the geographic flexibility standards for large banks 0.625 percent of tier 1 capital for CD loans and the same percent of tier 1 capital for CD investments and grants, collectively. For intermediate banks, wholesale banks, and limited purpose banks, the proposal would establish 1.25 percent of tier 1 capital as the geographic flexibility standard.

If a bank expends the applicable minimum percentage of its tier 1 capital based on the weight assigned to the assessment area, then the bank meets or exceeds the applicable geographic flexibility standard. If the bank met or exceeded the geographic flexibility standard for each of its assessment areas in an area rated for the bank, the appropriate agency would consider the bank's CD activities that benefit or serve areas outside the bank's assessment area(s) in rating its performance at the State-, multistate MSA-, or bank-level.

The agencies based the quantitative standard in Option 1 on their supervisory experience. Historically, the percentage of tier 1 capital allocated across assessment areas by a measure of

[183] All of the applicable performance tests and standards in the current rules include a provision specifying that agencies evaluate a bank's record of helping to meet the credit needs of its assessment area(s). *See, e.g.,* 12 CFR ____.22(a), ____.23(a), ____.24(a), ____.25(a), ____.26(a), and ____.27(a).

[184] *See, e.g.,* 12 CFR ____.23(a) (scope of investment test); 12 CFR ____.24(b) (areas benefited by the service test); 12 CFR ____.25(e)(1) (benefits to assessment areas under the wholesale or limited purpose bank CD test); Q&A § ____.12(h)—6 (discussing benefits to the broader statewide or regional area for CD activities).

[185] For example, the current CD test for wholesale and limited purpose banks allows the agencies to consider CD activities that benefit areas outside a bank's assessment area(s) if the bank has adequately addressed the needs of its assessment area(s). *See* 12 CFR 25.25(e)(2). As discussed below in this **SUPPLEMENTARY INFORMATION**, the agencies' experience in applying this provision helped inform the proposal; however, the standard applicable to the current CD test for wholesale and limited purpose banks is not further clarified in the current rules or the Interagency Questions and Answers. The other performance tests and standards do not include a similar provision.

[186] *See* 12 U.S.C. 2903(a) and 2906(a).

[187] The proposal would provide flexibility by retaining the current rating framework in appendix A, which focuses on assessment area performance. *See, e.g.,* proposed 12 CFR ____, appendix A, paragraph (b)(1)(i).

deposits has been one of the ways used to determine if a bank's dollar amount of CD activities is commensurate with its capacity. The proposed standards generally reflect the minimum level of CD activity, absent consideration of other factors, that a bank would be expected to conduct to not receive a ''needs to improve'' rating. That said, the agencies recognize that performance context informs the level of activity that banks may conduct. Therefore, proposed Option 1 would retain the agencies' discretion to determine that a bank that conducts a lesser dollar amount of CD activities is nonetheless eligible to receive consideration for CD activities outside of its assessment areas. Proposed Option 1 would not, however, provide the agencies with discretion to require a higher level of CD activities because the geographic flexibility standards are meant to reflect a minimum threshold for broader geographic consideration of CD activities but are not a sufficient basis for concluding on a bank's CD performance in an assessment area. To conclude on a bank's CD performance in an assessment area, the appropriate agency would consider the applicable performance criteria in the performance test or standards, which include consideration of additional factors such as the responsiveness of the CD activities.

For the reasons discussed above, Option 1 for proposed § ____.13(e)(3) would provide an exception from the general requirements in proposed § ____.13(e)(2)(i) and (ii), which would permit the appropriate agency to determine based on performance context that a bank that extended a lesser amount of CD loans or CD investments and CD grants, as applicable, may nonetheless receive consideration for CD activities outside of its assessment area(s). The agencies believe this provision will reduce burden by allowing for increased flexibility. The agencies invite comment on whether they should develop standards for applying this discretion that explain when they would consider tier 1 capital to be an insufficient measure of a bank's capacity for purposes of determining the geographic flexibility standards, for instance if the bank has a large amount of foreign deposits.

Option 2 for the geographic flexibility standards would establish a qualitative standard for determining whether a bank is eligible for consideration of CD activities outside of its assessment areas. Under Option 2, a bank would meet the geographic flexibility standard for serving the CD needs of an assessment area if the bank has an adequate level of CD activities in the assessment area over the evaluation period, considering the dollar amount and responsiveness of CD activities to assessment area CD needs. This option would rely on the agencies' supervisory experience and performance context factors in assessing banks' CRA performance to determine when a bank has conducted a sufficient level of CD activities in their assessment areas and would align that standard with the level of performance that has historically been considered ''low satisfactory'' under the current rule. This option aligns with the agencies' current guidance on consideration of CD activities in the broader statewide or regional area that do not have a purpose, mandate, or function of serving the assessment area.[188] The agencies believe that the proposed qualitative standard in Option 2 would leverage the agencies' supervisory experience, provide flexibility to account for performance context factors, recognize different levels of CD needs and opportunities in different areas, and be otherwise consistent with the qualitative regulatory framework in the current rule.

Under both Options 1 and 2, the agencies also considered whether a bank should be required to meet all geographic flexibility standards in all assessment areas to receive consideration for activities outside of its assessment areas and determined that while that is generally appropriate given the statute's focus on communities, if a bank has met the applicable standards in all assessment areas within a State or multistate MSA it may receive consideration for CD activities outside of assessment areas in that State or multistate MSA. The agencies believe this is consistent with the statute, which requires the agencies to separately rate performance in States and multistate MSAs where a bank has deposit-taking facilities.[189] Proposed § ____.13(e)(4) would explain how a bank that does not meet or exceed the applicable geographic flexibility standard(s) in all of its assessment areas may receive consideration for CD activities conducted outside of its assessment areas. The agencies are proposing this provision to make clear that consideration of CD activities outside of assessment areas overrides any geographic limitations that would otherwise apply to a bank's CRA examination under the applicable performance tests and standards. The agencies believe that these proposed provisions are the preferable means to establish their approach to consideration of CD activities outside of the bank's assessment area(s) in that they avoid the need for more extensive revisions to the current rules.

Proposed § ____.13(e)(5) would specify that when assigning a State-, multistate MSA-, or bank-level rating, the appropriate agency would consider CD activities that benefit or serve an area outside a bank's assessment area(s). The agencies are proposing this framework to be consistent with the agencies' current guidance for when a CD activity is considered in evaluating assessment area performance[190] and to acknowledge the CRA's statutory requirement to rate performance in States and multistate MSAs where banks have deposit-taking facilities.[191] The proposal generally would allocate CD activities to States and multistate MSAs consistent with the methodology for allocating activities to assessment areas based on the States or multistate MSAs that activities benefit or serve.

Under the proposal, the geographic flexibility standards would only apply to CD loans and CD investments and CD grants because those activities are measured in dollars and can therefore be quantified. In addition, many banks can more readily engage in loans, investments, and grants outside assessment areas. In contrast, CD services are, by definition, volunteer services performed by a bank employee representing the bank. As a result, CD services are more inherently tethered to geography in that there must be an employee conducting the service. If a bank does not have an employee in an assessment area, the bank is far less likely to conduct a CD service in that area. Conversely, banks are far more likely to conduct CD services in assessment areas where their branch employees are located. Given the more common limitation of CD services to assessment areas, the agencies determined that there was minimal benefit for developing a method for quantifying and allocating CD services and did not include such a provision in this proposal.

As discussed above, the agencies note that proposed § ____.13(e) does not require banks to conduct CD activities outside their assessment area(s). The decision to conduct such activities is fully within a bank's discretion. A bank may receive a ''satisfactory'' or ''outstanding'' rating based solely on CD activities considered in its assessment area(s). The proposal is focused on

[188] *See* Q&A § ____.21(a)—3.

[189] *See* 12 U.S.C. 2906(d).

[190] *See* Q&A § ____.21(a)—3.

[191] *See* 12 U.S.C. 2906(d).

providing flexibility to engage in CD activities in order to help address one of the long-standing challenges with the CRA, as discussed above.

The agencies request comment on whether banks that conduct CD activities outside of their assessment areas should receive optional consideration of those activities at the State, multistate MSA, or bank levels. Also, the agencies request comment on whether banks should be required to have met or exceeded the geographic flexibility standard(s) for *all* of their assessment area(s), with or without consideration of an empirical standard, before having the option to receive consideration for those outside assessment area activities.

The provisions proposed in § ____.13 are intended to promote transparency and consistency in the CRA. The agencies have made conforming changes throughout the proposed rule, as applicable.

Request for Feedback

Question 34: If the rules were to permit banks to receive consideration for CD activities outside of assessment areas in States, multistate MSAs, or at the bank level without requiring that the bank meet or exceed the geographic flexibility standard(s) in all assessment areas, in determining when consideration would be permitted outside assessment areas, should the agencies rely on the ''substantially met'' standard in proposed § ____.27 or should another standard apply?

F. Strategic Plan

The agencies are proposing substantive and organizational revisions to the strategic plan section aimed at giving full effect to the agencies' original purpose for creating the strategic plan option—providing banks the flexibility to tailor their CRA examinations to their unique business models. The proposed revisions would clarify and simplify the rules, thereby making the strategic plan option a viable choice for more banks. The proposed rules would build out the strategic plan requirements to provide clarity, introduce greater transparency with respect to the agencies' supervisory expectations for strategic plans, and improve the strategic plan approval and amendment processes. Taken together, the proposed changes would make the strategic plan provisions clearer and less burdensome for use by banks, while retaining public engagement to inform plan development and the agencies' decision-making.

In 1995, the agencies added the strategic plan option to the CRA rules as an alternative to being evaluated under the applicable performance tests and standards.[192] Originally, the agencies created the strategic plan option as a vehicle for providing banks with substantial flexibility to tailor their CRA programs. As explained in the 1994 CRA proposal leading to the 1995 CRA rules, the purpose of the strategic plan option was ''to provide more certainty and flexibility for those institutions that wish to meet their obligation in a fashion that they believe may not be appropriately assessed by the standard performance tests.'' [193] The agencies intended through the strategic plan option to preserve ''substantial flexibility for [banks] to tailor their CRA programs.'' [194]

As recognized in the OCC's December 2025 guidance proposing a simplified strategic plan process for community banks,[195] the agencies have received feedback from banks regarding the regulatory burden associated with the CRA stemming from the qualitative evaluation framework provided in the current rules' performance test and standards. Banks, especially smaller banks with limited resources, have indicated that it is difficult to understand CRA-related supervisory expectations. The agencies have also observed that the applicable performance tests and standards may present challenges for certain banks' business models, which are changing in an ever-evolving banking industry.

Despite the fact that strategic plans may serve as a useful method for certain banks to comply with the CRA, the agencies have observed that strategic plans are underutilized. Feedback on strategic plans indicates that the underutilization may be based on the complexity and lack of clarity in the current rules. Since the agencies view strategic plans as a longstanding but underutilized solution to the challenges inherent in the CRA regulatory framework, particularly in a diverse and evolving banking industry, the agencies are proposing amendments to § ____.27 that would: (1) reduce process-related burden for banks through increased clarity, (2) provide additional information regarding the required content of strategic plans, (3) modernize the process for soliciting public comments, and (4) delineate processes for the submission and evaluation of strategic plans, including the methods by which a bank may resubmit a plan in the event of a denial or amend a previously approved strategic plan.

[192] 60 FR at 22168.

[193] 59 FR 51232, 51243 (Oct. 7, 1994).

[194] *Id.*

[195] 90 FR 59744 (Dec. 22, 2025).

Updates to the structure of the rule. The agencies are proposing to adjust the structure of § ____.27 to put like provisions together, leverage other regulatory approval processes, arrange the CRA rules in a more logical format, and ensure that the requirements of the strategic plan approval process are clear. The proposed strategic plan section would include the following sections:

- In general (§ ____.27(a))
  - Evaluation (§ ____.27(a)(1)): Establishes when the agencies would assess banks pursuant to a strategic plan.
  - Alternative election (§ ____.27(a)(2)): Outlines the requirements for electing a strategic plan (*i.e.,* submitting a plan that complies with the section, agency approval of the plan, and plan effectiveness).
  - Treatment of affiliates (§ ____.27(a)(3)): Carries forward the option for the preparation of a joint plan between affiliates and the allocation of CRA-qualifying activities between affiliated institutions.
  - Confidential information (§ ____.27(a)(4)): Carries forward the provision related to submission of confidential information.
  - Data collection, reporting, and disclosure (§ ____.27(a)(5)): Carries forward the applicability of the data collection, reporting, and disclosure provisions of § ____.42.
- Content of a strategic plan (§ ____.27(b))
  - Plan requirements (§ ____.27(b)(1)): Discusses the minimum requirements of what must be included in a strategic plan for it to be considered ''technically complete.''
  - Plan scope (§ ____.27(b)(2)): Requires banks to establish the scope of their strategic plan.
  - Plan term (§ ____.27(b)(3)): Carries forward plan term and annual interim measurable goals requirements.
  - Assessment areas (§ ____.27(b)(4)): Requires banks to describe the geographic areas covered by their strategic plan; carries forward the option for an assessment area-specific plan or a plan that covers multiple assessment areas.
  - Measurable goals (§ ____.27(b)(5)): Carries forward and clarifies the requirements for measurable goals.
  - Satisfactory and outstanding goals (§ ____.27(b)(6)): Carries forward the requirements for establishing satisfactory and outstanding goals.
- Public participation in plan development (§ ____.27(c)): Carries forwards and modernizes public

participation requirements for plan development.

• Prefiling communications (§ ____.27(d)): Adds a new provision stating that banks may consult with the appropriate agency regarding proposed strategic plans.

• Submission of plan (§ ____.27(e)): Carries forward submission of plan requirements using a plan submission date of 90 calendar days (rather than 3 months) prior to the proposed effective date.

• Plan approval (§ ____.27(f)): Carries forward the 60-calendar-day review time frame and adds that the agencies will notify banks of the status of plan submissions by either sending a ''technically complete'' notice or providing written notice that the plan submission is missing required information. Discusses the criteria for evaluating a proposed strategic plan, and notes that the appropriate agency will publish approved strategic plans on its website.

• Plan denial (§ ____.27(g)): Explains the criteria that the agencies use to deny a submitted plan and provides for resubmission of a plan after a denial.

• Plan amendment (§ ____.27(h)): Carries forward the ability of banks to request an amendment to an approved plan while it is in effect based on a material change in circumstances.

• Plan assessment (§ ____.27(i)): Explains that in assessing performance under an approved strategic plan, the agencies consider performance context, the plan's stated measurable goals, and the criteria specified in Appendix A. Notes that if a strategic plan includes both satisfactory and outstanding measurable goals, the appropriate agency will consider the bank eligible for an ''outstanding'' rating. Also notes that if a bank fails to achieve outstanding measurable goals the appropriate agency will consider CD activities not assessed in connection with any measurable goal in determining whether to consider the measurable goals to be substantially met for purposes of eligibility for an ''outstanding'' rating.

• Converting institutions (§ ____.27(j)): Explains that for banks that have converted while operating under an approved strategic plan, the appropriate agency will assess performance under the existing plan if the appropriate agency determines approval was consistent with the requirements of this part and no amendments are necessary pursuant to paragraph (h) of this section.

• Use of standard performance tests if satisfactory goals not substantially met (§ ____.27(k)): Explains that in order to decrease regulatory burden, the agencies will automatically evaluate a bank under the otherwise applicable performance tests or standards rather than based on its approved strategic plan if a bank fails to substantially meet its measurable goals for a ''satisfactory'' rating under its approved plan.

Strategic plans, in general. Section ____.27(a) of the current rules contains evaluation and alternative election provisions that explain when the agencies would evaluate a bank under a strategic plan. Proposed paragraph (a) groups together provisions on the applicability of a strategic plan and includes provisions on: treatment of affiliates; confidential information; and data collection, reporting, and disclosure.

Content of a strategic plan. Section ____.27(b) specifies the required content for a plan to be considered technically complete including a general description of the bank, the plan scope, the plan term, the covered assessment areas, measurable goals, any relevant performance context factors, a description of informal and formal efforts to seek suggestions from members of the public, and a copy of any written public comments received. In addition, § ____.27(b) contains provisions regarding plan scope and plan term.

Regarding the measurable goals requirements, under the current rule, the plan content provisions set forth the requirement that strategic plans specify measurable goals for helping to meet the credit needs of each assessment area covered by the plan, particularly the needs of LMI geographies and LMI individuals, through lending, investment, and services, as appropriate. The section then provides additional detail on the requirements for measurable goals and where there would be flexibility to consider a bank's particular circumstances.[196] The current measurable goals provision has caused significant confusion over time and led to diverging interpretations of what is required under the rules. This confusion is due, in part, to the use of mandatory (*i.e.,* ''shall address in its plan all three performance categories'') and non-mandatory (*e.g.,* ''[n]evertheless'' and ''may be appropriate'') language in the same paragraph. This, coupled with undefined terms, such as what it means to ''specify'' goals in performance categories as opposed to ''address'' performance categories has made it challenging for banks to understand the requirements for specifying measurable goals and where the intended flexibility is in the strategic plan option. This issue has only been exacerbated by the agencies' policy of not providing guidance or feedback on the adequacy of a plan or the merits of measurable goals prior to submission of the plan for approval. This lack of clarity is a primary reason that the strategic plan option is viewed as involving more cost than benefit for many banks.

To address the concerns with the current plan content section, and particularly the measurable goals provision, the agencies are proposing the structural changes discussed throughout this **SUPPLEMENTARY INFORMATION**, along with certain substantive changes aimed at clarifying the current rules and reducing burden. The agencies have determined that decoupling the requirements for specifying measurable goals from the discussion of the flexibility to tailor a plan to a bank's circumstances would reduce some of the seeming internal conflict in the current measurable goals provision. Accordingly, the measurable goals provision would be discussed in § ____.27(b)(5) and tailoring based on performance context would be discussed in § ____.27(b)(1)(vi), referencing § ____.21(a) and (b).

Regarding the plan term provision, the proposal would move the current plan term requirements to the content of a strategic plan section in § ____.27(b)(3) without substantive changes. The agencies determined that the plan term should be included in the content of a strategic plan section as it would be specified in the plan. The proposal would also add a requirement in § ____.27(b)(4) that a strategic plan describe the assessment area(s) covered. The proposed provision would specify that the assessment area description must be comprised of whole geographic areas (*e.g.,* one or more contiguous counties or an MSA) so that the agencies would be able to readily determine whether an area would be covered by the plan. This requirement is also intended to be burden reducing because it would not require a bank to provide a list of census tracts unless the geographic area covered by the plan is less than one or more contiguous counties. The agencies are also proposing to include this requirement for strategic plans to describe the

[196] The current rules provide that a bank must address in its plan all three performance categories and, unless the bank has been designated as a wholesale or limited purpose bank, must emphasize lending and lending-related activities. *See* current 12 CFR ____.27(f)(1)(ii). Nevertheless, a different emphasis, including a focus on one or more performance categories, may be appropriate if it is responsive to the characteristics and credit needs of the bank's assessment area(s), considering public comment and the bank's capacity and constraints, product offerings, and business strategy. *See id.*

assessment areas covered based on their supervisory experience reviewing strategic plans. Strategic plans are bank-specific and assessment area-specific documents. As a result, approving a plan and evaluating a bank under an approved plan requires understanding of the geographic areas covered by the plan. Requiring assessment areas covered by a plan to be described in the plan itself would promote transparency and clarity for banks, the agencies, and the public. The plan content provision would also include the current provision allowing banks to have a single strategic plan that includes all of a bank's assessment areas or to have separate strategic plans for each assessment area.

The agencies invite comment on these aspects of the proposal and whether there are other changes that the agencies should consider regarding assessment areas and the requirement to include whole geographies.

Measurable goals. The proposed measurable goals provision in § ____.27(b)(5) would require strategic plans to specify measurable goals for helping to meet the credit needs of each assessment area covered by the plan, including the needs of LMI census tracts and LMI individuals, consistent with the current rule. These provisions also require that a multi-year strategic plan must include annual interim measurable goals for each year in the plan term. It would also add a provision clarifying that strategic plans may specify measurable goals that cover the plan's term. If a bank only specifies annual interim measurable goals, the measurable goals for the entire plan term would, in effect, be the aggregate of those annual goals. A bank may choose, however, to specify measurable goals for the entire plan term that differ from the annual interim measurable goals by, for example, establishing a single larger goal that exceeds the aggregate of the annual interim measurable goals to provide flexibility in the plan.[197]

To provide greater clarity regarding what measurable goals include, the proposed rules would leverage terminology from the OCC's proposed community bank simplified strategic plan process.[198] Specifically, the proposal would clarify that measurable goals must have a: (1) performance measure (*e.g.,* percentage, number, dollar amount, or other quantifiable measure of a particular type of lending, investment, grant, or service); and (2) performance level (*i.e.,* the specific value for a performance measure, such as a set percentage of lending by dollar amount or by number of loans). These changes are intended to help clarify how measurable goals should be structured. As discussed below, the strategic plan provision also provides flexibility for the agencies to consider activities outside of a bank's assessment areas in certain circumstances. Lastly, as part of the decoupling of the measurable goals and tailoring provisions, the proposal would clarify that a strategic plan must include the bank's rationale and support for the specified measurable goal(s). The agencies believe that these provisions would more clearly set forth the requirements for strategic plan measurable goals, which, along with other provisions, should help reduce regulatory process-related burdens. Under the proposal, banks would have a clearer understanding of the requirements for a strategic plan and an improved ability to engage with the appropriate agency, as discussed below, which should allow banks to be more efficient in their plan development. The agencies invite comment on these aspects of the proposal and whether there are other changes that the agencies should consider.

The plan content section would also include the requirement that a bank specify satisfactory measurable goals and, at the bank's option, specify outstanding measurable goals. This provision incorporates this approach from the current rule. In addition, the proposal would add a provision for consideration of CD activities outside of the bank's assessment area that is meant to be consistent with the broader changes to outside assessment area consideration of CD activities in the proposal. The proposal would provide that if a bank fails to achieve one or more of its outstanding measurable goals, the appropriate agency would consider the bank's CD activities not otherwise assessed in connection with any measurable goal in determining whether to consider the measurable goals to be ''substantially met'' and the bank's eligibility for an ''outstanding'' rating. The agencies believe this is consistent with the broader changes to the consideration of CD activities because it would not require a bank to do any CD activities outside of its assessment area. A bank could achieve a ''satisfactory'' or ''outstanding'' rating by substantially meeting the goals in its plan. However, the proposal would provide flexibility to consider activities outside an assessment area in circumstances where it has performed at a satisfactory level in its assessment areas based on consideration of its plan goals. This flexibility is not intended to override the outstanding measurable goals specified in the plan. Specifically, if a bank failed to meet each or the most significant measurable goals in its plan, it would not be appropriate to rate the bank ''outstanding'' based on activities conducted outside of its assessment areas. However, if a bank met one or more of its plan goals for outstanding and the appropriate agency was weighing whether the goals had been ''substantially'' met, consideration of performance context and CD activities outside of a bank's assessment areas could appropriately be considered in concluding that the bank had substantially met its outstanding measurable goals to warrant an ''outstanding'' rating.

The agencies invite comment on these aspects of the proposal and whether there are other changes that the agencies should consider to clarify the measurable goals provision.

Public participation in plan development. Under the current rule, there are two public participation requirements during the development of a draft strategic plan—(1) informal public feedback; and (2) formal public comment. These requirements are included in the plan approval section of the current rules. The agencies are proposing to move the public participation requirements to their own section, proposed § ____.27(c), to improve the structure of the rule. Functionally, the public participation requirements must be completed before a strategic plan may be submitted to the agencies for approval and setting them apart in their own section recognizes the importance of public participation in the strategic plan development process while also clarifying where they fit in the process.

In proposed § ____.27(c), the agencies are seeking to modernize the public comment process and improve the likelihood that interested parties can meaningfully engage in the development of a bank's strategic plan. The proposed revisions would add transparency by requiring the appropriate agency to post a proposed strategic plan on its website during the formal comment period (discussed below), while maintaining the existing

[197] For example, a bank could specify the following annual interim measurable goals—plan year 1 ($1 million in CD loans), plan year 2 ($1.1 million in CD loans), plan year 3 ($1.25 million in CD loans), plan year 4 ($1.45 million in CD loans), and plan year 5 ($1.7 million in CD loans)—and a measurable goal of $7 million for the plan term. The aggregate of the annual interim measurable goals would be $6.5 million, meaning that the bank would have flexibility to conduct some or all of the addition $500,000 needed to meet the measurable goal for the plan during any of the plan years.

[198] 90 FR at 59748–49.

methods of public engagement. The agencies believe this revision would help ensure actual notice of proposed strategic plans given the significantly increased availability and use of the internet.

Under the proposal, banks would continue to: (1) informally seek public feedback during development of a strategic plan; and (2) formally solicit public comment for at least 30 days by publishing notice in at least one newspaper of general circulation in each assessment area covered by the plan. The proposed rules would continue to specify that banks should make strategic plans available at no cost (such as by referring interested parties to bank and agency websites), and if a bank provides hard copies, it may still charge reasonable fees for copying and mailing. In addition, banks would be required to provide a draft strategic plan to the appropriate agency, which will publish the plan on its public website. The proposal also provides that the agencies would direct the public to provide comments on the draft strategic plan to the bank. The agencies believe that enhancing the public engagement process by requiring that draft strategic plans be posted on the appropriate agency's website will help facilitate banks' development of their strategic plan. In light of the modernization of publication methods for soliciting public comment, the proposed amendments reduce burden for banks by doing away with the requirement for banks to make plans available at all offices in all assessment areas. In developing the proposed revisions to the public engagement provisions, the agencies considered permitting banks to post proposed strategic plans to their websites instead of in newspapers. The agencies are not proposing this option because they determined that having varied processes depending on a bank's choice may lessen actual notice of the public comment period for interested parties due to a lack of consistency.

The agencies invite comment on the proposed changes to the public engagement provisions of the strategic plan process and whether there are other changes that the agencies should consider.

Prefiling communications. The agencies are proposing this new section of their rules in order to make it clearer that a bank may consult with the appropriate agency about their draft strategic plan and that the agencies intend to be more forthcoming with substantive feedback. For example, under the proposal the agencies would consult with banks on whether the level of detail in the draft plan is sufficient for the agency to evaluate the plan and the merits of the proposed measurable goals. This provision is being added in light of feedback the agencies received from banks that it is difficult to develop a plan, especially for small banks, in the absence of collaborative discussions with their supervisory agency.

Although the Interagency Questions and Answers explain that banks may consult with the appropriate agency on the procedures for requesting approval of a strategic plan and the information necessary to ensure a complete submission, the Interagency Questions and Answers also state that the consultation will not include commenting on the merits of a plan or the adequacy of measurable goals.[199] The lack of clarity regarding the process has been a contributing factor in the underutilization of the strategic plan provision. The agencies, however, have extensive experience with reviewing and approving applications and requests in other contexts—such as corporate applications—and considered those processes and their features. The agencies determined that incorporating a formal prefiling consultation process into the strategic plan provision and changing their policy on preliminary guidance on the adequacy of the plan would be a significant process improvement for reforming the current burdensome process. The agencies believe that providing preliminary guidance on the adequacy of a plan will allow banks to improve the quality of submissions and lessen the time it takes to develop a plan for public comment. The agencies would not formally review a strategic plan until the proposed plan is submitted to the agency for approval under § ____.27(e).

The agencies invite comment on the proposed prefiling consultation provision, including whether this process should be required instead of being made available at the bank's option.

Submission of plan. The plan submission provision in the proposed rules is largely based on the current provision with two substantive changes. First, in order to reduce regulatory burden related to getting plans approved and the potential impact of the timing in the current regulation, the agencies are proposing to reserve their authority to adjust the time frames for submissions of proposed strategic plans and their effective dates. While banks should typically submit their plans at least 90 calendar days prior to a proposed effective date, upon request, the agencies may accept and approve a plan submitted less than 90 calendar days prior to the proposed effective date of the plan. The agencies also are proposing to change the phrase ''three months'' to ''90 calendar days'' for clarity and consistency in timing. The requirement to provide the agencies with earlier drafts of plans is proposed to be eliminated to reduce burden given that the appropriate agency will have received a copy of the pre-comment draft for publication on the agency website.

The agencies invite comments on these changes and whether there are any other submission process changes that should be considered, including changes to the timing of submissions and whether less time is needed for the agencies' approval process.

Plan approval. The agencies are proposing several changes to the strategic plan approval process to improve clarity with the goal of reducing process-related regulatory burden. As discussed above, the agencies are proposing moving the public participation provisions to paragraph (c) in order to improve the structure of the rule. Additionally, the agencies are proposing changes regarding providing notice when the appropriate agency determines a submitted plan is ''technically complete.'' Under the current rules, a strategic plan is deemed approved if the appropriate agency does not act within 60 calendar days of receiving a ''complete plan.'' The current rules do not explain what constitutes a complete plan and this lack of clarity has resulted in confusion in the decisioning of strategic plans. To clarify the plan approval process, the proposed rules would include new paragraph (f)(1), *notice of complete plan,* which would indicate the appropriate agency will send a written communication when it determines that a submitted strategic plan is technically complete in accordance with § ____.27(b)(1). If, on the other hand, the appropriate agency determines that a proposed strategic plan is incomplete, the agency will send a written communication indicating why it considers the plan to be incomplete and what additional information is needed. This section is proposed based on feedback the agencies received indicating that it was sometimes unclear whether a plan was ''complete'' and whether the 60-day review period had begun such that the plan would be approved or denied by the end of the following 60-day period. The addition of a technically complete notice determination would promote timely review of strategic plans because, as with the current rule, the 60-day

[199] *See* Q&A § __.27(c)–1.

review clock does not start until the appropriate agency has received a complete plan. In proposing this new provision, the agencies are also clarifying that the approval clock starts when a proposed strategic plan is deemed ''technically complete.'' The addition of the term ''technically'' is to clarify that minor omissions or other issues with a proposed strategic plan will not delay the approval process.

The proposal would retain the agencies' ability to extend the review period prior to it lapsing if done in writing and for good cause. The agencies, however, are also proposing to add a clarifying statement indicating that if a plan is approved after its proposed effective date, it would become effective at the time of approval. The agencies decided to add this language to address uncertainty that has arisen in certain circumstances. Specifically, because the current rules only reference including a ''proposed effective date,'' questions have arisen regarding the actual effective date when the appropriate agency determined a plan was not ''complete'' or when the appropriate agency extended the review time resulting in the plan being approved after the proposed effective date. The proposed clarifying statement regarding the ability to request effective dates that are less than 90 calendar days from the date of plan submission and the addition of the technically complete notice are meant to provide clarity in these circumstances while also building in flexibility where appropriate. The agencies invite comment on these clarifications to the submission and approval timing as well as if there are ways to clarify these provisions.

The proposal largely carries forward the current criteria for evaluating a proposed strategic plan with one substantive clarification and certain other technical and conforming revisions. Specifically, in § ____.27(f)(3) involving the criteria for evaluating a proposed strategic plan, a new paragraph (v) is proposed to document the agencies' existing approach of considering performance context in evaluating a submitted plan. This paragraph was added to emphasize the importance of performance context in reviewing and approving strategic plans and to connect the approval of a strategic plan to the tailoring referenced in § ____.27(b)(1)(vi). At its core, a strategic plan is a tool that enables a bank to customize its CRA examination to its unique circumstances and the needs of its community; therefore, these circumstances and community needs are integral to the agencies' determinations of whether the proposed measurable goals and other plan terms are appropriate and should be approved. This new provision emphasizes that fact and ensures that the proposed measurable goals are considered in this broader context.

In § ____.27(f)(4), which addresses publication of approved plan, the agencies are also proposing to require that, in the interest of more publicly available information, the appropriate agency will publish approved plans on its website. This provision is codifying current OCC practice of publishing strategic plans on its website. In the OCC's supervisory experience, this practice has proven useful to other banks and stakeholders. Under the proposal, the FDIC would adopt this practice.

Plan denial. The agencies are also proposing to add a new paragraph indicating the reasons the appropriate agency may deny a proposed plan and the process for resubmission. In the agencies' experience, part of the reason banks consider the strategic plan option to be unduly burdensome is the opacity in the agencies' decision-making processes. This stems from uncertainty about what is required to be included in a plan and a lack of specificity in how the criteria for evaluating a plan are applied. This proposed provision is intended to help clarify those points based on the agencies' supervisory experience in determining when they have sufficient information to evaluate the plan and what factors identified during the evaluation have led to concerns. By also providing a process for resubmission, the agencies aim to provide banks with a process for curing deficiencies.

Under the proposal, the agencies may deny a proposed strategic plan if: (1) the plan's measurable goals do not adequately address the credit needs of the assessment area(s) covered by the plan as evaluated under the criteria described in paragraph (f)(3) of this section; (2) the plan's measurable goals are not consistent with the safe and sound operations of the bank as described in § ____.21(d); (3) the bank did not comply with the public participation process described in paragraph (c) of this section; (4) the plan otherwise fails to meet the requirements of this section; or (5) the bank fails to provide requested information to the appropriate agency.

As noted above, the agencies are also adding a new provision that addresses the resubmission of a proposed strategic plan after denial. Similar to the ability of the agencies to return a filing as materially deficient in the application context, the agencies are proposing to add this provision to allow a bank to cure deficiencies in an otherwise compliant proposed strategic plan without having to repeat the process in full. Nonetheless, the new provision would provide that the agencies retain the discretion to require a bank to repeat one or more of the requirements of the section in whole or in part. The resubmission provision would also apply the review period provision discussed above to all resubmitted proposed strategic plans. The agencies invite comment on the proposed plan denial section and if there are additional factors or clarifications that would further improve banks' understanding of the agencies' decision-making process.

Plan amendment. The current rules provide banks with the option of amending their strategic plans if there has been a material change in circumstances. The current rules do not define or explain what constitutes a material change in circumstances, which has often resulted in questions about whether a plan amendment is permissible. In § ____.27(h), the agencies are proposing to revise the current plan amendment provision to clarify the types of material changes that may be covered in this provision: a merger or consolidation, a change in the bank's assessment area(s), a change in the bank's business strategy, or a change in institutional capacity or constraints that serve as an impediment in the bank's ability to achieve a satisfactory level of performance.

The current rules also require a bank to develop a plan amendment in accordance with the rules' public participation requirements. The burden of this process requirement may deter banks from amending their plans when it would be advantageous to do so. To address this concern and encourage banks to make appropriate amendments, the proposal would instead provide that the appropriate agency may require, in its sole discretion, that a bank develop an amendment to an approved strategic plan in accordance with any of the process requirements of this section. This provision provides the agencies with discretion to determine when a requirement of the strategic plan section, including the public engagement provision, should apply to a bank's amendment to its approved plan. The proposal further provides that the agencies would determine whether to require a bank to comply with a provision in the strategic plan section in developing an amendment based on the extent of the amendments to the plan. Essentially, the agencies generally would not require banks to comply with process requirements for more targeted

changes, such as removing plan goals for an assessment area that is no longer required because the bank closed its branches in an area. In contrast, the agencies may require banks to follow certain process provisions for more extensive amendments.

Plan assessment. The agencies are proposing to revise the current section on plan assessment to clarify the rule, conform with other changes discussed above, and to permit banks that engage in conversions to continue to be evaluated under a strategic plan approved by one of the other Federal banking agencies, subject to the appropriate agency's approval. In § ____.27(i), the proposal would clarify that the agencies assess the plan based on the entire term of the plan as opposed to on interim measurable goals, and that the agencies consider performance context in their assessments. These changes are intended to be clarifying. Under the current rules, the agencies have assessed banks' performance based on interim annual goals, but permitting this can have anomalous effects if a bank performs better in certain years than in other years. In those circumstances, whereas the bank may have been considered to substantially meet its strategic plan goals when the plan was assessed as a whole, the bank may not substantially meet the plan's goals if the goals are assessed in segments. Lastly, the agencies are proposing to add a provision referencing the consideration of performance context in strategic plan assessments. This clarifies the agencies' current practice. Although the current rules only references the consideration of performance context in approving strategic plans, in practice the agencies have considered performance context in assessing strategic plans as well. Specifically, performance context is implicitly considered in the determination of whether a bank has ''substantially met'' its plan goals. The addition of this and other conforming provisions is intended to make this clear. The agencies invite comment on the plan assessment provisions. The agencies also invite comment on whether the rules should provide for an exception from the general requirements in proposed § ____.21(a)(5) and § ____.27(i), which state that the appropriate agency evaluates a bank's performance under a strategic plan at the end of the plan's term based on the measurable goals specified in the plan, including any annual interim measurable goals.

Converting institutions. In proposed § ____.27(j) on converting institutions, the agencies are proposing the addition of a provision clarifying that for institutions engaged in a conversion, the appropriate agency will assess performance under a strategic plan approved by another agency if the appropriate Federal financial supervisory agency determines the approval was consistent with the requirements of this section and no amendments are necessary pursuant to paragraph (h)(2) of this section. The intent of this provision is to clarify that converting institutions, provided their approved strategic plans are consistent with the requirements of this part, will not need to submit their strategic plan for approval or develop a new plan as a result of a conversion.

Finally, in proposed § ____.27(k) regarding the use of standard performance tests if satisfactory goals are not substantially met, the agencies are updating the default rule regarding consideration of standard performance tests to reduce burden for banks. As opposed to including this provision as a component of a strategic plan only applied at the bank's election, the agencies determined that this provision should be applied as a general default rule. Under this provision, the agencies will automatically consider a bank's performance under the otherwise applicable performance tests or standards if a bank fails to meet substantially its plan goals for a ''satisfactory'' rating. The agencies determined that this treatment was appropriate because the tests and standards reflect the agencies' general approach to assessing CRA performance. If a bank would be considered ''satisfactory'' under those tests, it likewise should be considered ''satisfactory'' even when having elected to use a strategic plan. Requiring a bank to affirmatively elect this default when it first considers using a strategic plan fails to account for the fact that banks do not set goals with the intent of missing them. A bank that would otherwise be considered ''satisfactory'' under the CRA should not be penalized for its choice to consider an alternate evaluation method or for optimism regarding its ability to meet its goals. The agencies seek feedback regarding whether a bank should be required to be evaluated under standard performance tests if satisfactory goals are not substantially met or if this evaluation should be at the bank's election.

Request for Feedback

Question 35: Are there any reasons the agencies should or should not require strategic plans to include whole political subdivisions, such as in circumstances where a bank cannot reasonably serve the whole area?

a. Does the nature of a strategic plan in which performance goals are determined in advance mitigate these concerns?

b. Are there alternative approaches the agencies should consider? For example, should a bank be allowed to use a radius around its branches to identify its assessment areas, similar to the changes being considered regarding the current ''substantial portion of its loans'' standard of § ____.41(c)(2), discussed in section IV.I of this **SUPPLEMENTARY INFORMATION**?

Question 36: With respect to strategic plans and otherwise, should the rules provide the maximum size of an assessment area, such as the combined statistical area or future equivalent? [200]

Question 37: Should the agencies require that banks include maps of each assessment area covered by their strategic plans in the plan?

Question 38: Do the proposed changes to the strategic plan measurable goals provision adequately explain what elements need to be included in a strategic plan? Are there other elements that should be added to better clarify the components of measurable goals, such as a growth factor for interim annual goals?

Question 39: Does the clarification that banks may include measurable goals that cover the entire term of a strategic plan, in addition to the annual interim measurable goals, provide appropriate flexibility to a bank developing a strategic plan?

Question 40: Should banks be required to have measurable goals for the entire term of the plan in addition to annual interim measurable goals?

Question 41: In assessing a bank's performance under a strategic plan, how should the agencies weigh consideration of annual interim measurable goals versus measurable goals that span the entire term of the plan?

Question 42: Should the agencies consider developing and applying a process similar to that discussed in the OCC's *Simplified Strategic Plan Process for Community Banks,* which provides elective goals and other guidance for developing a strategic plan for all banks? If so, should the process be implemented through guidance or codified in the rules?

Question 43: Does the proposed approach for the consideration of CD activities outside of a bank's assessment

[200] The reference to future equivalent is included because the terms used to identify metropolitan areas in the statute have been revised over time. *See* 89 FR at 6614–6615; 12 U.S.C. 2906(e)(2).

area(s) under the strategic plan (*i.e.,* considering CD activities not otherwise considered in connection with any measurable goals in determining if the bank should receive an ''outstanding'' rating) provide appropriate flexibility for the agencies to consider these activities?

Question 44: Should the rules permit the agencies to consider CD activities not otherwise considered in connection with any measurable goals in concluding on whether the bank should receive a ''satisfactory'' rating?

Question 45: Should consideration of CD activities not otherwise considered in connection with any measurable goals be at the bank's election or should the appropriate agency be required to consider these activities?

Question 46: Should banks be permitted to specify measurable goals for CD activities outside of their assessment area(s)? If so, should goals for CD activities outside of assessment area(s) be limited to outstanding measurable goals?

Question 47: Should the agencies require that a bank provide a draft strategic plan to the appropriate agency a certain number of days before the beginning of the public comment period to allow time for publication? If so, is 5 business days reasonable or would more time be necessary to ensure alignment of the agency's publication and the start of the comment period?

Question 48: Do the proposed changes to the strategic plan public engagement provisions strike the proper balance between providing notice to the public and modernization of the public comment process? Are there other ways to modernize the public engagement process while ensuring impacted communities have notice of proposed strategic plans?

Question 49: Does the proposed strategic plan prefiling communications provision provide the appropriate opportunity for a bank to seek guidance on a draft strategic plan without implying preapproval? Should the prefiling communications provision include any process requirements, such as timing requirements?

Question 50: Should the agencies allow strategic plans that are approved after the proposed effective date to go into effect as of the approval date? Should the effective date be the proposed date in the plan even if that date is in the past?

Question 51: If the appropriate agency extends the review period for a proposed strategic plan based on good cause are there any parameters that would be helpful to include in the extension such as adding a cap on how long the appropriate agency may extend the review period? If so, should the cap be 15 calendar days, 30 calendar days, or a time frame specified in the written communication extending the review?

Question 52: With respect to a strategic plan amendment, should the list of types of material changes in circumstances provided in the proposed rules be a non-exhaustive list, as proposed, or an exhaustive list? Should additional types of material changes in circumstances be provided in the final rules? Should the final rules address what does not constitute a material change in circumstances?

Question 53: Should the agencies include more detail on when a measurable goal or measurable goals in the aggregate do not adequately address the credit needs of the assessment areas? For example, while a particular measurable goal may be appropriate based on a bank's circumstances, the agencies may determine that in the aggregate the measurable goals are inadequate to address the credit needs of the bank's assessment area(s).

Question 54: Do the proposed rules provide sufficient clarity regarding the circumstances under which the agencies may deny or require the resubmission of a bank's request for a strategic plan while also allowing enough flexibility to consider the varied circumstances that arise? Would greater specificity in the plan denial or resubmission process help to further reduce process-related regulatory burden stemming from lack of clarity?

G. Data Collection, Reporting, and Disclosure

Current § ____.42 requires banks that are not small banks (including intermediate small banks) to collect, maintain, and report certain data. With respect to the proposal, the agencies intend to keep most data requirements the same. However, the agencies are proposing certain modifications to require the: collection and maintenance of information about CD activities; reporting information about the recipient and amount of CD grants; and collection and maintenance of consumer lending data for large banks with consumer lending evaluated as a major product line. Under the proposal, the agencies would also permit a waiver of data collection requirements that would not be necessary for evaluating a bank's performance or more than minimally useful to the agencies' overall data collection.

As previously noted in the discussion of asset thresholds, the agencies are proposing to raise the small bank and large bank thresholds to $1 billion and $10 billion, respectively.[201] If adopted, similar to current rules, the proposed small banks and intermediate banks (including small banks and intermediate banks that are wholesale or limited purpose banks) would be excluded from requirements to collect, maintain, or report data under proposed § ____.42.

Small business and small farm data. With respect to the small business loan and small farm loan data requirements in current § ____.42(a) and (b)(1), the agencies are not proposing substantive changes to the current data requirements. Banks subject to the requirements will report the same data in a machine-readable form as prescribed by the agencies.

The agencies are aware that the Consumer Financial Protection Bureau has recently amended its rule regarding small business data authorized under section 1071 of the Dodd-Frank Act (Section 1071 Final Rule).[202] The agencies anticipate that, before or after section 1071 data are available under the Section 1071 Final Rule, there will likely be an opportunity for the agencies to amend their CRA rules to eliminate or minimize any duplicative data collection, maintenance, or reporting requirements that would otherwise be imposed on covered banks through the Section 1071 Final Rule. To the fullest extent feasible, the agencies intend to leverage section 1071 data and discontinue duplicative CRA data collection and reporting requirements.

The agencies request comment on opportunities to minimize duplicative data requirements under the current and proposed CRA data requirements for small business loans and small farm loans and the Section 1071 Final Rule requirements that will eventually become applicable to banks covered under that rule. The agencies also invite perspective on whether it is feasible to partially or fully discontinue CRA data collection for small business loans and small farm loans and rely exclusively on section 1071 data that will be collected, maintained, and reported by banks covered under the Section 1071 Final Rule.

CD loans, investments, and grants data. Current § ____.42(b)(2) requires banks that are not small banks to collect, maintain, and report the aggregate number and aggregate amount of CD loans originated or purchased by the bank. Currently, the Interagency Questions and Answers provide that a bank that seeks consideration for CD activities must be prepared to

[201] *See* section IV.A of this **SUPPLEMENTARY INFORMATION.**

[202] 91 FR 23530 (May 1, 2026).

demonstrate the activities' qualifications but this can be provided in a format of the bank's choosing.[203] Regarding data about a bank's individual CD loans and CD investments, examiners currently rely on loan level and investment level information provided by a bank at the time of an examination, including the number and dollar amount of loans and investments, the location of or areas benefited by these activities, and information describing the CD purpose for each CD loan and investment.[204] Data collection, maintenance, and reporting requirements for this information is not included in the current rules. As a result of the lack of data collection and reporting of individual CD loans and CD investments, the total number and dollar amount (originated and on-balance sheet) of such loans and investments nationally, or within specific census tracts, is not available through reported data.

CD loan, CD investment, and CD grant information required to be collected and maintained. In proposed § ____.42(a)(2), large banks (including wholesale and limited purpose banks that meet the requirements to be considered a large bank) will be required to collect and maintain in a machine-readable form until the completion of their next CRA examination data related to CD loans, CD investments, and CD grants. This requirement would be similar to current requirements for small business and small farm data and will improve the efficiency of CRA examinations because information that examiners currently obtain during the examination will be available in a machine-readable form. The data will include: a unique number or alpha-numeric symbol that can be used to identify the relevant loan, investment or grant; recipient's name, recipient's address, the dollar amount of the loan, investment, or grant; the location (*e.g.,* assessment area(s), State, or multi-state MSA) benefitting from the loan, investment, or grant; an indicator whether a loan or investment involves complexity; an indicator of the loan, investment, or grant's CD purpose; and an indicator whether the activity is a loan, investment, or grant.

Additional CD grant information required to be maintained. Under § ____.42(a)(3) of the proposal, large banks would have to collect and maintain additional information to demonstrate that grants and donations qualified as a CD grant. Specifically, this information would include the recipient's written commitment to use the funds for specific projects, programs, or initiatives, in the bank's assessment area(s); the recipient's written attestation that the recipient's indirect costs for administering the grant or donation will not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR part 200, or a comparable standard; and documentation provided by the recipient supporting the attestation, including the recipient's IRS Form 990 (Return for Tax Exempt Organizations) with annual operating and program budgets.

This requirement would provide clarity and transparency regarding agency expectations for the information required to demonstrate that a grant or donation qualifies for CD consideration. The agencies invite comment on whether they should provide, in rule or guidance, additional means through which a bank may demonstrate that a CD activity has a primary purpose for community development. For example, should the agencies provide an optional template for collecting CD activity information for use in CRA examinations that would outline the information the agencies need to determine whether an activity is a CD activity.

Additional CD grant information required to be reported. In addition, large banks would be required under proposed § ____.42(b)(2)(ii) to collect, maintain, and report additional data regarding CD grants, including the recipient of the grant, the recipient's street address, and the dollar amount of the grant. The agencies would expect to maintain a public database of this data. The agencies invite comment on whether the agencies should maintain a public database of this data. The agencies also invite comment on whether they should require the bank to report the recipient's address as proposed, or if an eleven-digit geocode (which provides census tract information) is sufficient.

Consumer lending data. Under current § ____.42 banks are not required to collect, maintain, or report consumer loan data. Current § ____.42(c)(1) provides banks with the option to collect and maintain data for consumer loans originated or purchased by the bank for consideration under the lending test. A bank may maintain data for one or more of the following categories of consumer loans: motor vehicle, credit card, other secured, and other unsecured. If the bank maintains data for loans in a certain category, it must maintain the data for all loans originated or purchased within that category and must collect and maintain the data in a machine-readable form. The data must be maintained separately for each category of loans including for each loan: (1) a unique number or alpha-numeric symbol that can be used to identify the relevant loan file; (2) the loan amount at origination or purchase; (3) the loan location; and (4) the gross annual income of the borrower that the bank considered in making its credit decision. The data collected and maintained are not reported but provided to examiners at the time of a bank's CRA examination.

As discussed in section IV.B of this **SUPPLEMENTARY INFORMATION**, in the proposed rule, large banks for which consumer loans are a major product line will be evaluated based on their consumer lending. Accordingly, the agencies are adding a requirement that such banks collect and maintain consumer loan data in proposed § ____.42(a)(4). Also, because the agencies will evaluate all types of consumer lending in the aggregate under the major product line standard, the agencies propose to revise the data collection provision for consumer lending to include consumer lending data for all categories. The other consumer loan data collection and maintenance requirements under the current rules will remain substantively the same.

The agencies invite comment on whether, to the extent the agencies continue to allow banks to opt into a consumer lending evaluation, the agencies should retain provisions relating to the optional collection and maintenance of consumer lending data.

Determination to not require data based on specific circumstances. Proposed § ____.42(h) would codify the appropriate Federal financial supervisory agency's authority to exempt a bank from one or more of the requirements to collect, maintain, or report data under proposed paragraphs (a) through (f) of this section. The agencies propose the codification of this authority in recognition of the fact that in certain circumstances, the collection, maintenance, and reporting of data by a bank may be irrelevant to the assessment of a bank's CRA performance. In instances where the collection, maintenance, and reporting of data are not necessary to assess a bank's CRA performance and would not have more than a minimal impact on the agencies' aggregate data collection, the agencies believe that it is appropriate to consider providing relief from unnecessary recordkeeping and data reporting requirements. The codification of this exemption provision will allow

[203] *See* Q&A § ____.12(h)–8; *see also* current 12 CFR ____.21 and ____.26.

[204] *See* Q&A § ____.22(b)(4)–1.

the agencies to provide, when warranted by the facts and circumstances, targeted burden relief to banks from data reporting and recordkeeping requirements.

The agencies note that they would generally expect use of this waiver to be rare. For example, the agencies may grant a waiver for a wholesale or limited purpose bank that is required to report limited small business and small farm data for loans made on an accommodation basis. Since the agencies consider small business and small farm data to be a single data set, the agencies would not expect to grant a waiver of small business or small farm data reporting because either small business or small farms loans are not a major product line, however. The agencies invite comment on whether the agencies should provide examples of when they may be willing to exempt a bank from certain data collection, maintenance, or reporting requirements, such as when neither small business nor small farm lending is a major product line.

H. Public File & Public Notice

Public file. Pursuant to § ____.43 of the current rules, a bank is required to maintain a CRA public file containing certain information related to the bank's CRA performance (*e.g.,* branch and branch services information, assessment area information, public comments and responses, certain CRA data, and the bank's most recent CRA performance evaluation). The proposal would retain this requirement with certain updates to account for advances in technology and to address other identified issues. Specifically, as discussed in detail below, the proposal would require that a bank maintain its public file on its website or on a website maintained on the bank's behalf.

Internet usage in the U.S. is currently almost universal. Survey data of U.S. adults indicates that about 96 percent say they use the internet.[205] This represents a significant increase since the early 2000s when only about half of U.S. adults engaged in internet usage.[206] As a result, the agencies believe that requiring banks to provide public file information online would pose minimal access barriers to members of the public with an interest in viewing the information.

To implement this change, throughout proposed § ____.43, the agencies would substitute the term ''place'' with ''include'' as it relates to instructions for banks to keep and maintain certain information in their public file. The agencies' intent with this revision is to clarify a term that might otherwise be ambiguous. Under the proposal, banks would no longer be required to place information or documents in a physical file but instead would be required to include information or documents in a public file available on the bank's website or a website maintained on behalf of the bank. Additional revisions to modernize the implementation of the proposed rule's public file provision are discussed below. Also discussed below are revisions to address issues related to the current public file provision. Other than the changes discussed in this **SUPPLEMENTARY INFORMATION**, the proposal would carry forward the current rule's public file requirements.

Information available to the public. Current § ____.43(a) specifies the information that a bank must include in its public file. The agencies are proposing several modifications to these content requirements, in addition to conforming changes to reflect other parts of the proposal.

Current § ____.43(a)(1) requires banks to maintain in the public file written comments received from the public that specifically relate to a bank's performance in helping to meet community credit needs, and any bank responses to the comments, if neither the comments nor the responses contain statements that reflect adversely on the good name or reputation of any persons other than the bank or publication of which would violate specific provisions of law. Proposed § ____.43(a)(1) would modify the current rules by replacing ''good name or reputation'' with ''character or integrity.'' The agencies intend this to be a technical change to reflect more modern terms that accurately reflect the types of statements covered by this language. The terms ''character'' and ''integrity'' are used elsewhere in banking laws and regulations regarding directors, senior executive officers, and controlling shareholders of banks.[207]

Also, in proposed § ____.43(a)(2), the agencies are clarifying certain requirements regarding the inclusion of the bank's most recent CRA performance evaluation in the bank's public file. First, the agencies are clarifying that the CRA performance evaluation included in the public file is the most recent performance evaluation ''provided to the bank.'' For purposes of proposed § ____.43(a)(2), the agencies provide a CRA performance evaluation to a bank when internal supervisory reviews are complete. Second, the agencies are specifying that banks are required to include the CRA performance evaluation provided by the appropriate agency in their public file within 60 business days. In comparison to current requirements, this proposed deadline would extend the current deadline by an additional 30 business days. The agencies are proposing this change to better account for the fact that a bank may appeal the assigned ratings in its CRA performance evaluation for a period after the performance evaluation is provided to the bank. In the agencies' experience, requiring a bank to place its CRA performance evaluation in its public file while the performance evaluation remains subject to appeal creates concerns for banks and may cause confusion for the public. Extending the period for including CRA performance evaluation in a public file would help mitigate these concerns. Third, the agencies are proposing to reserve discretion to extend the bank deadline for including the CRA performance evaluation in a bank's public file. While the agencies anticipate that there will be limited need to delay the inclusion of a bank's CRA performance evaluation in its public file beyond 60 business days, the agencies' supervisory experience indicates that good cause may exist in certain circumstances. For example, if a bank appeals its CRA assigned rating(s) in its most recent CRA performance evaluation, the agencies may find it preferable to delay the inclusion of the performance evaluation in the public file during the pendency of the appeal.

The agencies are proposing certain other revisions to the content of the public file. Specifically, in § ____.43(a)(5), the agencies are proposing two changes. First, with respect to the list of services generally offered at the bank's branches, the agencies are revising the list of services to include only ''credit products'' as opposed to ''loan and deposit products.'' The agencies are proposing this change because they believe it better comports with the CRA's focus on credit.[208] Second, the agencies propose to add ''interactive teller machines'' and ''internet or mobile banking'' to the list of examples of alternative systems for delivering retail banking services and remove banking by computer from the

[205] *See* Pew Research Center, ''Internet, Broadband Fact Sheet'' (Nov. 20, 2025), *https://www.pewresearch.org/internet/fact-sheet/internet-broadband/.*

[206] *See id.*

[207] *See* 12 U.S.C. 1831i(e) (requiring the appropriate Federal banking agency to consider the character and integrity of proposed directors and senior executive officers in certain situations); *see also* 12 U.S.C. 1817(j) (requiring the appropriate Federal banking agency to consider the integrity of proposed individuals who will control a bank).

[208] *See* 12 U.S.C. 2903(a).

same list. The agencies intend for these changes to update the examples of alternative delivery systems banks may choose to include in their public file to make the list more relevant today.

For large banks, proposed § ____.43(b)(1)(ii) would revise the requirement for inclusion of the CRA disclosure statement in a bank's public file. Under the proposal, a bank would no longer include its CRA disclosure statement in its public file. Instead, a bank would be required to include in its public file a written notice that the CRA Disclosure Statement pertaining to the bank may be obtained on the Federal Financial Institutions Examination Council's (FFIEC) website at *www.ffiec.gov.* Consistent with the current rule, a bank would be required to include this written notice in its public file within three business days after receiving notification from the FFIEC of the availability of the disclosure statement. This revision is intended to modernize the public file provision.

Location of public file information. Under current § ____.43(c), banks are required to make public file information available to the public, upon request, for inspection at the bank's main office and the bank's branches and at no cost. The current rules require the full public file to be made available at the bank's main offices. If the bank is an interstate bank, the bank must also make its full public file available at a minimum of one branch office in each State. At each branch, the public section of the bank's most recent CRA performance evaluation must be made available, along with a list of services provided by the bank branch.

As discussed above, the agencies believe that they should modernize the public file location and availability requirements. To that end, the agencies are proposing a revised version of § ____.43(c) that would require banks to make available to the public for inspection, at no cost, the public file information required under the proposed rule, which is located on the bank's website, or a website maintained on behalf of the bank. The proposed changes would also remove the current requirements to maintain the public file at the bank's main office or branches. To comply with the proposed provision, a bank would instead include the public file on a website as described and provide a means for viewing the information in the public file on the website at the bank's branches. For example, a bank could provide access to a computer or other device in a branch that the public can use to view the public file on the website.

The agencies believe that proposed § ____.43(c) may provide appreciable regulatory relief for many banks. Rather than creating, maintaining, and updating paper copies of the public file for the main office and bank branches, the banks would likely experience lower compliance costs from maintaining the information online. While the agencies are aware that there may be some banks that do not maintain a website, the agencies do not anticipate that a bank would experience significant compliance costs if it were to create a simple website to maintain its public file information or engage a third party to maintain a website for the bank. The agencies also believe that publishing a bank's public file on a website would increase the ease with which the public is able to access the information.

Copies of the public file. In proposed § ____.43(d), the agencies are proposing minor revisions to the requirements for banks to provide copies of their public file to the public. First, upon request, a bank must provide a paper or digital version of the bank's public file to the person making the request. Second, if the copy of the public file information is not provided in a digital form, the bank may charge a reasonable fee not to exceed the cost of copying and mailing the information. The agencies believe that these revisions reasonably balance the availability of the public file information to persons who may not want to use the internet against bank costs associated with providing a non-digital copy of the public file.

Public notice by banks. Current § ____.44 provides that a bank must provide the CRA public notice included in Appendix B in the public lobby of the bank's main office and in each of the bank's branches. This public notice furnishes the public in the bank's community with important information regarding the bank, the bank's CRA obligations, and how members of the public can learn more about the bank's past CRA performance and participate in the bank's current CRA performance evaluation.

Consistent with revisions to modernize the provision of the public file discussed above, the agencies are proposing changes to the disclosure of the CRA notice in proposed § ____.44 along with conforming revisions to the CRA notice in Appendix B. Under the proposal, a bank would maintain the public notice on the bank's website or a website maintained on behalf of the bank. Given that the public notice would be located on a website, the agencies propose that, in lieu of posting the entire public notice in its main office and branches, the bank must display a written notice, in printed or digital form, that the bank's CRA notice and public file is available on the applicable website. Under the proposal, the disclosure of the CRA notice posted in a bank's main office and branches would not replicate the entirety of the CRA notice described in appendix B. Instead, the public disclosure of the CRA notice would direct bank customers and members of the public to the relevant website containing the notice that meets the requirements of appendix B. The contents of the CRA notice would be revised to reflect the changed location and to conform to the proposed changes to the public file provisions described above.

The agencies believe that these proposed changes would be a net improvement over the current requirements because the proposal would allow banks to update their CRA public notices without the need to create and display an identical copy of the updated notice in the bank's main office or branches. For banks, this would reduce burden by eliminating the need for banks to discard and replace the CRA notices anytime there are changes to the required information (*e.g.,* a change in an address included in the CRA notice). Due to the widespread availability of the internet today, the agencies believe that requiring that banks only post an abbreviated disclosure stating that the CRA notice is available on a website would fulfill the same function as posting the full CRA notice described in Appendix B.

The agencies request comment on whether changing the requirement to post the full CRA notice to a requirement to post a disclosure referencing that the CRA notice is available on the bank's website or a website maintained on the bank's behalf would function as a viable alternative to the current requirements of § ____.44. The agencies also request comment as to whether they should develop a model public disclosure of the CRA notice or include a required disclosure in the rule.

I. Other Technical and Targeted Revisions

The agencies are proposing several additional revisions and certain technical and clarifying changes to the current rule. Unless otherwise specified, these changes are not intended to have substantive effect.

Discriminatory or other illegal credit practices, in general. Under the current rules, an agency's evaluation of a bank's CRA performance is adversely affected by evidence of discriminatory or other illegal credit practices in any geography

by the bank or in any assessment area by any affiliate whose loans have been considered as part of the bank's lending performance. In § ____.28(c), the agencies are proposing certain clarifying revisions to the provision regarding the effect of discriminatory or other illegal credit practices.

Scope of discriminatory or other illegal credit practices. In § ____.28(c)(1), the agencies propose to add to the non-exhaustive list of discriminatory or other illegal credit practices violations of: (1) section 1031 of the Dodd-Frank Act involving unfair, deceptive, or abusive acts or practices (UDAAP); (2) the Military Lending Act; and (3) the Servicemembers Civil Relief Act. The proposed revisions would codify the agencies' existing policy with respect to the types of discriminatory or other illegal credit practices that may adversely affect the evaluation of a bank's CRA performance.

The agencies are also proposing a new § ____.28(c)(2) that would provide additional criteria applicable to the agencies' consideration of discriminatory or other illegal credit practices. The agencies believe that the addition of this provision would appropriately focus the scope of the agencies' consideration of discriminatory or other illegal credit practices on those violations that are most likely to have a broad impact on the bank's lending activities such that the benefit those activities may have had in meeting community credit needs would be adversely affected by the harm the activities caused to the community. The agencies are proposing two alternatives for the proposed provision.

Under the first option for proposed § ____.28(c)(2) (Option 1), evidence of discriminatory and other illegal credit practices must be a violation of a law, rule, or regulation cited in a public enforcement action taken by a Federal or State agency or judicial order to which a Federal or State agency is a party. The agencies believe that these requirements would appropriately focus consideration of discriminatory and other illegal credit practices on violations of a law, rule, or regulation for which a Federal or State agency has taken a formal enforcement action or pursued judicial action. The agencies believe this approach would create an objective standard for when the agencies would consider a violation of a law, rule, or regulation and would permit the agencies to fully discuss discriminatory and other illegal credit practices without disclosing violations of a law, rule, or regulation that constitute confidential supervisory information.

The agencies are considering a second option for proposed § ____.28(c)(2) (Option 2). Option 2 would generally codify current practice by providing that a discriminatory or other illegal credit practice must be a violation of a law, rule, or regulation cited by a Federal or State agency in an examination report or enforcement action, or in a judicial order to which a Federal or State agency is a party. Option 2 also would provide that if the citation of a violation of law, rule, or regulation is confidential supervisory information, the agencies will not disclose such information in the public section of the bank's CRA Performance Evaluation. The agencies believe that approach would preserve the flexibility to consider a particular discriminatory or other illegal credit practice—even when it is not disclosed to the public. Although the agencies expect, based on their supervisory experience, that nonpublic citations will seldom rise to the level of a downgrade in CRA rating, this option would preserve the agencies' flexibility to resolve matters through nonpublic enforcement actions when appropriate and still consider them in the CRA rating process.

As a result of either proposed option, the agencies are also proposing to eliminate the ''nature, extent, and strength of the evidence of the practices'' factor considered under the current rules in determining the effect of a discriminatory or other illegal credit practice on a bank's assigned ratings. Under Option 1, the agencies believe that limiting consideration of discriminatory or other illegal credit practices to public agency actions would mean that absent a mitigating factor, the violation has the requisite nature, extent, and strength to warrant lowering a bank's rating. Under Option 2, the agencies believe this factor is encompassed by the consideration of ''any other relevant information.'' The agencies would continue to consider the other factors in current § ____.28(c)(2) (proposed § ____.28(c)(3)) to determine if a bank's ratings should be lowered.

The agencies request comment on whether there are additional examples of discriminatory or other illegal credit practices that should be identified in proposed § ____.28(c)(1) based on the harm the practices cause to consumers and communities. In addition, the agencies request comment on whether the new criteria for considering discriminatory or other illegal credit practices in proposed § ____.28(c)(2) should be included, or what alternative criteria, if any, should be considered. The agencies request comment on the elimination of the agencies' consideration of the ''nature, extent, and strength of the evidence of the practices'' and whether there are instances where a final agency action that is available to the public would still, absent mitigating factors, fail to rise to the level of warranting a downgrade of the bank's performance.

The agencies also request comment on whether the agencies should provide greater clarity in regulatory text regarding how evidence of discriminatory or other illegal credit practices may affect a bank's CRA ratings. For example, should the rules provide that evidence of discriminatory or other illegal credit practices may be considered in the bank's overall CRA rating, or in applicable performance test, assessment area, State, or multistate MSA conclusions or ratings?

Military banks. The current rules provide in § ____.41(f) that a bank whose business predominantly consists of serving the needs of military personnel or their dependents may delineate its entire deposit customer base as its assessment area if the military personnel or dependents are not located within a defined geographic area. This provision is largely based on a 1978 amendment to the CRA statute.[209] And the delineation is permitted notwithstanding any other assessment area provision in § ____.41. The current rules are otherwise silent with respect to how banks that delineate assessment areas under the military bank provision will be evaluated for purposes of the CRA.

To improve clarity and transparency, the agencies are proposing a new definition of ''military bank'' in § ____.12 which includes banks whose business predominately consists of serving the needs of military personnel who serve or have served in the U.S. armed forces or dependents of U.S. military personnel. The definition also specifies that ''U.S. armed forces'' includes all six of the current branches of the U.S. armed forces. Moreover, the definition provides a standard that a bank is predominantly in the business of serving the needs of military personnel or their dependents if the bank's most important customer group is military personnel or their dependents. This proposed definition is based on and would incorporate the

[209] *See* 12 U.S.C. 2902(4) (''A financial institution whose business predominately consists of serving the needs of military personnel who are not located within a defined geographic area may define its 'entire community' to include its entire deposit customer base without regard to geographic proximity.'').

explanation provided in the 1979 preamble to the CRA rule.[210]

The agencies are also proposing a new § ____.21(a)(6) to discuss the applicable performance tests or standards applicable to military banks. In proposed § ____.21(a)(6)(i), military banks are subject to the performance tests or standards described in § ____.21(a)(1) through (5). For example, if the military bank has the assets of a large bank, the military bank will generally be evaluated under the lending, investment, and service test as described in § ____.21(a)(1).

In proposed § ____.21(a)(6)(ii), the agencies discuss the treatment of military bank assessment areas. If the military bank chooses to delineate the entire U.S. and is territories as its sole assessment area under proposed § ____.41(f), the agencies will evaluate the bank at the institution-level only. This approach would reflect the bank's decision to delineate a single assessment area.

The agencies are also proposing a new § ____.21(a)(6)(iii), which would modify the application of the applicable performance tests or standards to address the fact that, as provided in the statute, military banks that serve military personnel and their dependents who are often not located in a defined geographic area. Therefore, proposed § ____.21(a)(6)(iii) would provide that military banks are not evaluated under any component of a performance test or standard that evaluates bank performance within a defined geographic area. For example, the geographic distribution of a military bank's loans would not be considered under the lending test applicable to large banks or the geographic distribution criteria applicable to small and intermediate banks under the lending test for small banks and intermediate banks.

In addition, the agencies are also proposing revisions to the assessment area(s) provisions for military banks in § ____.41(f). The revised military bank provision would provide that, notwithstanding any other assessment area provision in § ____.41, a military bank whose customers are not located within a defined geographic area may delineate the entire United States and United States territories as its sole assessment area. This assessment area would include ''the entire deposit customer base'' described in the current rules and the CRA statute and rationalize this assessment area with the geographic oriented rule. As discussed above, the proposed rules would also revise the application of the performance tests for military banks to focus on the bank's customer base.

The agencies believe that these proposed changes would improve the understanding of what a military bank is and, in accordance with CRA statute, extend these banks the option to define their entire community to include their entire customer deposit base. The agencies intend these changes to support and aid military banks as they continue their important mission of serving the credit needs of U.S. military servicemembers and their dependents. The agencies seek feedback on provisions in the proposed rules regarding military banks.

Indian country and other Tribal and native lands. Proposed § ____.12 defines ''Indian country'' to mean a geographic area that is covered by 18 U.S.C. 1151 or a Tribal Census Tract, an Oklahoma Tribal Statistical Area, a Tribal Designated Statistical Area, an Alaskan Native Village Statistical Area, or an American Indian Joint-Use Area, as those terms are defined by the U.S. Bureau of the Census. Proposed § ____.12 also defines ''other Tribal and native lands'' to cover State Designated Tribal Statistical Areas, as defined by the U.S. Bureau of the Census, and Hawaiian Home Lands. The agencies are proposing these defined terms to provide banks with certainty as to what areas they may engage in revitalization and stabilization activities under the proposed definition of ''community development.''

The agencies request comment whether their proposed definitions of ''Indian country'' and ''Other Tribal and native lands'' adequately includes the areas occupied by American Indians and other Native American populations.

Request for Feedback

Question 55: Are there alternative approaches the agencies should consider to encourage banks to meet the credit needs of Indian country and other Tribal and native lands? For example, should the agencies use the definition of Native Lands in the 2023 CRA rules? Are there any difficulties or unintended consequences that banks might encounter with the definitions as proposed?

Performance context. The agencies are proposing changes to the performance context factors in § ____.21(b) for clarity and parallel structure. These changes include: (1) clarifications that performance context is used to approve and evaluate a bank's strategic plan; (2) clarifications that demographic data includes assessment area demographics and data on the local, regional, and national economic environment; (3) information on lending, investment, grant, and service opportunities does not need to be limited to the bank's assessment areas; and (4) bank product offerings and business strategy may be considered if the bank provides them.

Authority and purpose. With respect to the current authority and purpose provisions in § ____.11, the agencies are proposing the following technical, clarifying revisions. First, the OCC is proposing to revise its Office of Management and Budget (OMB) control number in § 25.11(a)(2) to ''OMB control number 1557–0357'' to align the control number with the approved information collection in place for the OCC's current rule. Second, in § ____.11(b), the agencies are proposing clarifying revisions to more closely conform the rules to the language in the CRA statute. The agencies are specifying that, as provided in 12 U.S.C. 2905, the agencies are required to publish regulations to carry out the purposes of the CRA. Moreover, the agencies are including the purposes of the CRA described in 12 U.S.C. 2901(b). To better align with 12 U.S.C. 2903(a), the agencies are also explaining that they intend to carry out the purposes of the CRA by establishing a framework for assessing the record of banks of meeting the credit needs of its entire community, including LMI neighborhoods, consistent with the safe and sound operation of the bank and taking that record into account when considering certain applications.

Severability. The agencies are proposing § ____.11(d) to address the issue of severability by providing that the provisions in their CRA rules are separate and severable from one another. If any provision of the rules is stayed or determined to be invalid, it is the agencies' intention that the remaining provisions will continue in effect. In such an event, the agencies anticipate that they would evaluate whether any subsequent rulemaking is appropriate. The agencies are proposing to include the severability clause to ensure that, in the event any particular provision of the proposed rule is stayed or determined to be invalid, it would be clear to banks and affected members of the public that the remaining provisions of the rule would remain effective. Inclusion of a severability clause would also preserve, despite any litigation, improvements to the CRA regulatory framework that were not the subject of the legal challenge.

Definitions. In the sections above, the agencies discussed several proposed new or revised definitions in connection with the proposed provisions to which the definitions relate. In addition, the

[210] *See* 44 FR 18163, 18164 (Mar. 27, 1979).

agencies are proposing certain clarifying revisions to the definitions in § ____.12, discussed below.

• ''*Appropriate Federal financial supervisory agency.*'' The OCC is proposing a new definition of ''appropriate Federal financial supervisory agency'' in proposed § 25.12. As noted above, this proposed definition would be used throughout part 25 in lieu of ''appropriate Federal banking agency.'' This change would be clarifying only and would use a term defined in the statute.[211] Under the proposal, ''appropriate Federal financial supervisory agency'' would mean the: (1) OCC when the institution is a bank or Federal savings association; and (2) FDIC when the institution is a State savings association with federally insured deposits. The OCC is proposing conforming revisions throughout part 25 to implement this change.

• ''*Branch.*'' The agencies are proposing a simplified definition of ''branch'' in § ____.12 to mean a banking facility authorized as a branch. This proposed definition of branch is intended by the agencies to promote better alignment between their existing approach to bank branches for licensing purposes and their CRA rules that include the effect of a bank's CRA performance on branch applications. While the proposed changes would no longer include the examples of branches such as the ''mini-branch in a grocery store'' or the indicator to include shared spaces, the agencies believe that the proposed definition would fully cover all bank branches recognized under the existing definition. Instead of including modifications to the meaning of branch in the definition, the agencies are proposing to incorporate into the assessment area delineation provisions in proposed § ____.41 limits on the types of branches that require a bank to have an assessment area.

• ''*Incidental basis.*'' To provide a more transparent standard with respect to special purpose banks described in § ____.11(c)(3), and the limited purpose bank and wholesale bank definitions included in § ____.12, the agencies are proposing to include a new definition of ''incidental basis'' in § ____.12. Under this definition, lending is done on an incidental basis when it is provided infrequently as an (1) incident to a bank's specialized operations, or (2) accommodation to the bank's customers and is provided as a lending product the bank does not advertise or market to the public or its customers. The definition also specifies that, for the substantive provision described above, and for the definition of a wholesale bank or a limited purpose bank, incidental lending constitutes no more than 5 percent of the bank's total lending as of December 31 of both of the prior two calendar years. This proposed definition would largely codify guidance in the Interagency Questions and Answers [212] as well as the agencies' interpretations of related terms applied to these types of banks. To implement this definition, the agencies are proposing conforming revisions to the limited purpose and wholesale bank definitions and the exemption for certain special purpose banks. The agencies seek feedback on the proposed definition of ''incidental basis.''

• ''*Limited purpose bank.*'' The agencies propose to remove certain language from the definition of ''limited purpose bank'' in § ____.12 so that the definition no longer references a narrow product line (*e.g.,* credit card or motor vehicle loans) that the bank offers ''to a regional or broader market.'' The agencies believe that this proposed revision is appropriate because the inclusion of the term ''broader market'' does not have a determinate meaning in relation to a ''regional market'' described in the definition; banks supervised by the agencies have often experienced difficulty in understanding the application of this part of the definition to their specific business models; and the agencies do not extensively rely on the terminology in designating limited purpose banks. The agencies believe that the ''incidental basis'' definition for the limited purpose bank definition will provide a more transparent standard that will provide banks with better guidance on their eligibility for limited purpose bank designation under § ____.25(b).

Terminology changes. The agencies are proposing certain minor technical, non-substantive revisions to: (1) separate the definition of ''bank'' and ''savings association'' in part 25 (OCC only); (2) replace the term ''geography'' with the term ''census tract,'' which is what geography means under the current rules (both agencies); (3) replace the term ''shall'' with ''must'' or ''will'' (both agencies); and (4) change the defined term ''qualified investments'' to ''community development investments'' for consistency with the CD loan and CD service definitions (both agencies). In addition, the agencies are proposing to remove the phrase ''but not limited to'' when it is used in the context of ''including, but not limited to'' a particular subject. The agencies believe that the language is unnecessary and potentially confusing given that ''including'' already indicates that the items or topics referenced are non-exhaustive.

Substantially beyond MSA boundary. The agencies are considering whether they should revise one of the limitations on the delineation of a bank's assessment area under current § ____.41(e)(4). Instead of specifying that a bank's assessment area(s) ''may not extend *substantially* beyond an MSA boundary,'' the agencies could revise § ____.41(e)(4) to provide that a bank's assessment area(s) ''may not extend beyond an MSA boundary.'' Despite the fact that it would limit flexibility in bank assessment area delineation, the agencies are contemplating this change because they believe that it better conforms to the statutory definition of ''metropolitan area'' in the CRA statute that does not include extensions beyond the geographic areas identified in statute.[213] The agencies acknowledge that this change, if adopted, would also effectively rescind any previous guidance that allowed banks to delineate assessment areas that do not extend substantially beyond a particular MSA.[214] The agencies seek feedback on whether banks should have continued flexibility in assessment area delineation.

Substantial portion of loans. In § ____.41(c)(2) of the current rules, banks that are not wholesale or limited purpose banks are required to include in their assessment area(s) the census tracts in which the bank has originated or purchased a substantial portion of its loans that surround the census tracts in which the bank's main office, branches, and deposit-taking ATMs or remote service facilities, as applicable, are located. The agencies and the banks they supervise have often confronted ambiguity as to when a bank meets the ''substantial portion of its loans'' standard, triggering the obligation to include additional census tracts within the bank's assessment area(s).

To improve clarity in the application of the assessment area requirements, the agencies are considering whether it is appropriate to establish a numerical threshold to indicate when the

[211] The OCC's proposed definition would be closely aligned with the same term that is defined in 12 U.S.C. 2902(1).

[212] *See* Q&A § ____.12(n)–2.

[213] *See* 12 U.S.C. 2906(e)(2) (''The term 'metropolitan area' means any primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area, as defined by the Director of the Office of Management and Budget, with a population of 250,000 or more, and any other area designated as such by the appropriate Federal financial supervisory agency.'').

[214] *See, e.g.,* Q&As §§ ____.41(e)(4)–1 and ____.41(e)(4)–2.

''substantial portion of its loans'' standard is met in § ____.41(c)(2). A transparent threshold would most likely make it easier for banks to discern when they incur obligations to include areas that are not the census tract in which their main office or home office, as applicable, branches, or deposit-taking ATMs or remote service facilities, as applicable, are located.

As an alternative, the agencies are considering whether they should dispense with the ''substantial portion of its loans'' standard in current § ____.41(c)(2) and replace it with an entirely new concept. For example, the agencies could develop requirements for banks to include all census tracts within a radius of the bank's main office, branches, or deposit-taking ATMs or remote service facilities. The applicable radius around these bank locations could be a fixed distance for all banks, regardless of the bank's location. Or the distance of the radius could vary based on urban density. Similar to the OCC's approach to short-distance relocations for branches or main offices described in 12 CFR 5.3, the radius could be the largest for rural locations outside MSAs, an intermediate size for suburban locations inside MSAs, and the smallest for locations inside the principal cities of an MSA. This type of variance would account for the fact that census tracts generally become more compact as population density increases.

The agencies note that the alternative radius-based concept may prove to be a preferable option for banks and the communities they serve. Instead of confronting ambiguity or performing additional numerical calculations, banks would have a relatively simplistic methodology to discern what communities are within in a particular bank's assessment area(s). And a radius sweeps into a perfect circle with no discretion to include or exclude communities within the set distance, potentially obviating concerns related to arbitrary exclusion of LMI census tracts or the potential for the assessment area to reflect illegal discrimination.

The agencies seek comment on whether they should retain the ''substantial portion of its loans'' standard in § ____.41(c)(2) as is or retain that language but implement a quantitative standard. If the latter, the agencies seek comment on how to develop that standard.

Request for Feedback

Question 56: Should the agencies base a quantitative standard for the substantial portion of lending on the amount of lending that would generally be considered ''satisfactory'' for the inside the assessment area ratio under the small bank lending test? Alternatively, should it be based on the agencies' experience for the areas that banks reasonably serve from a fair lending perspective? Is there some other basis the agencies should consider?

Question 57: Should the agencies replace the requirement to include census tracts where the bank does a substantial portion of lending in the bank's assessment area(s) with an alternative such as the radius-based standard discussed above. If so, how should the agencies determine the appropriate radius? Should it vary by type of geographic area (*e.g.,* MSA or nonmetropolitan area)?

Whole county assessment areas for large banks. Under §§ ____.41(c) and (e) of the current rules, and subject to certain conditions, banks are permitted to delineate an assessment area that is comprised of a geographic area that is less than a whole political subdivision, provided that the assessment area consists of whole census tracts. Large banks often avail themselves of this flexibility by delineating assessment areas that exclude portions of a political subdivision, such as partial counties or county equivalents.

The agencies are considering whether they should amend their CRA rules so that large banks must use counties or county equivalents as their smallest base geographic unit for their assessment areas. In practice, this change would require a large bank to include every county or county equivalent in which it has a main office, branch, or deposit-taking ATM in an assessment area. Large bank discretion to include or exclude census tracts would be discontinued under this approach.

The agencies are considering whether the benefits of whole county assessment areas such as transparency, improved ability to compare bank performance, and ensuring banks serve communities in broader areas outweigh county size concerns. The agencies believe that large banks generally have the capacity to serve whole counties. While this may remove some flexibility that large banks currently possess in the delineation of their assessment areas, the agencies believe that the benefits described above are likely to outweigh possible large bank concerns associated with the service of an entire county. This is because the agencies would consider performance context in circumstances where a large bank was not serving a portion of an assessment area. For example, if a large bank has a single branch or deposit-taking ATM on the periphery of a geographically expansive or populous county, the limitations should be considered as applicable performance context under § ____.21(b) in determining the bank's assigned rating.

The agencies request comment on whether large banks should be required to delineate whole counties or county equivalents in localities in which the bank's main office, branches, and deposit-taking ATMs are located. The agencies also request comment on whether performance context would be an adequate way of accounting for circumstances in which large banks have limited capacity to serve an entire county or county equivalent.

OCC strategic plan transition provision. The OCC's current transition provisions in its current rule include § 25.52. Current § 25.52 provides that a bank with a strategic plan approved by the appropriate Federal banking agency and in effect as of December 31, 2021, remains in effect. Current § 25.52 also notes that, unless amended, parts of a plan that are not consistent with the current rules are void. This provision allowed banks with a plan approved under the 2020 CRA rule to keep the plan to the fullest extent possible.

The OCC is proposing to remove § 25.52 because there are no longer any banks with an approved plan in effect on or before December 31, 2021. This development is to be expected because, like the current rules, the 2020 CRA rule limited plans to a term of five years or less.[215]

References to the 2023 CRA rules. The agencies are proposing additional changes to their other rules to remove references to the 2023 CRA rules.[216] For the OCC, these changes include removing references from its Public Welfare Investment rule in 12 CFR part 24. Both agencies are also proposing to remove references to the 2023 CRA rules from their CRA Sunshine rules found in 12 CFR parts 35 (OCC) and 346 (FDIC).

OCC prohibition against use of interstate branches primarily for deposit production. Without any substantive changes, the OCC is proposing to relocate its current requirements prohibiting the use of interstate branches primarily for deposit production from subpart E of its current rule to a new subpart G in 12 CFR part 5 (§§ 5.100 through 5.104). The OCC believes that the removal of its prohibition required by section 109 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994

[215] 85 FR at 34813.

[216] In early 2024, the agencies amended certain rules to reference appendix G of the 2023 CRA Rule. *See* 89 FR 22060, 22062 (Mar. 29, 2024).

(Interstate Act) [217] from its current rule and placement in the Rules, Policies, and Procedures for Corporate Activities in part 5 will allow the OCC to simplify the overall scope and structure of the current rule. The prohibition against use of interstate branches primarily for deposit production provisions is not part of the CRA and the OCC believes the provisions are more aligned with 12 CFR part 5. The OCC notes that this change does not alter its expectations for the banks it supervises to comply with the Interstate Act and its accompanying rule.

The agencies also made conforming changes through the proposal to implement the revisions discussed above.

V. Request for Comments

The agencies request feedback on all aspects of the proposed rules. In particular, the agencies request feedback on the questions raised above in this **SUPPLEMENTARY INFORMATION.** The agencies also request comment on the following:

Question 58: Throughout this **SUPPLEMENTARY INFORMATION** the agencies referenced the guidance in the Interagency Questions and Answers. Several aspects of this proposal were based on codifications of the existing guidance. The agencies request feedback on how to address the Interagency Questions and Answers going forward.

Question 59: Should the agencies include transition provisions providing for deferred applicability dates for any of the proposed provisions? In particular, should the rules include transition provisions for the proposed: (1) consideration for eligible CD activities provision; (2) strategic plan provisions; (3) new data collection, maintenance, and reporting provisions; or (4) public notice provisions?

Question 60: The agencies request comment on whether they should maintain the location of public information requirements in current 12 CFR ____.43(c) or adopt a website requirement as proposed. The agencies also invite comment on whether requiring banks to include their public file requirements on a bank's website would impose costs on banks, result in cost savings for banks, or have a significant impact on public access to banks' public file information. In addition, the agencies invite comment on whether banks should be required to provide for inspection of the public file at all branch locations or only at certain branch locations in a State.

Question 61: Instead of specifying a threshold for the size of a small bank in the rule—which would become out of date if the agencies adjust the threshold based on the year-to-year change in the average of the CPI–W, not seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million, as proposed—should the agencies include in the rules a threshold for the first year any final rules are in effect and sunset that provision thereafter?

Question 62: Section ____.41(a) of the current rules, which address the scope of the assessment area provision, explains that the agencies do not evaluate a bank's delineation of its assessment area(s) as a separate performance criterion, but the agencies will review the delineation for compliance with the requirements of the rule. This provision is intended to convey that a bank's ratings are not affected by whether its assessment area(s) was delineated in compliance with the rules. The provision has, however, caused confusion regarding what happens if a bank delineates an assessment area that is not in compliance with the rule. For instance, can the agencies require the bank to delineate a compliant assessment area, or would the agencies instead evaluate the bank based on the area that would have been compliant without requiring the bank to revise its delineation? The agencies request comment on whether this provision should be clarified, and, if so, how the rules should address non-compliant assessment areas.

Question 63: In 12 CFR part 24, should the OCC replace the cross reference in § 24.3 to ''the investment would receive consideration under § 25.23 as a 'qualified investment' '' with ''meets the definition of community development investment under 12 CFR 25.12'' to focus on whether the investment has a primary purpose of community development without also needing to consider whether the investment would receive consideration in a particular bank's CRA examination?

VI. Economic Analysis

A. OCC Expected Effects

1. Introduction and Scope

Estimated Costs and Benefits

Ideally, a cost-benefit analysis would be able to identify and monetize, with certainty, all costs and benefits of a regulation, which would then allow policymakers to evaluate different regulatory options by comparing dollar amounts of costs and benefits and pursuing those options with the greatest net benefits. Many financial regulations, however, include both cost and benefit components that cannot be expressed in monetary units with adequate certainty. As cost-benefit guidance from the Office of Management and Budget (OMB) points out, simple cost-benefit comparisons can be misleading when the analysis cannot express important benefits and costs in dollar terms, ''because the calculation of net benefits in such cases does not provide a full evaluation of all relevant benefits and costs.'' [218] The OCC follows the OMB's recommendation in those instances, and provides an evaluation of both quantified benefits and costs and non-quantified benefits and costs.

Current Regulatory Baseline

Because the 2023 CRA Final Rule was never applicable and was not implemented by banks for current CRA evaluations, the baseline for this impact analysis is the current rules. This is the no-action regulatory baseline against which this analysis compares the proposed changes. Under the current rules, the agencies have established different evaluation methods and reporting and recordkeeping requirements for banks of different asset sizes and business strategies. Evaluation methods may contain some or all of three major elements: lending, investments (including grants), and services.

First, the current lending test evaluates a bank's record of helping to meet the credit needs of the bank's assessment area(s) through its lending activities by considering its retail lending (*i.e.,* home mortgage, small business, small farm, and, as applicable, consumer lending) and CD lending. Second, the current investment test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through qualified investments (CD investments and CD grants in the proposal) that benefit those assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s). Third, the current service test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) by analyzing both the availability and effectiveness of the bank's systems for delivering retail banking services and the extent, innovativeness, and responsiveness of its CD services that benefit the bank's assessment area(s) or broader statewide or regional area(s) that includes the bank's assessment area(s).

[217] *See* 12 U.S.C. 1835a.

[218] OMB Circular A–4 10 (Sept. 17, 2003), *https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf.*

Banks are evaluated along these three CRA performance categories differently, depending on a bank's total asset size or business strategy. For evaluation methods based on asset size, the current rules have three asset size evaluation categories: small bank, intermediate small banks, and large banks. Small banks include any of those with less than $412 million in total assets and are assessed only on a tailored lending test that focuses on retail lending activities. Intermediate small banks include banks with total assets of at least $412 million and less than $1.649 billion in total assets. Agency evaluations of intermediate small bank CRA activities assess a bank's retail lending under the small bank lending test plus a single CD test which considers the number, amount, and responsiveness of CD loans, investments, and services. Large banks include banks with total assets greater than or equal to $1.649 billion and are assessed on all CRA performance categories, with each category assessed separately. Furthermore, large banks are required to collect, maintain, and report annually certain data on CD loans, small business loans, small farm loans, and assessment areas.[219] For evaluation methods based on business strategy, wholesale and limited purpose banks are evaluated using a standalone, specialized CD test, subject to agency designation. A small subset of banks have chosen to be evaluated based on a strategic plan that sets forth performance goals developed by the bank with community input and approved by the appropriate Federal financial supervisory agency.

Table 1 below summarizes current baseline provisions against key changes in the proposal, which include proposed changes to CRA-qualifying activities, which includes modifications to the scope of CRA eligible lending, investments, and services; performance tests and standards; and ratings; geographic scope; data collection, maintenance, and reporting requirements; strategic plan requirements; and public file requirements. The proposal also addresses a number of other technical and implementation issues.

TABLE 1—DIFFERENCES BETWEEN THE BASELINE AND PROPOSED CRA FRAMEWORKS

	Current framework	Proposed changes
(1)	*Asset Size Threshold:*[220] Banks evaluated under small-bank procedures generally have assets below $412 million; Intermediate small banks generally have assets of at least $412 million and less than $1.649 billion; and large banks generally have assets of at least $1.649 billion.	Raise the small bank evaluation threshold to $1 billion in total assets. Rename intermediate small banks as intermediate banks, classify them as their own category instead of a subcategory of small bank, and raise the intermediate bank evaluation threshold to $10 billion in total assets.
(2)	*Lending Test:* Banks' retail lending evaluations must evaluate home mortgage, small business, and small farm loans, and as applicable, consumer lending (which may include one or more of the following categories: motor vehicle, credit card, other secured, and other unsecured loans) under the current product-line framework. Large banks are generally evaluated on all three of home mortgage, small business, and small farm lending, regardless of whether primary or non-primary product loans. Small banks and intermediate small banks are evaluated only with respect to those retail lending categories that are considered major product lines unless they opt to be assessed under the large bank lending test.	Adopt a major product line approach for all banks, under which the agencies would generally evaluate retail lending in two major product lines, assessed at the institution level. Major product lines could include home mortgage, small business, small farm, and consumer lending, assessed based on the bank's total retail lending activity by both loan count and dollar volume during the evaluation period. Eliminate evaluation of home mortgage, small business, and small farm loans for large banks if non-major product line. Clarify when consumer lending would be a major product line for all banks. If a large bank's consumer lending is a major product line under the proposal, the bank would be required to collect the data. Clarify the qualitative concept of "complexity" for investments means the extent to which an investment that is the functional equivalent of a loan otherwise requires specialized expertise in order to consummate the transaction.
(3)	*Investment Test:* Qualified investments include lawful investments, deposits, membership shares, and grants that have a primary purpose of community development. CD loans are currently not considered a qualified investment. Rather, they are evaluated under the lending or CD framework.	Replace the current qualified-investment terminology with separate CD investments and CD grants definitions. Include grants and donations only if the grants and donations would be directly used by the recipient for a plan, project, or initiative with a primary purpose of community development. Additionally, for large banks, grants and donations must be provided to a recipient with indirect costs which do not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR Part 200, or a comparable standard.
(4)	*Investment Test:* Complexity of qualified investments is considered in agency evaluations of investment test performance, but it is not explicitly defined.	Clarify the qualitative concept of "complexity" for investments means the extent to which a CD investment or grant is a necessary or otherwise beneficial component of a multi-component financing structure that includes lending.
(5)	*Service Test:* Complexity of qualified services is considered in agency evaluations of service test performance, but it is not explicitly defined.	Clarify the qualitative concept of "complexity" for services means the extent to which a CD service is a necessary or otherwise beneficial component of a multi-component financing structure that includes lending.
(6)	*Service Test:* A bank's retail banking services assessment may include a bank's distribution of, and record of opening and closing, branches; alternative systems for delivering retail banking services; and the range of services provided.	Limit the range of retail banking services considered under the service test to only those related to credit.

[219] Small banks and intermediate small banks are not required to report these data unless they opt into being evaluated under the large bank lending test in § ____.22.

TABLE 1—DIFFERENCES BETWEEN THE BASELINE AND PROPOSED CRA FRAMEWORKS—Continued

	Current framework	Proposed changes
(7)	*Geographic Scope of CD Activities:* A bank is currently assessed on adequately meeting the needs within its assessment areas(s). Additionally, and specific to CD activities, a bank may receive consideration for eligible CD activities that benefit a broader statewide or regional area that includes the bank's assessment area(s).	Replace the concept of broader statewide or regional area for CD activities. Instead, permit optional consideration of CD activities that benefit areas outside a bank's assessment area(s) up to the State or multistate MSA, or institution level, as applicable, so long as the bank adequately meets the CD needs inside its assessment area(s).
(8)	*CD Activities:* There is currently no living list of CD activities eligible for CRA credit and the existing confirmation process provided by the OCC on the OCC's CRA webpage is informal and discretionary, allowing the OCC to alter or discontinue it at any time.	Clarify the CD activity definition; publish a living, non-exhaustive list of CD activities that do and do not qualify; and codify a CD activity confirmation process.
(9)	*CD Activities:* Under the current rule, reporting banks generally report annually the aggregate number and aggregate amount of CD loans originated or purchased. Reporting efforts include collecting, aggregating, and submitting required CD loan data to the bank's Federal regulator.	Require new data collection, maintenance, and reporting for CD activities for large banks, including: —Report CD grants by recipient, location, and amount; —Collect and maintain loan, investment, and grant level data: (1) identifier; (2) dollar amount; (3) location; (4) complexity indicator; (5) CD purpose indicator; —Collect and maintain additional information for CD grants: (1) The recipient's written commitment to use the funds to provide specific qualifying activities in the bank's assessment areas; and (2) The recipient's IRS Form 990 (Return for Tax Exempt Organizations) with annual operating and program budgets.
(10)	*Strategic Plan:* Participating banks must develop a strategic plan[221] that outlines measurable goals for lending, investments, and services for the communities they are servicing (typically over a three-to-five-year horizon), provide the public an opportunity to review and comment on the plan, and submit the plan and the bank's responses to public feedback to their Federal regulator for review and approval.	Clarify processes for submitting, amending, and implementing strategic plans; provide flexibility; and modernize processes for public input on the strategic plan.
(11)	*Public File and Public Notice:* All banks must have a physical form in their branch of their public CRA file. Banks may additionally elect to maintain their public file online, but not in lieu of physical form. As for the public notice, currently it must display the CRA notice in a bank's lobby.	Require banks to maintain their public file online on their website or on a website maintained on behalf of the bank, rather than in physical form in branches. Require banks to publish the public notice online and display in the lobby a notice of where to find the CRA notice instead of requiring display of the CRA notice.
(12)	*Other miscellaneous:* Includes issues highlighted under the EGRPRA review process and under the 1995 and 2021 rules.	Remediate known pain points and technical issues: —Add provisions to clarify when an assessment of loans would be considered ''meaningful'' (*i.e.,* 30 loans) and how to evaluate if there is not a meaningful sample. —Remove a limitation on intermediate bank ratings that a bank may receive an overall ''satisfactory'' rating without a ''satisfactory rating'' on the CD test if the applicable lending test standard is met. —Add, for CD loans, that the agencies would consider prior period loans held on balance sheet. —Permit CD loans and investments to include a binding commitment to lend or invest. —For discriminatory or other illegal credit practices, specify that the practice must be in the context of a public enforcement action (Option 1) or specific that is the practice involves confidential supervisory information, that information would not be publicly disclosed (Option 2). —Clarify provisions that apply to military banks.

Overview of Impacts

The OCC currently supervises 990 institutions (commercial banks, trust companies, FSAs, and branches or agencies of foreign banks, collectively ''banks'').[222] The CRA framework applies to nearly all OCC-supervised banks, subject to the exclusions in 12 CFR 25.11(c), including exclusions for certain uninsured Federal branches, limited Federal branches, Federal agencies, and certain special purpose banks that do not grant credit to the public in the ordinary course of business. Therefore, the OCC believes that its proposed rule would impact approximately 894 of these OCC-supervised institutions.

The OCC expects that the direct impacts associated with this proposed rulemaking would be a reduction in aggregate compliance burden on net, although the direction and magnitude of specific impacts would vary across institutions depending on asset size, business model, current CRA evaluation method, and existing compliance systems. The largest burden reductions

[220] These values are based on 2026 thresholds. Under the current framework, these thresholds are adjusted annually for inflation.

[221] Currently, 14 OCC-supervised banks are assessed under a strategic plan approach for their CRA evaluation instead of under lending, investment, and service tests.

[222] Based on data accessed using the Financial Institution Data Retrieval System (FINDRS) on June 23, 2026.

are expected for institutions that would move into less burdensome CRA evaluation categories because of the proposed asset-size threshold increases, institutions that would benefit from more targeted major-product-line lending evaluations, banks that would face reduced public-file and public-notice burdens, and banks that could make greater use of clarified strategic-plan procedures or CD activity confirmation processes. At the same time, the proposal would impose incremental compliance costs on some large banks, including cost associated with new or modified CD loan, CD investment, and CD grant data collection, maintenance, and reporting; additional CD grant documentation; and consumer-loan data collection and maintenance where consumer lending is a major product line.

The OCC also expects several potential second order impacts, including a possible shift in CRA-motivated activity toward lending and credit services and away from certain CD activities, in particular grants and deposit services. The proposal also could affect the geographic distribution of CRA-motivated CD activities by permitting optional consideration of certain CD activities outside a bank's assessment area(s), provided the bank adequately meets CD needs inside its assessment area(s). The OCC expects the proposed changes could have downstream effects on LMI communities, small business, small farms, nonprofit organizations, and other community development stakeholders, but the direction and magnitude of those effects are uncertain and likely would vary by local market conditions, bank business strategy, and the availability of qualifying lending, investment, grant, and service opportunities.

The proposal would not change the requirement, which is mandated by statute, that covered institutions help meet the credit needs of their entire communities, including LMI neighborhoods, consistent with safe and sound operations. However, it would change certain evaluation methods, documentation requirements, and reporting obligations, which could affect compliance processes and banks' incentives at the margin. Table 2 below summarizes these compliance and economic impacts associated with the proposed changes in the rulemaking.

TABLE 2—COMPLIANCE AND ECONOMIC IMPACTS OF THE PROPOSED CHANGES

	Proposed change	Compliance impact	Economic impact
(1)	*Asset Size Threshold:* Raise small bank evaluation threshold to $1 billion in total assets. Rename intermediate small banks as intermediate banks, classify them as their own category instead of a subcategory of small bank, and raise the intermediate bank evaluation threshold to $10 billion in total assets.	*High Cost Savings:* Decreases reporting burden for intermediate banks that are currently large banks and have data reporting requirements. Decreases burden for small banks that are currently intermediate small banks and undergo CD activity tests.	*Regulatory Complexity, Reporting Requirements, and Bank Growth:* Reduces regulatory complexity, documentation and reporting requirements for affected small and intermediate small banks, but at the cost of decreased available data for evaluation of CRA performance of current large banks that would be reclassified as intermediate banks under the proposal. Decreases systems costs for CRA performance and analysis of affected intermediate banks. Realigns bank evaluation thresholds that are substantially similar to the original 1995 CRA regulation, thus following original judgments reached regarding CRA compliance and bank operational differences. This may encourage bank participation in CRA activities and may decrease likelihood of banks participating in regulatory avoidance. Decreases data availability for certain banks.
(2)	*Lending Test:* Adopt a major product line approach for all banks, under which the agencies would generally evaluate retail lending in two major product lines, assessed at the institution level. Major product lines could include home mortgage, small business, small farm, and consumer lending, assessed based on the bank's total retail lending activity by both loan count and dollar volume during the evaluation period. Eliminate evaluation of home mortgage, small business, and small farm loans for large banks if non-major product line. Clarify when consumer lending would be a major product line for all banks. If a large bank's consumer lending is a major product line under the proposal, the bank would be required to collect the data.	*Low Cost Savings:* Decreases burden for large banks because they no longer have to monitor for compliance or perform self-assessments for non-major products and because this simplifies the CRA calculations underlying the ratings [223].	*Regulatory Consistency:* Tailors a bank's CRA examination to a bank's retail lending business model. Provides a consistent and objective standard for when the agencies assess specific product lines. Decreases regulatory oversight into how banks are performing within their non-major products. While non-major products do not generally have a meaningful impact on the CRA evaluation, they may be meaningful to the some of the banks' communities.
(3)	*Investments Test:* Replace the current qualified-investment terminology with separate treatment for CD investments and CD grants. Include grants and donations for only if the grants and donations would be directly used by the recipient for a plan, project, or initiative with a primary purpose of community development. Additionally, for large banks, grants and donations must be provided to a recipient with operating costs which do not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR Part 200, or a comparable standard.	*Moderate Costs:* Increases costs for banks that seek CRA consideration for grants and donations, especially large banks. Banks may need to conduct additional due diligence, obtain recipient commitments, review operating-cost information, and maintain supporting documentation. Some grants or donations that currently receive CRA consideration may no longer qualify, which could require banks to adjust CRA grant programs.	*Recalibrates CRA Investments:* May increase the likelihood that CRA-qualifying grants and donations directly support identifiable CD plans, projects, or initiatives, including activities benefiting LMI individuals, small businesses, small farms, and qualifying communities. May reduce CRA incentives for general operating-support grants, grants to intermediaries, or grants to organizations with higher operating-cost ratios, which could affect nonprofit capacity and the distribution of CRA-motivated grant funding.

TABLE 2—COMPLIANCE AND ECONOMIC IMPACTS OF THE PROPOSED CHANGES—Continued

	Proposed change	Compliance impact	Economic impact
(4)	*Investments Test:* Clarify the qualitative concept of "complexity" for investments means either (1) the extent to which a CD investment or grant is a necessary or otherwise beneficial component of a multi-component financing structure that includes lending; or (2) the extent to which a CD loan otherwise requires specialized expertise in order to consummate the transaction.	*Low Cost Savings:* May decrease time and resources expended by a bank to determine if an investment is a complex activity because banks would ex ante understand what activities would count.	*Regulatory Consistency and Transparency:* Provides a consistent and objective standard for when the agencies assess specific complex investments. May result in certain CD activities that would be considered complex investments under the current rule that no longer meet the complexity standard under the proposed definition.
(5)	*Services Test:* Clarify the qualitative concept of "complexity" for services means the extent to which a CD service is a necessary or otherwise beneficial component of a multi-component financing structure that includes lending.	*Low Cost Savings:* May decrease time and resources expended by a bank to determine if a service is a complex activity because banks would ex ante understand what activities would count.	*Regulatory Consistency and Transparency:* Provides a consistent and objective standard for when the agencies assess specific complex investments. May result in certain CD activities that would be considered complex services under the current rule that no longer meet the complexity standard under the proposed definition.
(6)	*Services Test:* Limit the range of retail banking services considered under the service test to only those related to credit.	*Low Cost Savings:* Reduces burden because banks no longer have to monitor for compliance or perform self-assessments for the current expanded list of qualifying CRA services and because this simplifies the CRA calculations underlying the ratings [224].	*Regulatory Complexity and Statutory Alignment:* Decreases regulatory complexity by reducing qualifying CRA services banks must be assessed on under the services test. Shifts the composition of a bank's CRA services to be more credit focused, in alignment with statute.
(7)	*Geographic Scope:* Replace the concept of broader statewide or regional area for CD activities. Instead, permit optional consideration of CD activities that benefit areas outside a bank's assessment areas(s) up to the State or multistate MSA, or institution level, as applicable, so long as the bank adequately meets the CD needs inside its assessment area(s).	*Moderate Costs:* Increases compliance costs for banks that opt to participate in this provision because affected banks may have more CRA loans, investments, and services to (1) collect, maintain, and report data for; and (2) analyze and incorporate into the CRA calculations underlying their CRA performance ratings.	*Regulatory Flexibility and Market Efficiency:* Decreases competition costs for CD activities. Often, banks operate in assessment area(s) where other banks exist, and where CRA opportunity volume is fixed. As a result, banks compete within a given assessment area for the same opportunities. Encourages banks to increase CD activities outside of existing assessment areas, which may address existing CRA hotspots and CRA deserts.
(8)	*CD Activities:* Clarify the CD activity definition; publish a living, non-exhaustive list of CD activities that do and do not qualify; and codify a CD activity confirmation process.	*Low Cost Savings:* May decrease time and resources expended by banks to determine if a CD activity is a qualifying CRA activity because banks would ex ante understand what activities would count.	*Regulatory Consistency and Transparency:* Provides a consistent and objective standard for when the agencies assess qualifying CD activities. Allows banks to know sooner which CD activities would qualify, which may (1) increase banks' confidence in their CRA performance before the CRA exam, and (2) encourage them to do more innovative or complex activities.
(9)	*CD Activities:* Require new data collection, maintenance, and reporting for CD activities for large banks including: —Report CD grants by recipient, location, and amount; —Collect and maintain loan, investment, and grant level data: (1) identifier; (2) dollar amount; (3) location; (4) complexity indicator; (5) CD purpose indicator; —Collect and maintain additional information for CD grants: (1) The recipient's written commitment to use the funds to provide specific qualifying activities in the bank's assessment areas; and (2) The recipient's IRS Form 990 (Return for Tax Exempt Organizations) with annual operating and program budgets	*Moderate Costs:* Increases data collection costs because large banks would be required to collect and maintain data [225] into a standardized form and then submit the report. Creates new data reporting for CD grants by recipient, location, and amount. Creates new data collection and maintenance costs for CD grant information regarding (1) the recipient's written commitment; and (2) the recipient's IRS Form 990.	*Regulatory Clarity and Data Consistency:* Provides clarity and standardizes CD activity data, which may make banks' data collection efforts more consistent, efficient, and complete.
(10)	*Strategic Plan:* Clarify processes for submitting, amending, and implementing strategic plans; provide flexibility; and modernize processes for public input on the strategic plan.	*Low Cost Savings:* Potentially reduces the need to hire an external CRA compliance consultant or a law firm for banks that use a strategic plan for their CRA performance evaluation.	*Regulatory Flexibility, Consistency, and Transparency:* Provides flexibility because it allows affected banks to submit strategic plans that more accurately reflect their standards. Modernizes the process for public input. May increase strategic plan participation by additional institutions including: (1) charters which have less traditional business strategies, and (2) existing banks that currently are assessed for their CRA performance using traditional tests (*i.e.,* lending, investments and services, depending on their asset size) and instead choose to use a strategic plan approach.

TABLE 2—COMPLIANCE AND ECONOMIC IMPACTS OF THE PROPOSED CHANGES—Continued

	Proposed change	Compliance impact	Economic impact
(11)	*Public File and Public Notice:* Require banks to maintain their public file online on their website or on a website maintained on behalf of the bank, rather than in physical form in branches. Require banks to publish the public notice online and display in the lobby a notice of where to find the CRA notice instead of requiring display of the CRA notice. *Public notice process:* Moderate one-time implementation costs for banks to direct their CRA public notice to the bank's website. Long term savings because future changes to the CRA notice would only need to be done online and not in every bank branch.	*Low Cost Savings: Public file process:* Low cost savings long term because banks would no longer need to provide a physical copy of their CRA public file in bank branches. This is a small impact because banks generally already have their CRA public file available on their website.	*Transparency, Public Access, and Participation: Public File and Notice Processes:* Reduces information costs for members of the public, community organizations, local governments, and researchers because this provision provides easier access to CRA public files.[226]
(12)	*Other Miscellaneous:* Remediate known pain points and technical issues: —Add provisions to clarify when an assessment of loans would be considered ''meaningful'' (*i.e.,* 30 loans) and how to evaluate if there is not a meaningful sample. —Remove a limitation on intermediate bank ratings that a bank may receive an overall ''satisfactory'' rating without a ''satisfactory rating'' on the CD test, if the applicable lending test standard is met. —Add, for CD loans, that the agencies would consider prior period loans held on balance sheet. —Permit CD loans and investments to include a binding commitment to lend or invest. —Clarify that only public citations of violations of law by federal agencies could result in a downgrade for discriminatory or other illegal credit practices. —Clarify provisions that apply to military banks.	*Moderate Cost Savings: Modifying Rating Limitation:* Improved CRA performance ratings may lessen regulatory oversight costs. *CD Loan Treatment:* May reduce costs associated with more frequent loan issuances, which is the current practice, because banks would more likely focus resources on CD loans with longer-term maturities.	*Expansion Activities and Regulatory Consistency: Modifying Rating Limitation:* May improve overall CRA performance ratings, which could have downstream effects on bank expansion activities. *CD Loan Treatment:* Creates regulatory consistency between the treatment of CD loans and the current treatment of CD investments. Provides an incentive for banks to extend the length and type of financing needed for a CD project.

Compliance Cost Savings and Costs

The proposed rulemaking implements a number of changes to the existing CRA framework. Many of those changes could result in ongoing cost savings while several may result in increased ongoing compliance costs. Additionally, many of the proposed changes would result in one-time transition costs associated with implementation of the changes. As already stated, the specific impacts would vary across institutions depending on asset size, business model, current CRA evaluation method, and existing compliance systems. The OCC highlights below the most impactful direct compliance cost savings and costs on OCC institutions.

Direct Cost Savings

Data Collection, Maintenance, and Reporting Requirements

The proposal reduces certain data collection, maintenance, and reporting requirements through several channels. Principally, through the changes to CRA size thresholds, which would address asset growth from inflation and industry consolidation since the 1995 regulation. By amending the large bank threshold, 126 OCC-supervised large banks would be reclassified as intermediate banks and thus no longer required to comply with existing and proposed large bank data reporting requirements. This would be a significant compliance cost savings for affected banks.[227] Amending the size thresholds includes an amendment to the small bank threshold. This would result in 194 intermediate banks being reclassified as small banks and thus no longer assessed on CD activities, unless they otherwise choose to be assessed for their CD activities.[228]

Simplified Evaluation Calculations

Under Option 1 for major product lines, the proposed changes to the large bank lending test would decrease burden for large banks because they no longer have to monitor for compliance or perform self-assessments for non-major products and because this simplifies the CRA calculations underlying the ratings. Large banks may still need to collect data and devote resources annually to determine which lending products are and are not major. However, a bank generally knows what its major lending products would be in advance of the evaluation period because it already has a longer-term approved business strategy within which it is operating.

[223] Banks may incur one-time implementation costs to update existing data management systems to reflect proposed changes in CRA calculations underlying the ratings. We also expect that large banks may still need to collect data and devote resources annually to determine which lending products are and are not major. However, banks generally know what their major lending products would be in advance of the evaluation period because they already have a longer-term approved business strategy they are adhering to.

[224] Additionally, banks may incur one-time implementation costs to update existing data management systems to reflect proposed changes in CRA calculations underlying the ratings.

[225] This cost may be mitigated because banks are generally already expected to provide this type of information to examiners at the time of an examination to receive CRA consideration.

[226] Easier access to CRA public files may make it easier to compare CRA performance across institutions, review public comments, examine branch and service information, and participate in CRA examinations or applications involving CRA considerations.

[227] Some banks may not recognize reporting savings in practice, as non-large banks are permitted to opt into large bank tests, standards, evaluations, and requirements (including data and reporting requirements). However, the OCC expects in practice this would likely only be a handful of banks. Current anecdotal evidence suggests upwards of a dozen non-large banks opt to be evaluated by large bank tests. Expecting only a small number of banks would opt into a more burdensome regulatory framework is consistent with comments provided by the financial industry in prior CRA rulemakings.

[228] In prior CRA rulemakings, regulated depository institutions that are intermediate small banks have indicated that they spend approximately 200 hours on CRA compliance activities per year.

Under Option 2 for major product lines, the proposed changes to the large bank lending test would result in significantly less cost savings in comparison to Option 1. This is because, under Option 2, the ''major'' determination for a given product line would depend on several factors [229] that may vary with each assessment area and evaluation period. As a result, it is expected that banks would need to maintain similar data collection and maintenance efforts as well as similar complexity for CRA calculations underlying the ratings relative to the baseline framework. However, Option 2 may reduce burden if fewer product lines are ultimately evaluated in some assessment areas, but it would not provide the same bright-line simplification, predictability, or cost savings as Option 1, particularly for large banks with multiple assessment areas or materially different product mixes across markets.

Proposed changes to the service test would decrease burden for all banks subject to a service test. The provision would limit the range of retail banking services considered under the service test to only those related to credit. As a result, banks would no longer have to monitor for compliance or perform self-assessments for the current expanded list of qualifying CRA services, which would result in simplified CRA calculations underlying the ratings for affected banks.

Reduced Over- and Under-Compliance for Certain CRA Activities

The proposal provides clarity on qualifying complex investments and services by expressly defining these terms and providing examples. The proposal also provides clarity on qualifying CD activities by updating the CD activity definition, publishing a living, non-exhaustive list of CD activities that do and do not qualify, and codifying a CD activity confirmation process. These collective changes may help reduce search and interpretation efforts of banks seeking to engage in these activities. It may also help reduce the likelihood of banks unintentionally under- or over-complying with any corresponding data collection, maintenance, and reporting requirements they might otherwise currently be engaging in due to a lack of understanding or concern that such activities may not qualify as CRA eligible activities.

Allowance for Prior Period CD Loans

Under the proposal, the time period over which banks would be evaluated for their CD loans held on balance would be expanded to include new originations and issuances within the current evaluation period (as is done under the current framework) plus originations and issuances held prior to the evaluation period. This provision would increase what qualifies for CRA credit and would encourage patient capital. That is, banks would likely focus resources on CD loans with longer-term maturities than under the current framework and may save on origination costs associated with more frequent loan issuances due to more efficient structuring of transactions.[230]

Strategic Plan Process Improvements

The proposal may also yield compliance cost savings due to the changes to the strategic plan process for submitting, amending, and implementing strategic plans. Currently, approximately 14 OCC-supervised institutions use a strategic plan approach for their CRA performance evaluation, though that number is expected to grow due to increased chartering activities of institutions with non-traditional business models and due to the increased usability of a strategic plan approach under the proposal. The proposed changes are expected to provide more clarity around requirements and make the strategic plan approach to CRA evaluations more usable, especially for banks whose business models are not well captured by standard CRA tests. These changes would potentially reduce the need to hire an external CRA compliance consultant or law firm for banks that use a strategic plan for their CRA performance evaluation.

2. Direct Costs

Transition Costs

The proposed changes to the CRA framework may create one-time or front-loaded administrative transition costs. OCC-supervised institutions may need to update policies, procedures, internal guidance, training materials, and legal references. These costs may be proportionally larger for smaller institutions that have fewer in-house legal, compliance, or information technology staff.[231] On the other hand, larger institutions may face more complex implementation efforts because the revised framework may need to be incorporated across multiple business lines, products, customers, and services, vendor-management programs, and data management systems.

Data Collection, Maintenance, and Reporting Requirements [232]

Under the proposal, several provisions would increase data collection, maintenance, and reporting requirements. The first is the change to CD investments, namely grants and donations. The second pertains to optional participation by banks to assess CRA qualifying activities outside of their established assessment area(s), up to the State or multistate MSA, or institution level, as applicable. The third change pertains to changes in CD activity reporting requirements. The last are the changes to the calculations underlying the CRA ratings for the large bank lending test and the service test.

[229] These factors include an institution's overall lending volume and business strategy, capacity to lend in a given assessment area, and the extent to which lending in the product line meaningfully contributes to the institution's record of meeting the credit needs of a given assessment area.

[230] Extending the time horizon for which banks can be assessed along their CD activity may not only affect the duration of the CD loans offered by banks but also the underlying risk profile of those loans, as banks may be less incentivized to modify loan issuance, volume, or quality around CRA exam time frames if provided this additional flexibility. Some economic studies suggest that banks are incentivized to excel on their CRA evaluations around the time period of their regulatory exams, with banks increasing loans for about six quarters surrounding CRA exams. *See* Sumit Agarwal et al., ''Did the Community Reinvestment Act (CRA) Lead to Risky Lending?'' National Bureau of Economic Research Working Paper 18609 (Dec. 2012), *https://www.nber.org/system/files/working_papers/w18609/w18609.pdf.* However, the same studies also empirically show that those same loans are more risky and have an increased default risk of approximately 15 percent by the following year. *See id.*

[231] In prior CRA rulemakings, financial industry commenters have highlighted these types of resource constraints of community banks when facing CRA compliance requirements. Some insured depository institutions have described significant compliance costs from the initial transition.

[232] Under the proposal, the Federal banking regulators would permit data exemptions where data are not necessary to evaluate CRA performance. This may reduce potential data- and reporting-related compliance costs for a subset of banks.

The proposed changes to qualifying grants and donations under the investment test would require banks to conduct additional due diligence, obtain recipient commitments, review operating-cost information, and maintain supporting documentation. The proposed changes to allow banks to consider certain CD activities outside their assessment area(s) is optional, not required, and would likely only be incurred if the benefits of doing so [233] outweigh the costs. For the proposed changes to CD activity reporting requirements, banks are already generally required to collect and maintain data on CRA qualifying CD activities. However, the proposal's new requirement regarding standardized form submission for annual submissions would require banks to update data systems. Additionally, the rule requires banks to collect new data on each CD grant regarding both a recipient's written commitment for the use of funds and their IRS Form 990, which would impose new data collection and maintenance costs for these CD activities. In addition to these changes, banks may also incur one-time costs to update existing data management systems to reflect proposed changes in CRA calculations underlying the ratings for the large bank lending test and the service test.

Regardless of the reason for the system change, any updates to data systems would require banks to first identify what activities would and would not be qualifying CRA activities under the proposal, create model assumptions, validate those assumptions, and then incorporate those changes into the bank's data systems. Banks would either handle the systems changes themselves (likely the largest banks) or pay vendors for this service (likely small banks). Regardless of whether done internally or externally via vendor, systems would have to go through multiple stages, with each stage requiring separation of duties and independent verification before proceeding to the next stage. These stages include a proposal phase that proposes design change, followed by design, a project plan, development, validation testing, and controlled escalation to production.

Public Notice Costs

The proposal modifies current requirements regarding how banks must provide public notice, redirecting banks from having a physical display of their CRA notice in a bank's lobby to instead be on a bank's website. Historically, banks have provided feedback to Federal banking agencies that implementing changes to the CRA notice display can be costly, as much as several million dollars per bank. Therefore, the OCC expects there to be a one-time cost incurred by banks to ensure compliance with this provision but at the tradeoff of incurring lesser costs with future public notice changes due to the expectation that updating a bank's website would be less resource intensive.

Direct Cost Savings and Costs Conclusion

Overall, the OCC expects that the direct impacts associated with this proposed rulemaking would be a reduction in aggregate compliance burden, on net. Furthermore, the OCC expected the largest burden reductions from this proposal would be for institutions that would move into less burdensome CRA evaluation categories, which would result in decreased data collection, maintenance, and reporting requirements for up to 126 OCC banks and decreased compliance burden for CD activities for up to 194 OCC banks.

3. Broader Economic Benefits and Burdens

In addition to direct compliance cost savings and costs, the proposed rule may generate broader economic effects through changes in banks' CRA compliance incentives, the information available to banks, supervisors, community organizations, and the public, and the geographic and product-level allocation of CRA-motivated activities. These effects are distinct from the direct burden estimates. They are also difficult to quantify or monetize because they depend on bank-specific business strategies, local credit needs, the availability of qualifying CRA opportunities, community partner capacity, and supervisory implementation.

The analysis below discusses these broader effects qualitatively. Secondary benefits may arise from reduced compliance frictions, better regulatory tailoring, improved certainty, greater public transparency, and more flexible allocation of CRA-motivated activities. Secondary burdens, discussed in the next subsection, may arise from reduced data availability for some reclassified banks, changes in incentives for certain grants, investments, services, or geographic areas, and potential distributional effects on LMI communities or community development stakeholders.

Secondary Economic Benefits

The proposal may generate secondary economic benefits through several channels. The analysis here considers whether reduced burden, greater certainty, or improved flexibility may lead banks, community partners, supervisors, or the public to allocate resources more efficiently.

TABLE 3—SUMMARY OF SECONDARY ECONOMIC BENEFITS

Benefit channel	Related proposed provisions	Potential secondary economic effect
Resource reallocation from lower compliance frictions.	Asset-size threshold increases; major-product-line approach; public-file modernization; data-waiver authority.	Affected banks may redirect staff time, systems resources, and management attention toward lending, borrower outreach, CRA planning, or community development relationships.
Greater certainty and lower search costs.	Clarified CD definitions; illustrative living list; CD activity confirmation process; clarified complexity standard.	Banks and community partners may be able to identify qualifying activities earlier, structure transactions more efficiently, and reduce uncertainty about CRA treatment.
More efficient geographic allocation of CD activity.	Optional consideration of certain outside-assessment-area CD loans, CD investments, and CD services after the bank adequately meets CD needs inside its assessment area(s).	CRA-motivated activity may be better matched to areas with unmet CD needs, including rural areas, underserved areas, Tribal areas, disaster-affected areas, or areas with fewer nearby bank assessment areas.

[233] As explained in further detail, this proposed provision may encourage more efficient allocation of CRA-motivated CD activity, provide banks with more regulatory flexibility, and allow for CRA-motivated capital to be better matched with community development opportunities across wider geographical territories than the traditional assessment area allows for.

TABLE 3—SUMMARY OF SECONDARY ECONOMIC BENEFITS—Continued

Benefit channel	Related proposed provisions	Potential secondary economic effect
Improved targeting and accountability of CD grants.	Revised CD grant definition; large bank CD grant documentation; CD purpose indicators.	CRA-motivated grant funding may be more closely tied to identifiable CD plans, projects, or initiatives.
Improved transparency and public participation.	Standardized large bank CD loan, CD investment, and CD grant data; CD grant recipient reporting; online public files.	Agencies, community organizations, researchers, local governments, and the public may have better information about the amount, location, and purpose of large bank CD activity.
More effective CRA planning tools.	Strategic-plan process reforms; prefiling communications; technical-completeness notices; plan amendment procedures; modernized public input.	Banks with non-traditional or specialized business models may be better able to align CRA performance goals with business strategy and community credit needs.
More predictable supervisory standards.	Meaningful assessment standard; treatment of prior-period CD loans held on balance sheet; legally binding commitments to lend or invest; military bank clarification.	CRA evaluations may become more consistent and predictable, reducing uncertainty for banks and improving interpretability for community stakeholders.

Resource Reallocation From Lower Compliance Frictions

The proposal may generate secondary benefits if affected banks use compliance resources more productively after moving into more tailored evaluation categories or after facing more targeted evaluation standards. For example, banks that would move from large bank to intermediate bank evaluation and standards, or from intermediate bank to small bank evaluation and standards, due to the proposed changes in bank thresholds, may face fewer compliance, data, and examination-preparation demands. Affected banks may be able to redirect management attention, compliance staff time, and systems resources toward activities more directly related to meeting community credit needs, such as loan production, borrower outreach, credit-product development, or community development relationships.[234]

Greater Certainty and Lower Search Costs

The proposal may reduce uncertainty about whether particular loans, investments, grants, or services qualify for CRA consideration. Clarified CD definitions, a public living list, and a codified confirmation process may reduce the time banks and community partners spend determining eligibility before committing resources to a project. This may be especially valuable for projects with multiple parties or financing sources, where uncertainty about CRA treatment can delay commitments or increase transaction costs.

More Efficient Geographic Allocation of CD Activity

The proposal may improve the allocation of CRA-motivated CD activity by permitting consideration of certain CD loans, CD investments, and CD services outside a bank's assessment area(s), provided the bank adequately meets CD needs inside its assessment area(s). This flexibility may allow banks to support qualifying projects in areas with unmet needs but fewer banks with local assessment area(s). The secondary benefit is not merely that banks have more flexibility, but that CRA-motivated capital may be better matched with community development opportunities across geographies.[235]

Improved Targeting and Accountability of Grants and Donations

The proposed CD grant definition may increase the likelihood that CRA-qualifying grant funds are directed to identifiable CD plans, projects, or initiatives. This could improve the effectiveness of CRA-motivated grant funding by strengthening the link between CRA consideration and specific community development uses.

Improved Transparency and Public Information

The proposal's large bank CD data provisions may generate secondary information benefits for supervisors, community organizations, researchers, local governments, and the public. Standardized data on CD loans, CD investments, and CD grants may make it easier to identify where large bank CD activity occurs, what types of CD purposes are being served, and where activity may be limited. These informational benefits are separate from the direct compliance costs large banks may incur to collect, maintain, and report the data.

[234] This is consistent with findings that when the two-tiered asset-based evaluation was introduced in the 1995 reform, some banks responded by clustering just below the framework's $250 million total asset threshold over the period from 1996 to 2004, effectively slowing their growth and engaging in regulatory avoidance, though this same clustering effect was not observed prior to the 1995 CRA regulation. *See* Jacelly Cespedes *et al.,* ''Strategically Staying Small: The Consequences of Regulatory Avoidance,'' (Dec. 2025), *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3874987.* The authors further argue that banks engaging in CRA regulatory avoidance by managing total assets just below the regulatory threshold resulted in unintended negative consequences LMI borrowers, with those banks experiencing a 1.8 percentage point increase in rejection rates for LMI-qualifying loans while banks not engaging in regulatory avoidance saw an increase in LMI originations during the same time period; the authors also saw no evidence of a change in loan demand during the same time period. *See id.*

[235] Research finds that customers in LMI communities generally have higher minimum account balance fees, maintenance fees, and nonsufficient funds charges, than customers in non-LMI areas, and that the main drivers are opportunities for lending income, bank operating costs, and bank size (which also corresponds to overall CRA regulatory compliance burden). *See* Marco Migueis *et al.,* ''Cost of Banking for LMI and Minority Communities,'' Finance and Economic Discussion Series (Feb. 2025), *https://www.federalreserve.gov/econres/feds/files/2022040r1pap.pdf.* By increasing the geographic area that banks may be assessed for CRA performance, it increases the opportunity for banks to generate additional lending income from otherwise underserved areas, which may ultimately translate into lower costs for those LMI customers.

Improved Public Access and Participation

Online public file requirements and revised public notices may reduce information costs for members of the public, community organizations, local governments, and researchers. Easier access to CRA public files may make it easier to compare CRA performance across institutions, review public comments, examine branch and service information, and participate in CRA examinations or applications involving CRA considerations.

More Effective CRA Planning Tools

Strategic plan reforms may create secondary benefits by making the strategic plan option more usable for banks whose business models are not well captured by standard CRA tests. Clearer plan content requirements, prefiling communications, technical-completeness notices, review timelines, amendment procedures, and modernized public input may improve the quality of strategic plan effectiveness. CRA evaluations may better reflect institution-specific business models, delivery channels, product offerings, and community credit needs.

More Predictable Supervisory Standards

The proposal may generate secondary benefits by making CRA evaluation standards more predictable. Clarifying when a loan sample is meaningful may reduce the likelihood that examination conclusions are driven by very small or non-representative loan counts. Considering prior-period CD loans held on balance sheet and legally binding commitments to lend or invest may better recognize longer-term CD financing and may support financing structures that align with the time horizons of affordable housing, infrastructure, small business, and other community development projects.

Secondary Economic Burdens

The proposal may also generate secondary economic burdens or adverse distributional effects. These effects are distinct from the direct compliance costs. For example, the direct cost of collecting new CD activity data is a compliance cost; the secondary burden is the possibility that higher documentation requirements could change which CD activities banks choose to pursue or which community partners are able to participate.

The potential secondary burdens discussed below are qualitative. Their magnitude would depend on bank behavior, local credit needs, the availability of qualifying CRA opportunities, community partner capacity, public use of CRA information, and supervisory implementation.

TABLE 4—SUMMARY OF SECONDARY ECONOMIC BURDENS

Burden channel	Related proposed provisions	Potential secondary economic burden
Reduced standardized data and comparability.	Asset-size threshold increases; intermediate banks excluded from large bank data requirements; data-waiver authority.	Public users, community organizations, researchers, and supervisors may have less standardized CRA data for banks that would no longer be evaluated as large banks.
Reduced CRA incentives for non-major product lines.	Major-product-line approach; meaningful assessment standard.	Some lending products may receive less CRA evaluation emphasis if they are not major product lines, even if they are important in particular local markets.
Reduced support for some nonprofit and intermediary activities.	Direct-use requirement for CD grants and donations; 15 percent operating-cost condition for large bank grants; grant documentation requirements.	Some general operating support, capacity-building grants, intermediary grants, or grants to smaller nonprofits may receive less CRA-motivated funding.
Potential geographic reallocation away from assessment areas.	Optional consideration of certain outside-assessment-area CD activities after the bank adequately meets CD needs inside its assessment areas.	Marginal CRA-motivated CD activity may shift away from some local assessment areas toward other qualifying areas or larger-scale opportunities.
Greater heterogeneity in evaluation approaches.	Strategic plan reforms; data-waiver authority; technical revisions.	More tailored evaluations may reduce comparability across banks and could increase the analytical burden for community stakeholders reviewing CRA performance.

Reduced Standardized Data and Comparability

The proposed asset-size threshold increases may reduce the amount of standardized CRA data available for some banks.[236] This reduction in standardized data may lower compliance burden for affected banks, but it may also reduce information available to community organizations, researchers, local governments, and other public users seeking to compare CRA performance across banks or geographies.

Reduced CRA Incentives for Non-Major Product Lines

As discussed above, the proposed major-product-line approach may reduce direct costs of evaluation burden by focusing CRA retail-lending analysis on the product lines most representative of a bank's business model. However, this approach could also reduce CRA-related incentives for lending products that are not major product lines. For example, a product line that is not material at the institution level could still be important to certain LMI borrowers, small businesses, small farms, or local markets. If such lending receives less evaluation emphasis, banks may have less CRA incentive to maintain, expand, or document those activities. This burden may be mitigated because non-major product lines generally represent a smaller share of a bank's lending, but the effect could vary across communities and product types. The proposal would generally evaluate retail lending in major product lines and includes a meaningful assessment standard for lending analyses.

Reduced Support for Some Nonprofit and Intermediary Activities

The proposed treatment of CD grants and donations may improve targeting, but it could also create secondary

[236] As discussed above, banks that move from large bank to intermediate bank evaluation under the proposal generally would no longer be subject to the large bank data collection, maintenance, and reporting requirements. Additionally, banks that move from intermediate bank to small bank evaluation under the proposal would no longer be evaluated under the intermediate bank CD test.

burdens for nonprofit organizations and community development intermediaries. Grants and donations would need to be directly used by the recipient for a CD plan, project, or initiative, and large bank grants would be subject to an operating-cost condition. Large banks also would need to maintain additional information for CD grants, including recipient written commitments and IRS Form 990 information with annual operating and program budgets. These requirements may reduce CRA incentives for general operating support, capacity-building grants, or grants to intermediaries that support multiple downstream projects. Smaller nonprofits, newer organizations, or organizations serving hard-to-reach populations may face greater difficulty providing the documentation or operating-cost information needed to support CRA consideration.

Potential Geographic Reallocation Away From Assessment Areas

The proposal would allow consideration of certain outside assessment area CD loans, investments, and services if the bank adequately meets CD needs inside its assessment area(s). Optional consideration of certain CD activities outside a bank's assessment area(s) may allow CRA-motivated activity to reach areas with unmet needs. However, this flexibility could also shift marginal CD activity away from some local assessment area(s) once a bank satisfies the proposed standard for adequately meeting CD needs inside those assessment areas. This could create distributional effects if banks redirect incremental CD loans, investments, or services toward larger, easier-to-document, or more scalable opportunities outside their local assessment area(s). The proposal's inside-assessment area condition and performance context considerations would mitigate this risk, but the local effects would depend on how banks use the flexibility and how community development opportunities vary across markets.

Greater Heterogeneity in Evaluation Approaches

Strategic plan reforms may make the strategic plan option more usable and better tailored to bank business models. However, greater use of strategic plans could also reduce comparability across banks if performance goals, plan scope, and evaluation methods vary substantially by institution. Community organizations and other public stakeholders may need to spend more time reviewing bank-specific goals, plan assumptions, performance context, and public comments. Similarly, data-waiver authority may reduce unnecessary data burden for individual banks, but frequent or inconsistent use of waivers could reduce comparability of CRA data across banks and over time. The proposal would revise strategic plan procedures and would permit data exemptions where data are not necessary to evaluate CRA performance.

Secondary Economic Impacts Conclusion

Overall, the proposal's secondary economic benefits are expected to arise primarily from improved regulatory tailoring, reduced uncertainty, more flexible geographic allocation of CD activity, improved targeting of CD grants, better information, and more predictable CRA planning and supervision. Secondary economic burdens would arise primarily from reduced standardized data and comparability, reduced CRA incentives for non-major product lines, reduced support for some nonprofit and intermediary activities, potential geographic reallocation away from assessment areas, and greater heterogeneity in evaluation approaches. These collective impacts are not readily monetizable with available data because they depend on bank behavior, local market conditions, community partner capacity, and supervisory implementation. However, they may collectively improve the efficiency of CRA-motivated activity by helping banks, examiners, community organizations, and the public identify qualifying activities more clearly and better match CRA-related resources to community credit needs.

4. Costs and Benefits Conclusion

In conclusion, the OCC expects that the proposed rule would be a net compliance cost savings on affected OCC-supervised institutions, that these savings would likely be economically significant, and that there would also be broader economic impacts. The OCC expects the magnitude and direction of the impacts associated with proposed changes would vary by asset size, business model, current CRA evaluation method, and existing compliance systems. The OCC also expects that borrowers, community development organizations, and communities served by affected banks could experience indirect effects if the proposal changes the mix, documentation, timing, or geographic distribution of CRA-qualifying activities.

B. FDIC Expected Effects

1. Introduction

This section evaluates the projected economic effect of the proposal relative to a baseline in which the proposal is not adopted. Specifically, the section discusses the expected material costs and benefits of the proposal for the 2,689 banks supervised by the FDIC and subject to 12 CFR 345.[237] As previously discussed, a March 29, 2024, court order enjoined the Federal banking agencies from implementing the revisions made by the 2023 CRA rules. Thus, banks are currently being evaluated for compliance with CRA in accordance with the 1995 CRA regulations and were discussed above in the **SUPPLEMENTARY INFORMATION** as the ''current rules.'' As such, this analysis assumes that the current rules would remain in place under the baseline. If finalized, the proposed rule would amend the FDIC's current rules to make several substantive, technical, and process-oriented changes. Therefore, relative to the baseline, banks would only have to make a few changes to their current CRA policies and procedures in response to the proposal. To the extent any banks were devoting resources to updating their current CRA policies and procedures to prepare for the 2023 CRA rules, the proposal would allow them to employ those resources elsewhere.

As previously discussed, the proposal would amend the FDIC's current rules, including amendments related to asset-size thresholds, performance tests, community development activities and considerations thereof, strategic plans, data collection, reporting and disclosure, and public file and public notice requirements.[238]

Overall, the proposal aims to increase regulatory certainty and transparency while reducing compliance and regulatory burden, especially for banks with assets less than $10 billion. The FDIC expects the overall effect on consumers and businesses to be beneficial but modest, with most of the benefits accruing to LMI individuals, households, and/or communities, small

[237] Call Report data as of March 31, 2026. As of March 31, 2026, the FDIC supervises 2,700 banks, including six insured U.S. branches of foreign banks. Excluding 11 special purpose banks, the proposal would affect 2,689 FDIC-supervised banks. The effects of the proposal's technical amendments are likely to be *de minimis* for the 11 FDIC-supervised special purpose banks.

[238] The proposal also includes certain other technical amendments to revise, clarify, or otherwise remove obsolete provisions. The FDIC anticipates these amendments would have little to no effect for banks. As such, the effects on banks due to these amendments under the proposal are likely to be *de minimis.*

businesses, and small farms. These effects are discussed below.

2. Scope

As in the current rules, the proposal would use an institution's total assets as of December 31 of the prior two most recent calendar years or business strategy to place institutions within CRA performance evaluation categories.[239] Institutions designated as limited purpose banks, wholesale banks, or that operated under an approved strategic plan under the current rules would continue to be evaluated separately from the institutions evaluated based on their asset size.[240]

Under the proposal, the total asset threshold for small banks [241] would increase from less than $412 million in assets [242] to less than $1 billion in assets. The minimum asset size for intermediate banks [243]—identified as intermediate small banks in the FDIC's current CRA regulations—would increase from $412 million in assets to $1 billion in assets, and the maximum size would increase from $1.649 billion in assets to $10 billion in assets. Finally, the asset threshold for large banks would increase from $1.649 billion or more to greater than $10 billion. Unlike under the baseline, the asset threshold for large banks would not be adjusted annually for inflation under the proposal.

As of March 31, 2026, the FDIC supervises 2,689 institutions that are subject to the CRA. Table 5 summarizes the distribution of institutions across CRA evaluation frameworks under the baseline and the proposal. Following the proposal's increases to the applicable thresholds, the estimated number of FDIC-supervised small banks would increase by 604 to 2,173, intermediate (small) banks would decrease by 354 to 425, and large banks would decrease by 250 to 31. For FDIC-supervised banks with approved strategic plans, under the proposal, the estimated number of large strategic plan banks would decrease by 10 to 7. However, as discussed below, the proposed amendments to the strategic plan provisions could result in an increase in the number of FDIC-supervised banks that elect to be evaluated under strategic plans.

3. Alternative Eligibility Thresholds

In addition to the proposed threshold, the FDIC is considering an alternative small bank asset-size threshold that would directly align the threshold with the size standard the SBA uses to identify small banks. For commercial banks, the SBA's current small bank size standard is $850 million.[244] The FDIC is also considering an alternative asset-size threshold to distinguish between large banks and intermediate banks in which intermediate banks have assets of less than $3.252 billion as of December 31 of either of the prior two calendar years and do not meet the criteria to be small banks.

Although $850 million and $3.252 billion were each introduced as stand-alone alternatives to the current thresholds, rather than as paired values intended to operate jointly, the analysis evaluates their combined effect using the $850 million/$3.252 billion pairing. This approach provides a single, internally consistent alternative classification framework and avoids the need to evaluate multiple combinations.[245] Using Call Report data as of March 31, 2026, the FDIC estimates that the increases in the applicable asset thresholds would result in the following changes in institutional classifications relative to the current framework.

As shown in Table 5, under the combined alternative thresholds discussed above, the estimated number of FDIC-supervised small banks would increase by 518 to 2,087, intermediate banks would decrease by 374 to 405, and large banks would decrease by 144 to 137, relative to the baseline. Compared with the proposed thresholds, the alternative would result in 2,087 FDIC-supervised institutions being classified as small banks (compared with 2,173 under the proposal), 405 intermediate banks (compared with 425), and 137 large banks (compared with 31). For FDIC-supervised banks with approved strategic plans, under the alternative, the estimated number of large strategic plan banks would decrease by 3 to 14 (compared with 7 under the proposal). However, as discussed below, the proposed amendments to the strategic plan provisions could result in an increase in the overall number of banks that elect to be evaluated under the strategic plan option. Accordingly, the alternative would produce a more moderate shift toward institutions being evaluated under the small bank performance framework while retaining more institutions in the intermediate bank and large bank categories.

[239] *See* generally 12 CFR ____.21 through ____.27. The agencies annually adjust the CRA asset size thresholds based on the annual percentage change in a measure of the Consumer Price Index.

[240] The FDIC includes a list of banks designated as wholesale or limited purpose banks, and banks with approved strategic plans on its website. *See https://www.fdic.gov/banker-resource-center/cra-limited-purpose-strategic-plan-and-wholesale-institutions* (accessed July 16, 2026).

[241] Under the baseline, unless specified, small banks typically include small banks and intermediate small banks. In this analysis, small banks refer only to banks with less than $412 million (under the baseline) or less than $1 billion (under the proposal).

[242] The baseline thresholds used for this analysis are for calendar year 2026 and are adjusted each year. *See* 91 FR 509.

[243] In the proposal, the term ''intermediate bank'' replaces the term ''intermediate small bank.''

[244] The agencies are aware of a proposed rule by the SBA to raise its size standard for banks to $940 million. *See* 90 FR 41168. For purposes of this analysis, the agencies assume the SBA size standard would remain at $850 million under the alternative discussed.

[245] For example, the proposed rule does not expressly discuss threshold combinations such as $850 million for small banks and $1.649 billion for intermediate banks, or $412 million for small banks and $3.252 billion for intermediate banks.

TABLE 5—FDIC-SUPERVISED BANKS BY CRA PERFORMANCE ASSESSMENT FRAMEWORK

CRA performance assessment framework	Baseline	Proposal[d] ($1 billion/$10 billion)	Alternative[e] ($850 million/$3.252 billion)
Banks Without Strategic Plans and/or Not Designated Wholesale or Limited Purpose			
Small Bank[a]	1,569	2,173	2,087
Intermediate Small (ISB)/Intermediate Bank (IB)[b]	779	425	405
Large Bank	281	31	137

Banks With Strategic Plans and/or Designated Wholesale or Limited Purpose	Small or ISB	Large	Small or IB	Large	Small or IB	Large
Strategic Plan[c]	27	17	37	7	30	14
Strategic Plan (Limited Purpose)	1	0	1	0	1	0
Wholesale (no Strategic Plan)	2	11	9	4	3	10
Limited Purpose (no Strategic Plan)	1	1	2	0	1	1
Total	2,689		2,689		2,689	

Source: Call Report data as of March 2026, December 2025, and December 2024.

Notes:

a. In this analysis, small banks refer only to banks with less than $412 million (under the baseline) or less than $1 billion (under the proposal).

b. In the proposal, the term ''intermediate bank'' replaces the term ''intermediate small bank.''

c. Under the proposal's improvements to the provisions related to strategic plans, the FDIC expects more banks to elect the option to have their CRA performance assessed under a strategic plan.

d. Under the proposal, the total asset threshold for small banks would increase from less than $412 million in assets to less than $1 billion in assets. The minimum asset size for intermediate banks—identified as intermediate small banks in the FDIC' current CRA regulations—would increase from $412 million in assets to $1 billion in assets, and the maximum size would increase from $1.649 billion in assets to $10 billion in assets. Finally, the asset threshold for large banks would increase from $1.649 billion or more to greater than $10 billion. Unlike under the baseline, the asset threshold for intermediate and large banks would not be adjusted annually for inflation under the proposal.

e. As discussed previously, under the alternative, the total asset threshold for small banks would increase from less than $412 million in assets to less than $850 million in assets. The minimum asset size for intermediate banks would increase from $412 million in assets to $850 million in assets, and the maximum size would increase from $1.649 billion in assets to $3.252 billion in assets. Finally, the asset threshold for large banks would increase from $1.649 billion or more to greater than $3.252 billion.

4. Effects Due to Changes to Asset Size Thresholds Under the Proposal

The proposal is expected to increase the number of small banks, and decrease the number of intermediate banks and large banks. As a result, the proposal is expected to generally reduce compliance costs for 854 FDIC-supervised banks (662 under the alternative):

- 604 FDIC-supervised banks (518 under the alternative) that would be categorized as small under the proposal rather than intermediate small under the baseline and would no longer be subject to a separate CD test and,
- 250 FDIC-supervised banks (144 under the alternative) categorized as intermediate under the proposal rather than large under the baseline and would no longer be subject to separate investment and services tests but would become subject to the proposal's lending test for small and intermediate banks.

The proposal's raised asset thresholds are expected to reduce compliance burden for institutions that are reclassified into performance test categories with fewer evaluation criteria, data reporting, and recordkeeping requirements. Reclassified institutions may also benefit from examination standards that are more proportionate to their size and business model. At the same time, institutions moving into different performance test categories would become subject to different CRA evaluation standards, which may impact banks' CRA program strategies. These institution-specific effects are discussed in the following sections.

The following sections also provide a qualitative assessment of how institutions in the small, intermediate, and large bank categories may be affected under the proposed thresholds. Because both the proposal and the alternative increase the asset thresholds and yield the same directional effects, the detailed discussion focuses only on the proposed thresholds. The overall conclusions would apply to the institutions reclassified under the alternative asset thresholds as well.

5. Performance Tests

The proposal includes several revisions to the CRA performance tests intended to improve consistency across examinations, reduce unnecessary compliance burden, and better align performance evaluations with the FDIC's supervisory objectives by establishing more objective criteria in certain areas of CRA performance. These revisions affect different categories of institutions depending on the applicable performance test, but generally they are expected to increase regulatory certainty. The discussion below evaluates the expected economic effects of each proposed revision.

Retail Lending

Under the current CRA framework, there are two lending tests—the small bank lending test and the lending test—and there are important differences between the two. The proposal would establish a more standardized evaluation approach by identifying major product lines across the applicable lending tests, with two options for identifying major product lines included in the proposal.[246]

The proposed revisions are expected to reduce variations in examiner judgment and provide greater certainty regarding which retail lending activities will receive CRA consideration. By establishing more objective criteria for selecting which product lines would be evaluated during an examination, banks would have greater certainty before an examination starts regarding which products will be evaluated. This may be particularly beneficial for smaller institutions that do not collect and/or report data, as greater certainty regarding the retail lending products subject to review may reduce the compliance burden associated with preparing for examinations and responding to examiner requests.

The proposal may also influence banks' CRA planning by concentrating evaluation on a narrower set of retail

[246] *See* Section IV of this **SUPPLEMENTARY INFORMATION** for a discussion of the two alternative methods.

lending products. To the extent that lending activities outside the designated major product lines receive less CRA consideration under the proposal relative to the baseline, some banks may re-allocate resources away from these activities. However, because the proposal primarily standardizes existing examination practices rather than substantially changing lending performance standards, these behavioral effects are expected to be modest.

Meaningful Assessment Approach

The proposal would also introduce a meaningful assessment approach to address situations in which retail lending data are insufficient to support the standard evaluation methodology. Because this proposed revision would primarily affect examination methodology rather than substantive performance expectations, it is not expected to materially alter banks' lending behavior or compliance obligations, relative to the baseline. Instead, the proposal is expected to improve examination consistency and provide greater certainty regarding how banks with limited lending activity in certain assessment areas would be evaluated.

Retail Banking Services

Under the current framework, retail banking services are evaluated as part of the service test, including the range of services provided in low-, moderate-, middle- and upper-income geographies and the extent to which those services are tailored to community needs. The proposal would clarify that the FDIC would evaluate only the range of credit services provided in those geographies. Specifically, the proposal would supersede the language in the existing Interagency Questions and Answers to the extent they provide that the FDIC's evaluation of a bank's retail banking services includes deposit products. Removal of deposit products from consideration under the service test would align the FDIC's CRA regulations more closely with the statute, thus reducing ambiguity regarding examination standards and improving consistency across examinations.

At the same time, narrowing the scope of qualifying retail banking services may reduce CRA recognition for certain activities that previously received consideration, particularly deposit-related services. To the extent that institutions adjust their CRA strategies in response, some may shift resources toward qualifying credit services. Institutions may also devote fewer resources to developing or documenting retail banking activities that would no longer receive CRA consideration. The magnitude of such behavioral response is uncertain and would likely depend on the importance of CRA considerations relative to other business objectives.

Performance Context

The proposal would add a new performance context factor directing the FDIC to consider a bank's CD activities and retail banking services to the extent they are not otherwise considered under another performance test. The proposal would also clarify existing references to other lending-related activities.

These revisions are expected primarily to improve regulatory certainty by clarifying how performance context factors are incorporated into CRA evaluations. Greater transparency regarding the FDIC's evaluation framework may reduce uncertainty surrounding examination outcomes and facilitate more effective CRA planning. Because the proposal would largely clarify existing supervisory practice, it is not expected to materially change banks' burden or their behavior.

Intermediate Small Bank Ratings

Under the current CRA framework, an intermediate small bank generally must receive at least a ''satisfactory'' rating on both the small bank lending test and the CD test to obtain an overall rating of ''satisfactory.'' The proposal would remove this limitation by allowing stronger performance on the lending test to offset weaker performance on the CD test when assigning an overall rating. As a result, under the proposal, an intermediate bank could receive an overall rating of ''satisfactory'' even if it does not receive at least a ''Satisfactory'' rating on the CD test.

The proposal is expected to provide greater flexibility in evaluating intermediate banks' community development activities, for instance, by enhancing consideration for community activities benefitting areas outside an intermediate bank's assessment area(s) and by clarifying the types of activities that qualify for consideration as community development activities, as discussed below. For banks with comparatively stronger performance, the proposal may improve CD test performance outcomes. This flexibility may allow institutions to allocate CRA resources in a manner that better reflects their business models and local market conditions.

At the same time, the proposed rating framework may influence intermediate banks' CRA program strategies. To the extent that intermediate banks have limited CRA resources, some institutions may reallocate effort toward lending activities and away from CD activities that are evaluated under the CD test. Whether such behavioral responses occur, and their magnitude, would depend on institutions' business strategies, and local community needs.

Overall, the proposal reflects the FDIC's broader objective of refocusing CRA performance evaluation on lending while continuing to recognize CD performance as a component of the overall evaluation. By allowing stronger lending performance to compensate for weaker performance on the CD test, the proposal may increase the relative incentive to devote CRA resources to lending activities. The extent to which institutions adjust their resources allocation, however, is uncertain and will likely depend on institution-specific circumstances and local community needs.

6. Community Development

CD Definition

The proposal would clarify the CD definition in the current regulations, codify qualifying activities in the Interagency Questions and Answers, and expand activities in certain circumstances. To the extent that there was stakeholder confusion regarding whether a particular activity qualified as community development, the proposal would benefit such entities by avoiding costs associated with protracted deliberations, unnecessary documentation, incorrect compliance accounting, or foregone investment or services opportunities. In turn, the proposal would benefit certain communities, projects and activities in such circumstances, by reducing costs associated with protracted deliberations, documentation, overhead, as well as foregone community development benefits.

The proposal would clarify the activities considered to be community development. For example, the proposal would eliminate the purpose test component of the Interagency Questions and Answers. The proposal would also reclassify workforce development and job training from economic development to civic assistance. The proposal would include activities that revitalize or stabilize Indian country or other tribal and native lands as a new targeted geographic area. The FDIC also is proposing to include areas targeted by a government entity for redevelopment that qualify for significant economic incentives, such as tax credits, tax abatements, or grants as a new targeted area in the revitalization and stabilization category of community

development. The proposed definition would encompass activities that assist individuals and communities in targeted geographies to prepare for, adapt to, or withstand natural disasters, such as earthquakes, severe storms, droughts, flooding, and forest fires. Such changes may have a distributional effect on CD activities. To the extent that the addition of these types of activities would lead to compositional changes in the range of activities undertaken by banks, it may pose some costs and benefits for certain communities and projects. However, as discussed, activities the proposal include within the CD definition promote the welfare of the community, including LMI individuals and communities, and therefore have a similar focus and import to activities that qualify under the current rule.

CD Activities

The proposal would adopt new definitions for CD activities, CD investments, and CD grants and revise the definitions of CD loan and CD service to improve consistency and clarity in how the CD activities are treated across tests. In particular, the proposal would expand the scope of CD loans to include prior period CD loans, change the scope of items considered to be a CD investment, and restrict CRA consideration for grants and donations. Although these proposed revisions largely clarify the current rule and capture the same sets of CD activities, they may result in some compositional changes in the activities that banks engage in for the purposes of compliance with the CRA. Such changes may pose some costs and benefits for certain communities; however, the FDIC does not have the information necessary to quantify such effects.

Further, the proposal would narrow the circumstances in which a bank may receive CRA consideration for grants or donations to ensure that a grant or donation will be directly used by the recipient for a program, project, or initiative with a primary purpose of community development that benefits the bank's assessment areas. Accordingly, the proposal would require a bank to demonstrate that a grant or donation would directly be used for a program, project, or initiative with a primary purpose of community development. Additionally, a large bank would be required to maintain the grant recipient's written commitment to use the funds for specific programs, projects, or initiatives in the bank's assessment area; the recipient's written attestation that the recipient's indirect costs for administering the grant or donation will not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR part 200, or a comparable standard; and documentation from the recipient supporting the written attestation, including IRS Form 990. While this aspect of the proposal may pose costs for some large banks, the FDIC expects that banks generally already incur such costs in the ordinary course of business.

Finally, the proposal adopts a definition of ''complexity'' that may change the scope and composition of activities a bank engages in for the purpose of complying with CRA. The proposed definition focuses on lending generally, relative to the current regulations and guidance, and more explicitly clarifies the nature of a complex financing transaction. Such changes may pose some costs and benefits for certain communities and projects however the FDIC does not have the information necessary to quantify such effects.

Consideration of CD Activities

Under the proposal, the FDIC would maintain and periodically update a non-exhaustive illustrative list of examples of CD activities. The proposal would also establish a confirmation process through which a bank may request the FDIC's review to determine if a novel loan, investment, grant, or service may be eligible as a CD activity. The FDIC expects such a list and confirmation process would pose benefits to banks and the public by avoiding costs associated with protracted deliberations, unnecessary documentation, and foregone investment or services opportunities. The voluntary confirmation process would pose some reporting costs for banks that request such a determination. As noted in Section VII.D of this **SUPPLEMENTARY INFORMATION**, such costs are expected to be *de minimis.* In addition, as the illustrative list grows over time, the number of such requests would likely diminish.

The proposal would also amend the methods of consideration for CD activities in certain circumstances. As previously discussed, the proposal would include standards for allocating CD activities across assessment areas and consideration of CD activities that benefit areas outside of a bank's assessment area. Although these amendments largely clarify the current rule and are intended to capture CD activities provided as examples in CRA guidance, they may result in some distributional changes in the activities that banks engage in for the purposes of compliance with the CRA. Such changes may pose some costs and benefits for certain communities and projects; however, the FDIC does not have the information necessary to quantify such effects. Further, these elements should benefit banks by enabling them to avoid costs associated with uncertainty in the FDIC's consideration of CD activities and generally benefit a bank's entire community by further focusing the bank's attention on its credit needs.

Finally, the FDIC is proposing the adoption of a geographic flexibility standard to determine whether a bank would receive consideration for CD activities that benefit areas outside the assessment areas. The FDIC outlines two alternative approaches in the proposal for determining whether a bank adequately serves the community development needs of an assessment area.

Option 1 includes one set of quantitative standards for large banks and one for intermediate, wholesale or limited purpose banks. Under this option, the FDIC may determine based on performance context that a bank that does not meet the geographic flexibility standards has sufficiently met the CD needs of its assessment area(s).

Under Option 2 the FDIC would evaluate whether a bank has an adequate level of CD activities in an assessment area over the evaluation period, considering the dollar amount and responsiveness of CD activities to the community development needs of a bank's assessment area(s).

Under either option, if a bank meets or exceeds the applicable geographic flexibility standard, the FDIC would consider CD activities outside the assessment areas. Such a standard would benefit banks by enabling them to more efficiently comply with the CRA and have certainty regarding the level of CD activity necessary in each assessment area in order to receive consideration for CD activities outside assessment areas. To the extent that such a standard leads to compositional changes in the activities banks engage in for the purposes of compliance with the CRA, it may pose some costs and benefits for certain communities and projects. However, the FDIC does not have the information necessary to quantify any such effects.

7. Other Provisions

Strategic Plans

Banks that elect to be evaluated under a CRA strategic plan have flexibility in designing their plans. Currently, these banks must include measurable goals for helping to meet the credit needs in each assessment area, particularly the needs

of LMI census tracts and LMI individuals, but they have flexibility in setting these goals. The current framework states that a bank's plan must address all three performance categories (lending, investment, and services), but it also provides flexibility for a bank to choose a different emphasis as long as the plan is responsive to the characteristics and credit needs of its assessment area(s), and takes into consideration public comment as well as the bank's capacity and constraints, product offerings, and business strategy.

The proposal would provide regulatory relief for strategic plan banks while maintaining evaluation criteria similar to the current framework. Specifically, the proposal would: (1) reduce process-related burden for banks through increased clarity; (2) provide additional information regarding the required content of strategic plans; (3) modernize the process for soliciting public comments; and (4) delineate processes for the submission and evaluation of strategic plans, including the methods by which a bank may resubmit a plan in the event of a denial or amend a previously approved strategic plan.

As noted above, the FDIC evaluates CRA performance under approved strategic plans for 45 FDIC-supervised institutions (or approximately 1.7 percent of 2,689 institutions) (strategic plan banks). As of March 2026, FDIC-supervised strategic plan banks report average assets of approximately $5.6 billion, ranging between $66 million and $47 billion. The FDIC does not expect that, if adopted, the proposal would have a significant impact on CRA compliance requirements for FDIC-supervised strategic plan banks. These institutions face broadly similar examination criteria as they do under the current framework. The FDIC does not have data to forecast the number or types of banks that would choose to be evaluated under a strategic plan as a result of the proposal. However, the amendments in the proposal aim to make strategic plans a viable choice for all banks. Thus, the FDIC expects more banks would elect to be evaluated under a strategic plan.[247]

Recordkeeping, Reporting and Disclosure Burdens

In Section VII.D of this **SUPPLEMENTARY INFORMATION**, the FDIC estimates the recordkeeping, reporting and disclosure burdens under the Paperwork Reduction Act (PRA) for all banks under the proposal.[248] The PRA requirements vary in their application to banks—some requirements are mandatory for large banks (including those with strategic plans or those designated as wholesale or limited purpose banks) and optional for small and intermediate banks. Other mandatory requirements apply to all banks or a certain subset, while some PRA requirements only apply for banks that elect certain CRA evaluations (*e.g.,* strategic plans, electing to be evaluated for specific loan product lines). For purposes of this section, we will refer to all such PRA requirements collectively as PRA burdens.

To estimate the number of affected FDIC-supervised entities (including any banks that elect and assume voluntary PRA burdens) and the overall burden under the proposal, the FDIC uses CRA data submitted by banks in 2024, the latest period for which data are available.[249] Relative to the baseline, the FDIC estimates an overall decrease in annual PRA burden, in aggregate, of 106,171 hours per year (55.3 percent reduction), or $10 million per year.[250] The decrease in annual burden of 106,171 hours can be attributed primarily to a decrease in annual burden of 50,998 hours under the proposal's revisions to certain existing data maintenance, collection, and reporting requirements, and an increase in annual burden of 31,766 hours for new PRA requirements under the proposal.[251] In this section, the FDIC discusses the distributional effects of the changes in the overall burdens under the proposal for FDIC-supervised small, intermediate, large, wholesale and/or limited purpose, and strategic plan banks.[252]

Under the proposal, FDIC-supervised small banks would not experience additional burdens associated with the proposal's revisions to the mandatory PRA requirements for all banks. Using data on small and intermediate small banks that voluntarily reported 2024 CRA data, the FDIC estimates that FDIC-supervised small banks under the proposal[253] would elect to incur, in aggregate, an additional 14,892 hours per year (81 percent increase[254]) in voluntary PRA burdens, or approximately $1.4 million per year.

Similarly, FDIC-supervised intermediate banks under the proposal would also not experience any additional burdens associated with the proposal's revisions to the mandatory PRA requirements for all banks. For all FDIC-supervised intermediate banks under the proposal, including banks that are reclassified from large to intermediate, the FDIC estimates a decrease in estimated annual burden hours, in aggregate, of 114,775 hours per year (86 percent reduction[255]), or $10.8

[247] In Section VII.D of this **SUPPLEMENTARY INFORMATION**, the FDIC estimates that 20 banks under the proposal (eight more than the baseline) would elect to comply with information collection provisions related to the submission of strategic plans annually.

[248] The recordkeeping, reporting and disclosure requirements are primarily described under proposed § ____.25(b), § ____.27, § ____.42(a)–(g), and § ____.43. The FDIC is approved to collect information related to CRA regulations under OMB control number 3064–0092.

[249] As discussed previously, the FDIC also uses Call Report and other public data to place institutions within CRA performance evaluation categories. *See* FFIEC, Community Reinvestment Act 2024 Aggregate & Disclosure Flat Files (''2024 CRA Data''), *https://www.ffiec.gov/data/cra/flat-files* (accessed July 23, 2026); Call Report data as of March 31, 2026, December 31, 2025, and December 31, 2024.

[250] The FDIC estimates total annual burden hours of 191,953 hours under the baseline, and 85,782 hours under the proposal. Multiplying the change in the burden of 106,171 hours with the estimated wage rate of $93.97 yields approximately $10 million per year. As of March 31, 2026, the FDIC supervises 2,689 banks that are subject to CRA, which excludes 11 special purpose banks. *See* proposed 12 CFR ____.11(c)(3).

To estimate the average cost of compensation per hour, the FDIC uses the 75th percentile hourly wages reported by the Bureau of Labor Statistics (BLS) National Industry-Specific Occupational Employment and Wage Estimates (OEWS) for compliance officer and clerical occupations in the Depository Credit Intermediation sector. However, the latest OEWS wage data are as of May 2025 and do not include non-wage compensation. To adjust these wages, the FDIC multiplies the OEWS hourly wages by approximately 1.58 to account for non-wage compensation, using the BLS Employer Cost of Employee Compensation (ECEC) data as of March 2025 (the latest published release prior to the OEWS wage data). The FDIC then multiplies the resulting compensation rates by approximately 1.04 to account for the change in the seasonally adjusted Employment Cost Index for the Credit Intermediation and Related Activities sector (NAICS Code 522) between March 2025 and March 2026.

[251] The FDIC attributes an additional decrease in annual burden of 86,939 hours to the FDIC's revisions/updates to the underlying methodology or burden estimates based on supervisory experience. These changes are not related to the proposal.

[252] Where possible, the FDIC allocates the change in overall burden by the various bank types using the banks' classification or designation information for the entities that reported public data or the estimated number of entities by bank type. For one optional provision to report other loan data that is not apportioned by bank size or type, as well as one optional provision related to requests to waive data requirements, the FDIC's revisions to the underlying methodology and burden estimates would increase the associated burden by 955 hours, relative to 25 hours under the baseline, or approximately $90,000 per year.

[253] Where applicable, the FDIC estimates voluntary PRA burdens under the assumption that all the intermediate small banks that reported voluntarily under the baseline and are reclassified as small banks under the proposal would also report voluntarily under the proposal.

[254] 14,892 hours/18,380 hours estimated under the baseline for small banks = Approximately 81 percent.

[255] −114,775 hours/133,528 hours estimated under the baseline for large banks = Approximately 86 percent.

million per year. Using a combination of data on large banks that are reclassified to intermediate banks under the proposal, intermediate small banks that voluntarily reported 2024 CRA data and the FDIC's estimates to account for burden for any intermediate banks that assume voluntary PRA burdens,[256] the FDIC estimates that FDIC-supervised intermediate banks under the proposal would see a decrease of 2,260 hours per year in voluntary PRA burden (8 percent decrease [257]), or approximately $212,000 million per year.

FDIC-supervised large banks under the proposal would experience a modest decrease in burden of 3,940 hours per year (3 percent decrease [258]), or approximately $370,000 per year.

FDIC-supervised banks designated as wholesale or limited purpose would experience a modest decrease in burden of 231 hours per year (13.5 percent decrease [259]), or approximately $21,700 per year under the proposal.[260] FDIC-supervised strategic plan banks would experience a modest overall decrease in burden of 812 hours per year (8.1 percent increase [261]), or approximately $76,000 per year.[262]

8. Effects on Consumers

The FDIC does not have the information necessary to quantify, accurately, the effects of the proposal on consumers and businesses, including depositors and/or borrowers. However, the FDIC notes that the proposal's provisions are intended to better achieve statutory objectives. Specifically, the FDIC believes that the proposal, if adopted, would improve banks' success at meeting the credit needs of the communities in which they operate.

The proposal could change both the quantity and type of products and services offered by banks and utilized by consumers. The proposal would make the tests within the CRA more specific and quantitative, which may cause banks to reevaluate and change their compliance activities, such as lending, investment, or the provision of services. Further, the proposal expands the set of qualifying activities, in certain cases, which may also cause banks to re-evaluate and change their compliance activities. The FDIC does not have the information necessary to quantify the magnitude of these effects. The FDIC expects the overall effect on consumers and businesses to be positive but modest, with most of the benefits accruing to LMI individuals, households, and/or communities, small businesses, and small farms.

VII. Regulatory Analysis

A. Regulatory Flexibility Act

OCC

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), requires an agency to consider the impact of its proposed rules on small entities. In connection with a proposed rule, the RFA generally requires an agency to prepare an Initial Regulatory Flexibility Analysis (IRFA) describing the impact of the rule on small entities, unless the head of the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities and publishes such certification along with a statement providing the factual basis for such certification in the **Federal Register**. An IRFA must contain: (1) a description of the reasons why action by the agency is being considered; (2) a succinct statement of the objectives of, and legal basis for, the proposed rule; (3) a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; (4) a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirements and the type of professional skills necessary for preparation of the report or record; (5) an identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap with, or conflict with the proposed rule; and (6) a description of any significant alternatives to the proposed rule that accomplish its stated objectives.

The OCC currently supervises 990 institutions (commercial banks, trust companies, Federal savings associations, and branches or agencies of foreign banks),[263] of which approximately 602 are small entities under the RFA.[264]

In general, the OCC classifies the economic impact on an individual small entity as significant if the total estimated impact in one year is greater than 5 percent of the small entity's total annual salaries and benefits or greater than 2.5 percent of the small entity's total non-interest expense. Furthermore, the OCC considers 5 percent or more of OCC-supervised small entities to be a substantial number. Thus, at present, 30 OCC-supervised small entities would constitute a substantial number.

Though all small OCC-supervised institutions would be subject to the proposal, the OCC concludes that the rule would be a potential net cost savings to small OCC-supervised banks and, as a result, would not impose a net cost. Therefore, the OCC certifies that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, an initial Regulatory Flexibility Analysis is not required.

FDIC

The RFA generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.[265] However, an initial regulatory flexibility analysis is not required if the agency certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

[256] Where applicable, the FDIC estimates voluntary PRA burdens under the proposal for intermediate banks by assuming that ten percent of large banks that are reclassified as intermediate banks under the proposal would continue to report (on a voluntary basis) under the proposal.

[257] −2,260 hours/28,311 hours estimated under the baseline for intermediate small banks = Approximately 8 percent.

[258] −3,940 hours/133,528 hours estimated under the baseline for large banks = Approximately 3 percent.

[259] −231 hours/1,716 hours estimated under the baseline for wholesale or limited purpose banks = Approximately 13.5 percent.

[260] While the burden hours would increase by 873 hours per year for additional requirements related to community development under the proposal for large banks with such designations and 24 hours per year for other voluntary burdens, large wholesale or limited purpose banks would also experience a decrease in burden of 1,128 hours per year associated with the proposal's revisions to other mandatory reporting and recordkeeping requirements.

[261] −306 hours/9,993 hours estimated under the baseline for wholesale or limited purpose banks = Approximately 3.1 percent.

[262] While the burden hours would increase by 2,037 hours per year for mandatory requirements related to community development under the proposal for large banks with approved strategic plans and 748 hours per year for other voluntary burdens, large strategic plan banks would also experience a decrease in burden of 3,597 hours per year associated with the proposal's revisions to other mandatory reporting and recordkeeping requirements.

[263] Based on data accessed using the OCC's Financial Institution Data Retrieval System (FINDRS) on June 23, 2026.

[264] The OCC bases its estimate of the number of small entities on the Small Business Administration's size thresholds for commercial banks and savings institutions, and trust companies, which are $850 million and $47 million, respectively. Consistent with the General Principles of Affiliation, 13 CFR 121.103(a), the OCC counted the assets of affiliated financial institutions when determining if it should classify an OCC-supervised institution as a small entity. The OCC used December 31, 2025, to determine size because a ''financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' *See* footnote 8 of the U.S. Small Business Administration's *Table of Size Standards.*

[265] 5 U.S.C. 601 *et seq.*

The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $850 million.[266] The proposed rule seeks to establish a definition of ''small'' insured depository institution as one with average assets of less than $1 billion in either of the prior two calendar years. The agencies, including the FDIC, are in the process of seeking approval from the SBA to use the proposed $1 billion threshold, adjusted annually for inflation, rather than the SBA's size standards. While the FDIC undergoes that approval process it will employ the SBA's existing $850 million size standard in its RFA compliance activities.

Generally, the FDIC considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-supervised banks. For the reasons described below, the FDIC finds it difficult to accurately quantify all of the proposed rule's effects given current information for FDIC-supervised insured depository institutions that meet the definition of a ''small entity'' under the RFA (small, FDIC-supervised institutions). The FDIC believes that the proposed rule will not have a significant economic impact on a substantial number of small entities because the proposed rule will generally reduce reporting, recordkeeping and other compliance requirements on small, FDIC-supervised banks. However, the proposed rule could present significant indirect benefits to small, FDIC-supervised banks. Therefore, the FDIC has included an initial regulatory flexibility analysis in this section.[267]

Reasons Why Action Is Being Considered

As noted in Section I of this **SUPPLEMENTARY INFORMATION**, the agencies are proposing targeted changes to the current rule to better align with the statutory mandate, reduce unnecessary burden, and improve clarity.

Statement of the Objectives and Legal Basis for the Proposal

As previously noted, the targeted changes are designed to retain the key elements of the current regulatory framework to provide continuity and minimize disruptions while making revisions to accomplish the goals listed above. For further discussion of the policy objectives of the proposal please refer to Section III of this **SUPPLEMENTARY INFORMATION**.

The FDIC is issuing this proposal under the authorities granted to it under the Community Reinvestment Act of 1977.[268] For a discussion of the legal basis of the proposal, please refer to Section I of this **SUPPLEMENTARY INFORMATION**.

Description of the Proposal and an Estimate of the Number of Small Entities

As previously discussed, the proposal would make several amendments to the 1995 CRA regulations, including amendments related to asset-size thresholds, performance tests, community development activities and considerations thereof, strategic plans, and data collection, reporting and disclosure, and public file and public notice.[269] For a more extensive discussion of the proposal, please refer to Section IV of this **SUPPLEMENTARY INFORMATION**.

As of March 31, 2026, the FDIC supervises 2,700 banks. After excluding eleven special purpose banks, 2,689 FDIC-supervised banks are subject to the CRA. Of these, 1,974 are identified as small institutions under the terms of the RFA (SBA-small).[270] As in the current framework, the proposal uses an institution's total assets as of December 31 of the prior two most recent calendar years or business strategy to place institutions within CRA performance assessment categories. Institutions designated as limited purpose institutions, wholesale institutions, or that operated under an approved strategic plan under the current regulations will continue to be evaluated separately from the institutions evaluated based on their asset size. Various provisions in the proposal would impact four different groups of SBA-small, FDIC-supervised banks: institutions that would be considered small banks under the current CRA performance assessment framework (CRA-small),[271] institutions that would be considered intermediate small (or intermediate under the proposal) (CRA-intermediate small or CRA-intermediate), banks designated as wholesale or limited purpose, and banks examined under a strategic plan.

Under the proposal, the total asset threshold for SBA-small, FDIC-supervised banks that would be considered CRA-small would change from less than $412 million in assets to less than $1 billion in assets. Table 6 summarizes the distribution of institutions across CRA evaluation frameworks under the current regulations and the proposed threshold, including institutions evaluated under approved strategic plans. Following the proposal's increases to the applicable threshold for SBA-small, FDIC-supervised banks, the estimated number of SBA-small, FDIC-supervised banks that would be CRA-small would increase by 439 to 1,958. Of the remaining SBA-small, FDIC-supervised banks, three institutions are currently designated as wholesale or limited purpose institutions, while 13 SBA-small, FDIC-supervised institutions have elected and been approved to use strategic plans.

[265] 5 U.S.C. 601 *et seq.*

[266] The SBA defines a small banking organization as having $850 million or less in assets, where an organization's ''assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' *See* 13 CFR 121.201 (as amended by 87 FR 69118, effective December 19, 2022). In its determination, the ''SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.'' *See* 13 CFR 121.103. Following these regulations, the FDIC uses an insured depository institution's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the insured depository institution is ''small'' for the purposes of RFA.

[267] *See, e.g.,* 12 U.S.C. 2905.

[268] The proposal also includes certain other technical amendments to revise, clarify, or otherwise remove obsolete provisions. The FDIC anticipates these amendments will have little to no effect for banks. As such, the effects on banks due to these amendments under the proposal are likely to be *de minimis.*

[269] Call Report data as of March 31, 2026. The 2,700 FDIC-supervised institutions include six insured domestic branches of foreign banks and 11 special purpose banks. The foreign branches are subject to CRA but none are ''small entities'' for purposes of the RFA. The effects of the proposal's technical amendments are likely to be *de minimis* for the 11 FDIC-supervised special purpose banks, of which four are ''small entities'' for purposes of the RFA.

[270] Under the current rule, unless specified, CRA-small banks typically include CRA-small banks and CRA-intermediate small banks. In the proposed rule, the term ''intermediate bank'' replaces the prior ''intermediate small bank'' terminology. In this analysis, CRA-small bank refers only to the small banks and does not include CRA-intermediate small banks under the current framework or CRA-intermediate banks under the proposal.

TABLE 6—SBA-SMALL, FDIC-SUPERVISED BANKS BY CRA PERFORMANCE ASSESSMENT FRAMEWORK

	Baseline		Proposal	
	CRA-small	CRA-intermediate small	CRA-small	CRA-intermediate
CRA Performance Standards	1,519	439	1,958	0
Strategic Plan	8	5	13	0
Wholesale	2	0	2	0
Limited Purpose	0	1	1	0
Total	1,529	445	1,974	0

Economic Impact

This section evaluates the projected economic effect of the proposal relative to a baseline in which the proposal is not adopted. As previously discussed, a March 29, 2024, court order enjoined the Federal banking agencies from implementing the revisions made by the 2023 CRA rules. Thus, SBA-small, FDIC-supervised banks are currently being evaluated for compliance with CRA in accordance with the 1995 CRA regulations. As such, this analysis assumes that the 1995 CRA regulations would remain in place under the baseline. If finalized, the proposed rule would amend the 1995 CRA regulations to make several substantive, technical, and process-oriented changes. Therefore, relative to the baseline, SBA-small, FDIC-supervised banks would only have to make a few changes to their current CRA policies and procedures in response to the proposal. To the extent any SBA-small, FDIC-supervised banks were devoting resources to updating their current CRA policies and procedures to prepare for the 2023 CRA rules, the proposal would allow them to employ those resources elsewhere.

The proposal is expected to generally reduce compliance costs for 439 SBA-small banks that are CRA-intermediate small banks under the current framework and would be reclassified as CRA-small banks, as these institutions would no longer be subject to a separate community development test under the proposal. The FDIC does not have data on all regulatory compliance costs for such institutions.[272] Such institutions may also benefit from examination standards that are more proportionate to their size and business models. At the same time, these institutions would become subject only to the small bank lending test under the proposal, which may alter the incentives associated with lending and community development activities.

The proposal's suite of changes to the small bank lending test would affect both the 439 institutions that would be reclassified CRA-small under the proposal, and the 1,519 that are CRA-small under the current and proposed frameworks. As discussed previously, and below, the FDIC believes the proposed small bank performance standards are substantively similar to the current standards, so examination procedures and outcomes are unlikely to be affected by the proposal. However, the proposal would provide greater transparency and reduce uncertainty regarding the agencies' evaluation framework, which should reduce the burden incurred by such institutions to comply with the CRA and prepare for CRA examinations.

For the 1,958 SBA-small, FDIC-supervised institutions that would be CRA-small, the proposal would establish a more standardized evaluation approach by identifying major product lines across the applicable lending tests, with two alternative methods for identifying major product lines included in the proposal.[273]

The proposed revisions are expected to reduce variations in examiner judgment and provide greater certainty regarding which retail lending activities will receive CRA consideration. By establishing more objective criteria for selecting which product lines would be evaluated during an examination, the proposed rule would provide banks with greater certainty before an examination starts regarding which products will be evaluated. This may be particularly beneficial for smaller institutions who do not collect and/or report data, as greater certainty regarding the retail lending products subject to review may reduce the compliance burden associated with preparing for examinations and responding to examiner requests.

The proposal may also influence SBA-small banks' CRA planning by concentrating evaluation on a narrower set of retail lending products. To the extent that lending activities outside the designated major product lines receive less CRA consideration under the proposal relative to the baseline, some institutions may re-allocate resources away from these activities. However, because the proposal primarily standardizes existing examination practices rather than substantially changing lending performance standards, these behavioral effects are expected to be modest.

For the 1,958 SBA-small, FDIC-supervised institutions that would be CRA-small, the proposal would also introduce a meaningful assessment approach to address situations in which retail lending data are insufficient to support the standard evaluation methodology. Because this proposed revision would primarily affect examination methodology rather than substantive performance expectations, it is not expected to materially alter SBA-small, FDIC-supervised banks' lending behavior or compliance obligation. Instead, the proposed revision is expected to improve examination consistency and provide greater certainty regarding how SBA-small, FDIC-supervised institutions with limited lending activity will be evaluated.

The proposal's modifications to the requirements related to strategic plans would affect 13 CRA-small banks (CRA-small strategic plan banks). The FDIC does not believe that, if adopted, the proposal would have a significant impact on CRA compliance requirements for CRA-small strategic plan banks. These institutions face broadly similar examination criteria as they do under the current framework. The amendments in the proposal may increase incentives for SBA-small banks to adopt strategic plans. Thus, the

[272] As an illustration of the magnitude of compliance costs, the FDIC estimates that six SBA-small, FDIC-supervised banks that are CRA-intermediate that elected to be evaluated under the large bank tests and reported community development loans data under the baseline incurred, in aggregate, 78 hours for this burden.

[273] *See* Section IV of this **SUPPLEMENTARY INFORMATION** for a discussion of the two alternative methods.

agencies expect more banks to elect to be evaluated under a strategic plan.[274]

Finally, the proposal's revisions to the definition of community development, community development activities and considerations thereof would affect approximately three SBA-small, FDIC-supervised banks currently designated as wholesale or limited purpose banks. To the extent that these banks were confused or unsure about whether a particular activity qualified as community development and the agencies' consideration of community development activities, the proposal would benefit such entities by reducing costs associated with protracted deliberations, unnecessary documentation, incorrect compliance accounting, or foregone investment or services opportunities. In turn, the proposal would benefit certain communities, projects and activities in such circumstances, by reducing costs associated with protracted deliberations, documentation, overhead, as well as foregone community development benefits. The proposal's confirmation process for activities that would qualify as a community development activity would pose some reporting costs for banks that request such a determination. As noted in Section VII.D of this **SUPPLEMENTARY INFORMATION**, such costs are expected to be *de minimis*.[275] The proposal's amendments to the scope of activities considered to be community development and definitions of community development activities would lead to changes to the scope and size of the type of activities covered entities engage in for the purposes of compliance with the CRA. Such changes may have a distributional effect on community development activities where it may pose some costs and benefits for certain communities and projects. However, the FDIC does not have the information necessary to quantify any such effects.

Reporting, Recordkeeping, and Other Compliance Requirements of the Proposal

In Section VII.D of this **SUPPLEMENTARY INFORMATION**, the agencies estimate the recordkeeping, reporting and disclosure burdens under the PRA for all banks under the proposal.[276] The PRA requirements vary in their application to SBA-small, FDIC-supervised banks—some requirements are mandatory for large banks (including those with strategic plans or those designated as wholesale or limited purpose banks) and optional for CRA-small and CRA-intermediate (or CRA-intermediate small) banks, other mandatory requirements apply to all banks or a certain subset, while some PRA requirements only apply for banks that elect certain CRA evaluations (*e.g.,* strategic plans, electing to be evaluated for specific loan product lines), collectively PRA burdens. To estimate the number of affected entities (including any SBA-small, FDIC-supervised banks that elect and assume voluntary PRA burdens) and the overall burden under the proposal, the agencies rely on CRA data submitted by SBA-small, FDIC-supervised banks in 2024, the latest period for which data is available.[277] For SBA-small, FDIC-supervised banks, the agencies estimate no increase in burdens associated with the proposal's amendments/revisions to the mandatory PRA requirements for all banks. Relative to the baseline, the agencies estimate an overall increase in annual voluntary PRA burden for SBA-small, FDIC-supervised banks, in aggregate, of 1,361 hours per year (4.7 percent increase), or $128,000 per year.[278] The increase in voluntary burden of 1,361 hours can be attributed primarily to an increase in annual burden of 4,337 hours for new PRA requirements under the proposal, and an increase of 800 hours under the proposal's revisions to certain existing data maintenance, collection, and reporting requirements.[279] In this section, the agencies discuss the distributional effects of the changes in the overall burdens under the proposal for SBA-small, FDIC-supervised banks that would be CRA-small, and strategic plan banks.[280]

SBA-small, FDIC-supervised banks that would be CRA-small banks under the proposal would not experience additional burdens associated with the proposal's amendments/revisions to the mandatory PRA requirements for all banks. Using data on CRA-small and CRA-intermediate small banks that voluntarily reported 2024 CRA data the agencies estimate that SBA-small, FDIC-supervised banks that would be CRA-small under the proposal[281] would elect to incur, in aggregate, an additional 612 hours per year (2.2 percent increase[282]) in voluntary PRA burdens, or approximately $58,000 per year.

Using data on small, FDIC-supervised strategic plan banks under the baseline and an estimate of such banks under the proposal, the FDIC estimates that SBA-small, FDIC-supervised strategic plan banks experience a small overall increase in burden of 50 hours per year (2.7 percent increase[283]) or

[274] Based on estimates from Section VII.D of this **SUPPLEMENTARY INFORMATION**, the FDIC estimates that six SBA-small, FDIC-supervised banks under the proposal (two more than the baseline) would elect to comply with information collection provisions related to the submission of strategic plans annually.

[275] In addition, as the illustrative list grows over time, the number of such requests would likely diminish.

[276] The recordkeeping, reporting and disclosure requirements are primarily described under proposed § ____.25(b), § ____.27, § ____.42(a)–(g), and § ____.43. The FDIC is approved to collect information related to CRA regulations under OMB control number 3064–0092.

[277] As discussed previously, the FDIC also uses Call Report and other public data to place institutions within CRA performance evaluation categories. *See* FFIEC, Community Reinvestment Act 2024 Aggregate & Disclosure Flat Files (2024 CRA Data), *https://www.ffiec.gov/data/cra/flat-files* (accessed July 23, 2026); Call Report data as of March 31, 2026, December 31, 2025, and December 31, 2024.

[278] The FDIC estimates total annual burden hours of 29,162 hours under the baseline, and 30,523 hours under the proposal. Multiplying the change in the burden of 1,361 hours with the estimated wage rate of $93.97 yields approximately $128,000 per year. As of March 31, 2026, the FDIC supervises 2,689 banks that are subject to CRA, which excludes 11 special purpose banks. *See* proposed 12 CFR __ __11(c)(3).

To estimate the average cost of compensation per hour, the FDIC uses the 75th percentile hourly wages reported by the Bureau of Labor Statistics (BLS) National Industry-Specific Occupational Employment and Wage Estimates (OEWS) for compliance officer and clerical occupations in the Depository Credit Intermediation sector. However, the latest OEWS wage data are as of May 2025 and do not include non-wage compensation. To adjust these wages, the FDIC multiplies the OEWS hourly wages by approximately 1.58 to account for non-wage compensation, using the BLS Employer Cost of Employee Compensation (ECEC) data as of March 2025 (the latest published release prior to the OEWS wage data). The FDIC then multiplies the resulting compensation rates by approximately 1.04 to account for the change in the seasonally adjusted Employment Cost Index for the Credit Intermediation and Related Activities sector (NAICS Code 522) between March 2025 and March 2026.

[279] The FDIC further attributes a decrease in annual burden of 3,776 hours to the FDIC's revisions/updates to the underlying methodology or burden estimates based on supervisory experience. These changes are not related to the proposal.

[280] Where possible, the FDIC allocates the change in overall burden by the various bank types using the banks' classification or designation information for the entities that reported public data or the estimated number of entities by bank type. For one optional provision to report other loan data that is not apportioned by bank size or type, as well as one optional provision related to requests to waive data requirements, the FDIC's revisions to the underlying methodology and burden estimates would increase the associated burden by 699 hours, relative to 25 hours under the baseline, or approximately $66,000 per year.

[281] Where applicable, the FDIC estimates voluntary PRA burdens under the assumption that all the CRA-intermediate small banks that reported voluntarily under the baseline and are reclassified as small banks under the proposal would also report voluntarily under the proposal.

[282] 612 hours/(sum of 17,510 hours estimated under the baseline for SBA-small, FDIC-supervised banks that are CRA-small and 9,732 hours for SBA-small, FDIC-supervised banks that are CRA-intermediate small) = Approximately 2.2 percent.

[283] 50 hours/1,844 hours estimated under the baseline for SBA-small, FDIC-supervised banks that

approximately $5,000 per year, relative to such an election under the baseline.[284] The FDIC does not have the data required to estimate the number of strategic plan elections under the proposal, but expect only those SBA-small entities that would expect a net benefit to such an election to do so.

Alternatives Considered

The FDIC also considered alternatives to the asset size thresholds that delineate small, intermediate, and large banks for purposes of CRA. For example, as previously discussed, the agencies are in the process of seeking approval from the SBA to use the proposed $1 billion threshold, adjusted annually for inflation, rather than the SBA's recently updated size standards, which include a $850 million threshold for small banks. In requesting this approval, the agencies seek to reduce burden for smaller banks by keeping them in the small bank category in the CRA performance assessment framework and reclassifying some current CRA-intermediate small banks as CRA-small banks under the proposal. As discussed previously, the agencies' proposed size standard would result in a distribution of banks and bank assets that is substantially similar to the distribution in 1995. For further discussion of the alternative considered please refer to Section IV of this **SUPPLEMENTARY INFORMATION.**

The FDIC also considered finalizing the 2025 NPR. However, the re-proposal is expected to adhere more closely to the stated objectives of the CRA and provide greater benefits to SBA-small entities, as discussed above, than the 2025 NPR.

Other Statutes and Federal Rules

The FDIC has not identified any likely duplication, overlap, and/or potential conflict between this proposal and any other federal rule.

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. In particular, would the proposal have any significant effects on small entities that the FDIC has not identified?

B. Unfunded Mandates Reform Act

The OCC has analyzed the proposed rule under the factors in the Unfunded Mandates Reform Act of 1995 (UMRA).[285] Under this analysis, the OCC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year ($193 million as adjusted annually for inflation). Pursuant to section 202 of the UMRA,[286] if a proposed rule meets this UMRA threshold, the OCC would need to prepare a written statement that includes, among other things, a cost-benefit analysis of the proposal. The UMRA does not apply to regulations that incorporate requirements specifically set forth in law.

The OCC has determined that the proposed rule would not result in an expenditure of $193 million or more annually by State, local, and tribal governments, or by the private sector. Therefore, the OCC finds that the proposed rule does not trigger the UMRA cost threshold. Accordingly, the OCC has not prepared the written statement described in section 202 of the UMRA.

C. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994, 12 U.S.C. 4802(a), in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, the agencies will consider, consistent with principles of safety and soundness and the public interest: (1) any administrative burdens that the proposed rule would place on depository institutions, including small depository institutions and customers of depository institutions; and (2) the benefits of the proposed rule. The agencies request comment on any administrative burdens that the proposed rule would place on depository institutions, including small depository institutions, and their customers, and the benefits of the proposed rule that the agencies should consider in determining the effective date and administrative compliance requirements for a final rule.

D. Paperwork Reduction Act

Certain provisions of the proposed rule contain ''collections of information'' within the meaning of the PRA, 44 U.S.C. 3501 through 3521. In accordance with the requirements of the PRA, the agencies may not conduct or sponsor, and the respondent is not required to respond to an information collection unless it displays a currently valid OMB control number. The information collections contained in the proposed rule have been submitted to the OMB for review and approval by the OCC and the FDIC under section 3507(d) of the PRA, 44 U.S.C. 3507(d), and § 1320.11 of the OMB's implementing regulations, 5 CFR part 1320. The agencies are proposing to extend these information collections for three years, with revision.

Title of Information Collection: OCC, Community Reinvestment Act Regulation; FDIC, Community Reinvestment Act.

OMB Control Numbers: OCC 1557–0357; FDIC 3064–0092.

Frequency of Response: On occasion.

Affected Public: Businesses or other for-profits.

Respondents:

OCC: National banks, Federal savings associations, Federal branches and agencies.

FDIC: All insured State nonmember banks, insured State-licensed branches of foreign banks, insured State savings associations, and bank service providers.

Under the proposed rule:

§ ____.13(b)(1)—Request for determination of community development activity eligibility. A bank may request that the appropriate Federal financial supervisory agency review a loan, investment, grant, or service to determine if it qualifies for consideration as a community development activity in a bank's CRA examination by submitting a request to, and in a format prescribed by, the appropriate Federal financial supervisory agency.

§ ____.25(b)—Designation as a wholesale or limited purpose bank. In order to receive a designation as a wholesale or limited purpose bank, a bank would be required to file a written request with the appropriate Federal financial supervisory agency, at least 90 days prior to the proposed effective date of the designation.

§ ____.27—Strategic plan. A bank may submit a strategic plan to the appropriate Federal financial supervisory agency for approval as provided for in proposed § ____.27. The appropriate Federal financial supervisory agency will evaluate a bank's record of meeting the credit needs of its assessment area(s) under an approved strategic plan elected by the bank. A bank's election to be evaluated under a strategic plan does not affect the

are strategic plan banks = Approximately 2.7 percent.

[284] This increase is comprised of: (1) an increase of 800 hours due to an increase in the estimated number of SBA-small banks that may submit a strategic plan; and (2) a decrease in annual burden of 750 hours due to the FDIC's revisions/updates to the underlying methodology or burden estimates based on supervisory experience, which is not related to the proposal.

[285] 2 U.S.C. 1531 *et seq.*

[286] 2 U.S.C. 1532.

applicability of the data collection, reporting, and disclosure provisions under proposed § ____.42. The proposed rule specifies requirements for the term of a strategic plan, the strategic plan's scope, the treatment of multiple assessment areas, and measurable goals. Additionally, during the term of an approved strategic plan, a bank may request that the appropriate Federal financial supervisory agency approve an amendment to an approved strategic plan based on a material change in circumstances.

§ ____.42(a)(1)—Small business and small farm data. A large bank would be required to collect and maintain, in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency), until the completion of its next CRA examination, data on each small business and small farm loan originated or purchased by the bank during the period.

§ ____.42(a)(2)—Community development loan, investment, and grant data. A large would be required to collect and maintain in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency) until the completion of its next CRA examination, data for each community development loan originated or purchased or community development investment or community development grant made by the bank during the period.

§ ____.42(a)(3)—Community development grant data. A large bank would be required to collect and maintain until the completion of its next CRA examination certain additional data for each community development grant made by the bank during the period concerning the use of the funds and limitations on indirect costs of administering the grant.

§ ____.42(a)(4)—Consumer lending data. A large bank that has consumer lending as a major product line would be required to collect and maintain, in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency), until the completion of its next CRA examination, data for each consumer loan originated or purchased by the bank during the period.

§ ____.42(b)(1)—Small business and small farm loan data (to be reported). A large bank would be required to report annually by March 1 to the appropriate Federal financial supervisory agency in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency) certain aggregated data for small business or small farm loans for each census tract in which the bank originated or purchased such loans.

§ ____.42(b)(2)—Community development data (to be reported). A large bank would be required to report annually by March 1 to the appropriate Federal financial supervisory agency in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency) certain aggregated data for each census tract in which the bank originated or purchased a community development loan or made a community development grant.

§ ____.42(b)(3)—Home mortgage loan data to be reported. A large bank that is subject to reporting under part 1003 of this title (Regulation C), would be required to report annually by March 1 to the appropriate Federal financial supervisory agency in machine-readable form, the location of each home mortgage loan application, origination, or purchase outside the MSAs where the bank has a home or branch office.

§ ____.42(c)—Other loan data. At its option, a bank may provide other information concerning its lending performance, including additional loan distribution data.

§ ____.42(d)—Data on affiliate lending. A bank that elects to have the appropriate Federal financial supervisory agency consider loans by an affiliate, for purposes of the lending test or the community development test or an approved strategic plan, would be required to collect, maintain, and report for those loans the data that the bank would have collected, maintained, and reported pursuant to proposed § ____.42(a), (b), and (c) had the loans been originated or purchased by the bank. For home mortgage loans, the bank would also be required to be prepared to identify the home mortgage loans reported under Regulation C by the affiliate.

§ ____.42(e)—Data on lending by a consortium or a third party. A bank that elects to have the appropriate Federal financial supervisory agency consider community development loans originated or purchased by a consortium or a third party, for purposes of the lending test, the community development test, or an approved strategic plan, would be required to report for those loans the data that the bank would have reported under proposed § ____.42(b)(2) had the loans been originated or purchased by the bank.

§ ____.42(f)—Small and intermediate banks electing evaluation under the lending, investment, and service tests. A bank that qualifies for evaluation under the small or intermediate bank performance standards but elects evaluation under the lending, investment, and service tests in proposed §§ ____.22 through .24 would be required to collect, maintain, and report the data required for other banks pursuant to proposed § ____.42(a) and (b).

§ ____.42(g)—Assessment area data. A bank or savings association, except a small bank or savings association or a bank or savings association that was a small bank or savings association during the prior calendar year, would be required to collect and report to the appropriate Federal financial supervisory agency by March 1 of each year a list for each assessment area showing the geographies within the area.

§ ____.42(h)—Determination to not require data based on specific circumstances. The appropriate Federal financial supervisory agency may, based on a bank's particular facts and circumstances and upon written request, exempt a bank from one or more of the proposed requirements to collect, maintain, or report data under proposed § ____.42(a) through (f) if the appropriate Federal financial supervisory agency determines that the data is not necessary for evaluating the bank's performance or more than minimally useful to the agencies' overall data collection.

§ ____.43—Content and availability of public file. Banks would be required to maintain a public a file containing certain information, including comments received from the public; the bank's most recent CRA performance evaluation; a list of the bank's branches, street addresses, and census tracts; a list of bank branches opened or closed by the bank during the current year and each of the prior two calendar years; a list of the services generally offered at the bank's branches, and a map of each assessment area showing the boundaries of the area and identifying the census tracts contained within the area, either on the map or in a separate list. The bank could include in the file any other information that it chooses. Large banks would also be required to include additional information in the public file, including aggregate loan data and the bank's CRA Disclosure Statement. Banks required to report home mortgage loan data pursuant to the Home Mortgage Disclosure Act (HMDA) would be required to include in its public file a written notice that the bank's HMDA Disclosure Statement may be obtained from the Consumer Financial Protection Bureau's website. Small and intermediate banks would also be required to include certain information,

including loan-to-deposit ratio. Banks that have been approved to be assessed under a strategic plan would be required to include a copy of the plan in its public file. A bank that received a less than satisfactory rating during its most recent examination would be required to include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community and this description would be required to be updated quarterly.

§ ____.44—Public notice by banks. A bank would be required to provide on its website, or a website maintained on behalf of the bank, the appropriate CRA notice set forth in Appendix B of this proposed part. A bank would also be required to provide in the public lobby of its main office and in each of its branches a written notice, in printed or digital form, that provides that the institution's CRA notice may be viewed on the bank's website, or a website maintained on behalf of the bank.

BURDEN ESTIMATES

Source and type of burden	Description	Estimated number of respondents	Frequency of response	Average estimated time per response	Total estimated annual burden
§ ____.13(b)(1) Optional Reporting ...	*Request for determination of community development activity eligibility.*	.....	.....	.....	.....
	OCC	30	1	8	240
	FDIC	269	1	12	3,228
§ ____.25(b) Optional Reporting	*Request for designation as a wholesale bank or limited purpose bank.*	.....	.....	.....	.....
	OCC	19	1	4	76
	FDIC	1	1	4	4
§ ____.27 Optional Reporting	*Strategic plan*	.....	.....	.....	.....
	OCC	30	1	275	8,250
	FDIC	20	1	275	5,500
§ ____.42(a)(1) Recordkeeping	*Loan data: Small business and small farm.*	.....	.....	.....	.....
	OCC	77	1	219	16,863
	FDIC	103	1	100	10,300
§ ____.42(a)(2) Recordkeeping	*Loan data: Community development, community development investment, or community development grants.*	.....	.....	.....	.....
	OCC	77	1	300	23,100
	FDIC	98	1	225	22,050
§ ____.42(a)(3) Recordkeeping	*Loan data: Community development grants.*	.....	.....	.....	.....
	OCC	77	1	50	3,850
	FDIC	98	1	50	4,900
§ ____.42(a)(4) Recordkeeping	*Loan data: Consumer lending*	.....	.....	.....	.....
	OCC	10	1	326	3,260
	FDIC	4	1	326	1,304
§ ____.42(b)(1) Reporting	*Loan data: Small business and small farm.*	.....	.....	.....	.....
	OCC	77	1	8	616
	FDIC	103	1	8	824
§ ____.42(b)(2) Reporting	*Loan data: Community development*	.....	.....	.....	.....
	OCC	77	1	13	1,001
	FDIC	98	1	29	2,842
§ ____.42(b)(3)[287]	*Loan data: Home mortgage loans* ...	.....	.....	.....	.....
§ ____.42(c) Reporting	*Other loan data*	.....	.....	.....	.....
	OCC	25	1	25	625
	FDIC	60	1	16	960
§ ____.42(d) Reporting	*Data on affiliate lending*	.....	.....	.....	.....
	OCC	25	1	38	950
	FDIC	173	1	38	6,574
§ ____.42(e) Reporting	*Data on lending by a consortium or a third party.*	.....	.....	.....	.....
	OCC	16	1	17	272
	FDIC	10	1	17	170
§ ____.42(f) Reporting[288].	*Small and intermediate banks electing evaluation under the lending, investment, and service tests.*	.....	.....	.....	.....
§ ____.42(g) Reporting	*Assessment area data*	.....	.....	.....	.....
	OCC	57	1	2	114
	FDIC	108	1	2	216
§ ____.42(h) Reporting	*Determination to not require data based on specific circumstances.*	.....	.....	.....	.....
	OCC	10	1	2	20
	FDIC	10	1	2	20
§§ ____.43 and ____.44 Disclosure ...	*Public file and public notice*	.....	.....	.....	.....

BURDEN ESTIMATES—Continued

Source and type of burden	Description	Estimated number of respondents	Frequency of response	Average estimated time per response	Total estimated annual burden
	OCC	963	1	10	9,630
	FDIC	2,689	1	10	26,890
Total Estimated Annual Burden					
	OCC				68,867
	FDIC				85,782

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agencies, including whether the information has practical utility; (b) The accuracy of the agencies' estimate of the burden of the collections of information; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; (d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Commenters may submit comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to the addresses listed in the **ADDRESSES** caption in the proposed rule. All comments will become a matter of public record. A copy of the comments may also be submitted to the OMB desk officer for the agencies: By mail to U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503; or to *www.reginfo.gov/public/do/PRAMain.* Find this information collection by selecting ''Currently under Review—Open for Public Comments'' or using the search function.

E. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023,[289] requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002.[290]

The Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation are proposing to amend their Community Reinvestment Act rules by making certain substantive, technical, and process-oriented changes to refocus on the statutory objective of encouraging banks to meet the credit needs of their communities; to better ensure that community development grants reach the communities they are intended to benefit; to reduce unnecessary burden, particularly for community banks; and to provide greater clarity for how to obtain Community Reinvestment Act consideration.

The proposal and the required summary can be found for the OCC at *https://www.regulations.gov* by searching for Docket ID OCC–2026–0694 and *https://occ.gov/topics/laws-and-regulations/occ-regulations/proposed-issuances/index-proposed-issuances.html.*

The proposal and the required summary can be found for the FDIC at *https://www.fdic.gov/federal-register-publications.*

F. Executive Order 12866

Executive Order 12866, titled ''Regulatory Planning and Review,'' as amended, requires the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget to determine whether a proposed rule is a ''significant regulatory action'' prior to the disclosure of the proposed rule to the public. If the OIRA finds the proposed rule to be a ''significant regulatory action,'' Executive Order 12866 requires the agencies to conduct a cost-benefit analysis of the proposed rule and for the OIRA to conduct a review of the proposed rule prior to publication in the **Federal Register**. Executive Order 12866 defines ''significant regulatory action'' to mean a regulatory action that is likely to: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

OIRA has determined that this proposed rule is an economically significant regulatory action under Section 3(f)(1) of Executive Order 12866 and, therefore, is subject to review under Executive Order 12866.

G. Executive Order 14192

Executive Order 14192, titled ''Unleashing Prosperity Through Deregulation,'' requires that an agency, unless prohibited by law, identify at least ten existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation with total costs greater than zero. Executive Order 14192 further requires that new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations. The agencies expect the proposed rule as finalized will be a deregulatory action under Executive Order 14192 because as explained elsewhere, the final rule should have total costs less than zero.

H. Plain Language

Section 722 of the Gramm-Leach-Bliley Act[291] requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after

[287] Covered under OMB control numbers Regulation C-Home Mortgage Disclosure 1557–0345 (OCC) and Home Mortgage Disclosure Act (HMDA) 3064–0046 (FDIC).

[288] Covered by burden in §§ ____.42(a) & (b).

[289] 12 U.S.C. 553(b)(4).

[290] 44 U.S.C. 3501, *note.*

[291] Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999), 12 U.S.C. 4809.

January 1, 2000. The agencies invite your comments on how to make these proposed rules easier to understand. For example:

- Have the agencies organized the material to suit your needs? If not, how could the proposed rules be more clearly stated?
- Are the requirements in the proposed rules clearly stated? If not, how could the proposed rules be more clearly stated?
- Do the proposed rules contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rules easier to understand? If so, what changes to the format would make the proposed rules easier to understand?
- What else could the agencies do to make the proposed rules easier to understand?

List of Subjects

12 CFR Part 5

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 24

Community development, Credit, Investments, Low and moderate income housing, Manpower, National banks, Reporting and recordkeeping requirements, Rural areas, Small businesses.

12 CFR Part 25

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 35

Community development, Credit, Freedom of information, Investments, National banks, Reporting and recordkeeping requirements.

12 CFR Part 345

Banks, banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

12 CFR Part 346

Banks, banking, Savings associations.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons discussed in the preamble, and under the authority of 12 U.S.C. 93a and 2905, the Office of the Comptroller of the Currency proposes to amend chapter I of title 12, Code of Federal Regulations as follows:

PART 5—RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

■ 1. The authority citation for part 5 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.,* 24a, 35, 93a, 214a, 215, 215a, 215a–1, 215a–2, 215a–3, 215c, 371d, 481, 1462a, 1463, 1464, 1817(j), 1831i, 1831u, 1835a, 2901 *et seq.,* 3101 *et seq.,* 3907, and 5412(b)(2)(B).

■ 2. Add subpart G, consisting of §§ 5.100 through 5.104, to read as follows:

Subpart G—Prohibition Against Use of Interstate Branches Primarily for Deposit Production

Sec.

5.100 Purpose and scope.
5.101 Definitions.
5.102 Loan-to-deposit ratio screen.
5.103 Credit needs determination.
5.104 Sanctions.

Subpart G—Prohibition Against Use of Interstate Branches Primarily for Deposit Production

§ 5.100 Purpose and scope.

(a) *Purpose.* The purpose of this subpart is to implement section 109 (12 U.S.C. 1835a) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Interstate Act).

(b) *Scope.* (1) This subpart applies to any national bank that has operated a covered interstate branch for a period of at least one year, and any foreign bank that has operated a covered interstate branch that is a Federal branch for a period of at least one year.

(2) This subpart describes the requirements imposed under 12 U.S.C. 1835a, which requires the appropriate Federal banking agencies (the OCC, the Board of Governors of the Federal Reserve System, and the FDIC) to prescribe uniform rules that prohibit a bank from using any authority to engage in interstate branching pursuant to the Interstate Act, or any amendment made by the Interstate Act to any other provision of law, primarily for the purpose of deposit production.

§ 5.101 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Bank* means, unless the context indicates otherwise:

(1) A national bank; and

(2) A foreign bank as that term is defined in 12 U.S.C. 3101(7) and 12 CFR 28.11(i).

(b) *Covered interstate branch* means:

(1) Any branch of a national bank, and any Federal branch of a foreign bank, that:

(i) Is established or acquired outside the bank's home State pursuant to the interstate branching authority granted by the Interstate Act or by any amendment made by the Interstate Act to any other provision of law; or

(ii) Could not have been established or acquired outside of the bank's home State but for the establishment or acquisition of a branch described in paragraph (b)(1)(i) of this section; and

(2) Any bank or branch of a bank controlled by an out-of-State bank holding company.

(c) *Federal branch* means Federal branch as that term is defined in 12 U.S.C. 3101(6) and 12 CFR 28.11(h).

(d) *Home State* means:

(1) With respect to a State bank, the State that chartered the bank;

(2) With respect to a national bank, the State in which the main office of the bank is located;

(3) With respect to a bank holding company, the State in which the total deposits of all banking subsidiaries of such company are the largest on the later of:

(i) July 1, 1966; or

(ii) The date on which the company becomes a bank holding company under the Bank Holding Company Act;

(4) With respect to a foreign bank:

(i) For purposes of determining whether a U.S. branch of a foreign bank is a covered interstate branch, the home State of the foreign bank as determined in accordance with 12 U.S.C. 3103(c) and 12 CFR 28.11(n); and

(ii) For purposes of determining whether a branch of a U.S. bank controlled by a foreign bank is a covered interstate branch, the State in which the total deposits of all banking subsidiaries of such foreign bank are the largest on the later of:

(A) July 1, 1966; or

(B) The date on which the foreign bank becomes a bank holding company under the Bank Holding Company Act.

(e) *Host State* means a State in which a covered interstate branch is established or acquired.

(f) *Host State loan-to-deposit ratio* generally means, with respect to a particular host State, the ratio of total

loans in the host State relative to total deposits from the host State for all banks (including institutions covered under the definition of ''bank'' in 12 U.S.C. 1813(a)(1)) that have that State as their home State, as determined and updated periodically by the appropriate Federal banking agencies and made available to the public.

(g) *Out-of-State bank holding company* means, with respect to any State, a bank holding company whose home State is another State.

(h) *State* means State as that term is defined in 12 U.S.C. 1813(a)(3).

(i) *Statewide loan-to-deposit ratio* means, with respect to a bank, the ratio of the bank's loans to its deposits in a State in which the bank has one or more covered interstate branches, as determined by the OCC.

§ 5.102 Loan-to-deposit ratio screen.

(a) *Application of screen.* Beginning no earlier than one year after a covered interstate branch is acquired or established, the OCC will consider whether the bank's statewide loan-to-deposit ratio is less than 50 percent of the relevant host State loan-to-deposit ratio.

(b) *Results of screen.* (1) If the OCC determines that the bank's statewide loan-to-deposit ratio is 50 percent or more of the host State loan-to-deposit ratio, no further consideration under this subpart is required.

(2) If the OCC determines that the bank's statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, or if reasonably available data are insufficient to calculate the bank's statewide loan-to-deposit ratio, the OCC will make a credit needs determination for the bank as provided in § 5.103.

§ 5.103 Credit needs determination.

(a) *In general.* The OCC will review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities in the host state that are served by the bank.

(b) *Guidelines.* The OCC will use the following considerations as guidelines when making the determination pursuant to paragraph (a) of this section:

(1) Whether covered interstate branches were formerly part of a failed or failing depository institution;

(2) Whether covered interstate branches were acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(3) Whether covered interstate branches have a high concentration of commercial or credit card lending, trust services, or other specialized activities, including the extent to which the covered interstate branches accept deposits in the host state;

(4) The CRA ratings received by the bank, if any;

(5) Economic conditions, including the level of loan demand, within the communities served by the covered interstate branches;

(6) The safe and sound operation and condition of the bank; and

(7) The OCC's CRA regulations (12 CFR part 25) and interpretations of those regulations.

§ 5.104 Sanctions.

(a) *In general.* If the OCC determines that a bank is not reasonably helping to meet the credit needs of the communities served by the bank in the host state, and that the bank's statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, the OCC:

(1) May order that a bank's covered interstate branch or branches be closed unless the bank provides reasonable assurances to the satisfaction of the OCC, after an opportunity for public comment, that the bank has an acceptable plan under which the bank will reasonably help to meet the credit needs of the communities served by the bank in the host state; and

(2) Will not permit the bank to open a new branch in the host state that would be considered to be a covered interstate branch unless the bank provides reasonable assurances to the satisfaction of the OCC, after an opportunity for public comment, that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

(b) *Notice prior to closure of a covered interstate branch.* Before exercising the OCC's authority to order the bank to close a covered interstate branch, the OCC will issue to the bank a notice of the OCC's intent to order the closure and will schedule a hearing within 60 days of issuing the notice.

(c) *Hearing.* The OCC will conduct a hearing scheduled under paragraph (b) of this section in accordance with the provisions of 12 U.S.C. 1818(h) and 12 CFR part 19.

PART 24—COMMUNITY AND ECONOMIC DEVELOPMENT ENTITIES, COMMUNITY DEVELOPMENT PROJECTS, AND OTHER PUBLIC WELFARE INVESTMENTS

■ 3. The authority citation for part 24 continues to read as follows:

Authority: 12 U.S.C. 24(Eleventh), 93a, 481, and 1818.

§ 24.2 [Amended]

■ 4. Amend § 24.2 by:

■ a. In the introductory text of paragraph (c), removing ''§ 25.23 of appendix G to 12 CFR Part 25'' and adding ''12 CFR 25.23'' in its place.

■ b. In paragraph (f), removing ''§ 25.12(m) of appendix G to 12 CFR Part 25'' and adding ''12 CFR 25.12(m)'' in its place.

§ 24.3 [Amended]

■ 5. Amend § 24.3 by removing ''§ 25.23 of appendix G to 12 CFR Part 25'' and adding in its place ''12 CFR 25.23''.

§ 24.7 [Amended]

■ 6. Amend § 24.7 in paragraph (b) by removing ''§ 25.23 of appendix G to 12 CFR Part 25'' and adding in its place ''12 CFR 25.23''.

■ 7. Part 25 is revised to read as follows:

PART 25—COMMUNITY REINVESTMENT ACT

Subpart A—General

Sec.
25.11 Authority, purposes, scope, and severability.
25.12 Definitions.
25.13 Consideration of community development activities.
25.14 Responsiveness.

Subpart B—Standards for Assessing Performance

Sec.
25.21 Performance tests, standards, and ratings, in general.
25.22 Lending test.
25.23 Investment test.
25.24 Service test.
25.25 Community development test for wholesale or limited purpose banks and savings associations.
25.26 Performance standards for small banks and savings associations and intermediate banks and savings associations.
25.27 Strategic plan.
25.28 Assigned ratings.
25.29 Effect of CRA performance on applications.

Subpart C—Records, Reporting, and Disclosure Requirements

Sec.
25.41 Assessment area delineation.
25.42 Data collection, reporting, and disclosure.
25.43 Content and availability of public file.
25.44 Public notice by banks and savings associations.
25.45 Publication of planned examination schedule.

Appendix A to Part 25—Ratings

Appendix B to Part 25—CRA Notice

Appendix C—Methodologies

Authority: 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1462a, 1463, 1464,

1828(c), 1835a, 2901 through 2908, 3101 through 3111, and 5412(b)(2)(B).

Subpart A—General

§ 25.11 Authority, purposes, scope, and severability.

(a) *Authority and OMB control number*—(1) *Authority.* The authority for subparts A, B, and C, is 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1462a, 1463, 1464, 1828(c), 1835a, 2901 through 2908, 3101 through 3111, and 5412(b)(2)(B).

(2) *OMB control number.* The information collection requirements contained in this part were approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 1557–0357.

(b) *Purposes.* In enacting the Community Reinvestment Act (CRA), Congress required each appropriate Federal financial supervisory agency to publish regulations to carry out the purposes of the Act. The purpose of the CRA is to require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions. This part is intended to carry out the purposes of the CRA by—

(1) Establishing the framework and criteria by which the Office of the Comptroller of the Currency (OCC) or the Federal Deposit Insurance Corporation (FDIC), as appropriate, assesses a bank's or savings association's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank or savings association; and

(2) Providing that the OCC takes that record into account in considering certain applications.

(c) *Scope*—(1) *General.* (i) This part applies to all banks and savings associations except as provided in paragraphs (c)(2) and (3) of this section.

(ii) With respect to this part—

(A) The OCC has the authority to prescribe these regulations for national banks, Federal savings associations, and State savings associations and has the authority to enforce these regulations for national banks and Federal savings associations.

(B) The FDIC has the authority to enforce these regulations for State savings associations.

(2) *Federal branches and agencies.* (i) This part applies to all insured Federal branches and to any Federal branch that is uninsured that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(8)).

(ii) Except as provided in paragraph (c)(2)(i) of this section, this part does not apply to Federal branches that are uninsured, limited Federal branches, or Federal agencies, as those terms are defined in part 28 of this chapter.

(3) *Certain special purpose banks and savings associations.* This part does not apply to special purpose banks or special purpose savings associations that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than on an incidental basis. These banks or savings associations include banker's banks, as defined in 12 U.S.C. 24(Seventh), and banks or savings associations that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent banks or savings associations, trust companies, or clearing agents.

(d) *Severability.* The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the OCC's intention that the remaining provisions will continue in effect.

§ 25.12 Definitions.

For purposes of this part, the following definitions apply—

Affiliate means any company that controls, is controlled by, or is under common control with another company. The term ''control'' has the meaning given to that term in 12 U.S.C. 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

Appropriate Federal financial supervisory agency means—

(1) The OCC when the institution is a bank or Federal savings association; and

(2) The FDIC when the institution is a State savings association with Federally insured deposits.

Area median income means—

(1) The median family income for the MSA, if a person or census tract is located in an MSA, or for the metropolitan division, if a person or census tract is located in an MSA that has been subdivided into metropolitan divisions; or

(2) The statewide nonmetropolitan median family income, if a person or census tract is located in a nonmetropolitan area.

Assessment area means a geographic area delineated in accordance with § 25.41.

Automated teller machine (ATM) means an automated, unstaffed banking facility available and accessible to members of the public owned or operated by, or operated exclusively for, the bank or savings association at which deposits are received, cash dispersed, or money lent.

Bank means, except as provided in § 25.11(c), a national bank (including a Federal branch as defined in part 28 of this chapter) with Federally insured deposits.

Branch means a banking facility authorized as a branch.

Census tract means a census tract delineated by the U.S. Bureau of the Census in the most recent decennial census.

Community development means—

(1) *Affordable housing,* which means—

(i) Rental housing that is—

(A) Likely to be inhabited by low- or moderate-income individuals or families as demonstrated by median rents that do not and are not projected at the time of the transaction to exceed 30 percent of 80 percent of the area median income;

(B) Inhabited by low- or moderate-income individuals or families and is mixed-income housing, such as in connection with a development that has a mixed-income housing component or an affordable housing set-aside required by Federal, State, or local government, in which case the pro rata dollar amount of the total activity will be based on the percentage of units set-aside for affordable housing for low- or moderate-income individuals;

(C) Likely to be inhabited by low-, moderate-, or middle-income individuals or families as demonstrated by median rents that do not and are not projected at the time of the transaction to exceed 30 percent of 120 percent of the area median income in high-cost areas; or

(D) Undertaken in conjunction with an explicit Federal, State, local, or Tribal government affordable housing program for low- or moderate-income individuals or families; or

(ii) Owner-occupied housing purchased, refinanced, or improved by or on behalf of low- or moderate-income individuals or families, except for home mortgage loans provided directly to individuals or families; or

(2) *Civic assistance,* which means—

(i) Providing support or financing for childcare, education (including low-cost education loans), workforce development, job training, healthcare,

housing assistance, financial literacy, homebuyer counseling, or other community-focused assistance that—

(ii) Serves, assists, or is reasonably expected to serve or assist low- or moderate-income individuals or families; or (3) *Economic development,* which means—

(i) Financing—

(A) For businesses or farms that meet the size eligibility standards of the U.S. Small Business Administration Development Company (13 CFR 121.301) or Small Business Investment Company (13 CFR 121.301 and 121.201) programs or have gross annual revenues of $1 million or less;

(B) That expands, improves, or preserves the business's or farm's productive capacity, physical presence, or employment bases, excluding financing primarily used for ongoing operating liquidity; and

(C) That is not reasonably likely to result in a reduction in jobs at the business or farm;

(ii) Technical assistance and supportive services, such as shared space, technology, or administrative assistance for businesses or farms that meet the size eligibility standards of the U.S. Small Business Administration Development Company (13 CFR 121.301) or Small Business Investment Company (13 CFR 121.301 and 121.201) programs or have gross annual revenues of $1 million or less;

(iii) Federal, State, local, or Tribal government programs, projects, or initiatives that serve small businesses or small farms as those terms are defined in the programs, projects, or initiatives, including a—

(A) U.S. Small Business Administration Certified Development Company, as that term is defined in 13 CFR 120.10;

(B) Small Business Investment Company, as described in 13 CFR part 107;

(C) Qualified Community Development Entity, as defined in 26 U.S.C. 45D(c);

(D) U.S. Department of Agriculture Rural Business Investment Company, as defined in 7 CFR 4290.50; or

(E) Community Development Financial Institution that finances small businesses or small farms; or

(4) *Revitalization or stabilization of targeted geographic areas,* which means—

(i) Activities that revitalize or stabilize—

(A)(*1*)(*i*) Low- or moderate-income census tracts;

(*ii*) Distressed or underserved nonmetropolitan middle-income census tracts;

(*iii*) Indian country or other Tribal and native lands; or

(*iv*) Any other area targeted by a government entity for redevelopment that qualifies for significant economic incentives, such as tax credits, tax abatements, or grants; and

(*2*) By providing financing or other support to the targeted geographic areas in paragraph (4)(i)(A)(*1*) of this definition for—

(*i*) Essential community facilities or essential infrastructure;

(*ii*) Federal, State, local, or Tribal government programs, projects, or initiatives that are consistent with a bona fide government revitalization or stabilization plan;

(*iii*) Programs, projects, or initiatives that assist individuals and communities with preparing for, adapting to, or withstanding natural disasters; or

(*iv*) Programs, projects, or initiatives with a primary purpose of attracting or retaining a major employer that will create long-term job opportunities (*i.e.,* reasonably likely to have a meaningful direct or indirect impact on unemployment in the targeted geographic area); or

(B) A designated disaster area by providing financing or other support consistent with a disaster recovery plan, including activities that assist individuals and communities in the designated disaster area to prepare for, adapt to, or withstand natural disasters.

Community development activity means a community development grant, community development investment, community development loan, or community development service.

Community development activity location. A community development activity is located in—

(1) The assessment area(s) that are benefited or served by the activity; or

(2) The State(s) or multistate MSA(s) that are benefited or served by the activity.

Community development grant means a grant or donation that—

(1) Will be directly used by the recipient for a program, project, or initiative that has as its primary purpose community development;

(2) Except as specified in § 25.13(e), benefits the bank's or savings association's assessment area(s); and

(3) For a large bank or savings association, is provided to a recipient whose indirect costs for administering the grant or donation may not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR part 200, or a comparable standard.

Community development investment means a security or a deposit or membership share in a financial institution, including a legally binding commitment to invest, that—

(1) Has as its primary purpose community development,

(2) Is permissible under applicable laws, rules, and regulations, and

(3) Except as specified in § 25.13(e), benefits the bank's or savings association's assessment area(s).

Community development loan means a loan, including a legally binding commitment to lend, that—

(1) Has as its primary purpose community development;

(2) Has not been considered by the appropriate Federal financial supervisory agency in the bank's or savings association's assessment as a home mortgage, small business, small farm, or consumer loan, unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title) or is a low-cost education loan; and

(3) Except as specified in § 25.13(e), benefits the bank's or savings association's assessment area(s).

Community development service means a volunteer service performed by a bank or savings association employee representing the bank or savings association that—

(1) Has as its primary purpose community development;

(2) Is related to the provision of financial services or the employee's area of expertise at the bank; and

(3) Except as specified in § 25.13(e), benefits the bank's or savings association's assessment area(s).

Complexity means the extent to which a bank's or savings association's—

(1) Community development investment, community development grant, or community development service is a necessary or otherwise beneficial component of a multicomponent financing transaction involving a loan; or

(2) Community development loan or community development investment that is the functional equivalent of a loan that otherwise requires specialized expertise in order to consummate the transaction (*e.g.,* a community development activity that is not routinely provided by private investors, such as an activity that relies on public subsidies).

Consumer loan means a loan to one or more individuals for household, family, or other personal expenditures as defined in Schedule RC–C of the instructions for preparation of Consolidated Reports of Condition and Income, including the categories of credit cards, other revolving credit plans, automobile loans, and other consumer loans.

Designated disaster area means a geographic area that is the subject of a Major Disaster Declaration by the Federal Emergency Management Association for a period of 36 months after the declaration, unless extended by the OCC and FDIC in writing.

Distressed or underserved nonmetropolitan middle-income census tract means

(1) A middle-income census tract designated by the Board of Governors of the Federal Reserve System, FDIC, and the OCC as distressed or underserved based on the criteria in paragraph (2) of this definition, compiled in a list, and published annually by the Federal Financial Institutions Examination Council.

(2) A nonmetropolitan middle-income census tract is designated as—

(i) Distressed if it is in a county that meets one or more of the following criteria—

(A) An unemployment rate of at least 1.5 times the national average;

(B) A poverty rate of 20 percent or more; or

(C) A population loss of 10 percent or more between the previous and most recent decennial census or a net migration loss of 5 percent or more over the five-year period preceding the most recent census.

(ii) Underserved if it meets the criteria for population size, density, and dispersion that indicate the area's population is sufficiently small, thin, and distant from a population center to likely have difficulty financing the fixed costs of meeting essential community needs. The criteria for these designations are based on the Urban Influence Codes established by the U.S. Department of Agriculture's Economic Research Service numbered ''6,'' ''8,'' or ''9.''

Essential community facility means a facility that is open to the public and that provides a valuable resource or service, including a school, library, park, supermarket, hospital or other healthcare facility, public safety facility, or youth or community center.

Essential infrastructure means—

(1) Public infrastructure, including public roads, bridges, and tunnels; and

(2) Essential telecommunications infrastructure, mass transit, water supply and distribution, utilities supply and distribution, sewage treatment and collection, industrial parks, or other similar infrastructure that is provided as part of a public and private partnership.

Home mortgage loan means a closed-end mortgage loan or an open-end line of credit as these terms are defined under § 1003.2 of this title, and that is not an excluded transaction under § 1003.3(c)(1) through (10) and (13) of this title.

Income level includes—

(1) *Low-income,* which means an individual income that is less than 50 percent of the area median income, or a median family income that is less than 50 percent, in the case of a census tract.

(2) *Moderate-income,* which means an individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 and less than 80 percent, in the case of a census tract.

(3) *Middle-income,* which means an individual income that is at least 80 percent and less than 120 percent of the area median income, or a median family income that is at least 80 and less than 120 percent, in the case of a census tract.

(4) *Upper-income,* which means an individual income that is 120 percent or more of the area median income, or a median family income that is 120 percent or more, in the case of a census tract.

Incidental basis means—

(1) Provided infrequently as an—

(i) Incident to a bank's or savings association's specialized operations; or

(ii) Accommodation to the bank's or savings association's customers; and

(2) Not provided as a lending product the bank or savings association advertises or markets to the public or its customers; and

(3) For purposes of paragraph (1) of this definition and with respect to the definition of a wholesale bank or savings association or a limited purpose bank or savings association, incidental lending constitutes no more than 5 percent of the bank's or savings association's total lending as of December 31 of both of the prior two calendar years.

Indian country means a geographic area that is—

(1) Covered by 18 U.S.C. 1151; or

(2) A Tribal Census Tract, an Oklahoma Tribal Statistical Area, a Tribal Designated Statistical Area, an Alaskan Native Village Statistical Area, or an American Indian Joint-Use Area, as those terms are defined by the U.S. Bureau of the Census.

Intermediate bank or savings association means a bank or savings association with assets of $10 billion or less as of December 31 of either of the prior two calendar years and that is not a small bank or savings association.

Large bank or savings association means a bank or savings association with assets of more than $10 billion as of December 31 of both of the prior two calendar years.

Limited purpose bank or savings association means a bank or savings association that—

(1) Offers only a narrow product line (such as credit card or motor vehicle loans);

(2) Offers other types of loans only on an incidental basis; and

(3) For which a designation as a limited purpose bank or savings association is in effect, in accordance with § 25.25(b).

Loan location means the following, with respect to retail loans—

(1) A consumer loan is located in the census tract where the borrower resides;

(2) A home mortgage loan is located in the census tract where the property securing the loan is located; and

(3) A small business or small farm loan is located in the census tract where the main business facility or farm property securing the loan is located or where the loan proceeds otherwise will be applied, as indicated by the borrower.

Loan production office means a staffed facility, other than a branch, that is open to the public and that provides lending-related services, such as loan information and applications.

Low-cost education loan means any education loan, as defined in section 140(a)(7) of the Truth in Lending Act (15 U.S.C. 1650(a)(7)) (including a loan under a State or local education loan program), originated by the bank or savings association for a student at an ''institution of higher education,'' as that term is defined in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002) and the implementing regulations published by the U.S. Department of Education, with interest rates and fees no greater than those of comparable education loans offered directly by the U.S. Department of Education. Such rates and fees are specified in section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e).

Metropolitan division means a metropolitan division as defined by the Director of the Office of Management and Budget.

Military bank or savings association—(1) *Definition. Military bank or savings association* means a bank or savings association whose business predominately consists of serving the needs of military personnel who serve or have served in the U.S. Armed Forces (including the U.S. Army, U.S. Navy, U.S. Marine Corps, U.S. Air Force, U.S. Coast Guard, and U.S. Space Force) or dependents of U.S. military personnel.

(2) *Standard.* A bank's or savings association's business predominately consists of serving the needs of U.S.

military personnel or their dependents if the bank's or savings association's most important customer group is U.S. military personnel or their dependents.

MSA means a metropolitan statistical area as defined by the Director of the Office of Management and Budget.

Nonmetropolitan area means any area that is not located in an MSA.

Other Tribal and native lands mean State Designated Tribal Statistical Areas, as defined by the U.S. Bureau of the Census, and Hawaiian Home Lands.

Savings association means, except as provided in § 25.11(c), a Federal savings association or a State savings association.

Small bank or savings association—

(1) *Definition.* Small bank or savings association means a bank or savings association that, as of December 31 of either of the prior two calendar years, had assets of less than $1 billion (adjusted annually pursuant to paragraph (2) of this definition).

(2) *Adjustment.* The OCC adjusts and publishes the dollar figure in paragraph (1) of this definition on its website, *www.occ.gov.* The adjustment is published by the appropriate Federal financial supervisory agency based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million.

Small business loan means a loan included in ''loans to small businesses'' as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

Small farm loan means a loan included in ''loans to small farms'' as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

Tier 1 capital means tier 1 capital, as defined in 12 CFR 3.2 or, for State savings associations, in 12 CFR 324.2.

Wholesale bank or savings association means a bank or savings association that—

(1) Is not in the business of extending home mortgage, small business, small farm, or consumer loans, other than on an incidental basis; and

(2) The appropriate Federal financial supervisory agency has designated as a wholesale bank or wholesale savings association, in accordance with § 25.25(b).

§ 25.13 Consideration of community development activities.

(a) *Illustrative list*—(1) *Maintaining the illustrative list.* Each appropriate Federal financial supervisory agency separately maintains and makes available to the public a non-exhaustive, illustrative list of examples of community development activities. The illustrative list may include examples of loans, investments, grants, and services that the appropriate Federal financial supervisory agency has determined are not community development activities. The list is available on the appropriate Federal financial supervisory agency's website.

(2) *Modifications to the illustrative list.* The appropriate Federal financial supervisory agency will periodically update the illustrative list described in paragraph (a)(1) of this section.

(b) *Confirmation of community development activity eligibility.* (1) *Request for confirmation of eligibility.* A bank or savings association may request that the appropriate Federal financial supervisory agency review a loan, investment, grant, or service to confirm if it qualifies for consideration as a community development activity in a bank's or savings association's CRA examination by submitting a request to, and in a format prescribed by, the appropriate Federal financial supervisory agency.

(2) *Process for confirming eligibility.* (i) To confirm the community development activity eligibility of a loan, investment, grant, or service for which a request has been submitted under paragraph (b)(1) of this section, the appropriate Federal financial supervisory agency considers—

(A) Information that describes the community development purpose and otherwise supports the request;

(B) Whether the activity is consistent with the safe and sound operation of the bank; and

(C) Any other information that the appropriate Federal financial supervisory agency deems relevant.

(ii) The appropriate Federal financial supervisory agency may impose limitations or requirements on a confirmation that a loan, investment, grant, or service qualifies as a community development activity to ensure consistency with this part.

(3) *Notification of eligibility.* (i) The appropriate Federal financial supervisory agency notifies the requestor in writing of any confirmation of community development activity eligibility under paragraph (b)(2) of this section, as well as the rationale for such determination. The appropriate Federal financial supervisory agency communicates a response within 90 days after the request is received by the agency, unless the agency notifies the requestor that additional time is needed to consider a request.

(ii) The bank or savings association must retain any notification of eligibility issued pursuant to this paragraph until the completion of its next CRA examination.

(c) *Eligible community development activities, consideration.* In assessing a bank's or savings association's CRA performance under this part, the appropriate Federal financial supervisory agency will consider any community development activity that was eligible for CRA consideration at the time the bank or savings association conducted the activity in that bank's or savings association's CRA examination if the activity was conducted during the evaluation period or remains on a bank's or savings association's balance sheet.

(d) *Community development activities in assessment areas.*

(1) *Scope.* A community development activity benefits or serves a bank's or savings association's assessment area(s) if—

(i) The project, program, or initiative supported by the activity or the recipient of the proceeds or beneficiary of the activity is located in the bank's or savings association's assessment area; or

(ii) The activity has a purpose, mandate, or function of benefiting or serving the bank's or savings association's assessment area(s).

(2) *Assessment area allocation.* (i) Community development activities that benefit or serve more than one assessment area will be allocated based on—

(A) Documentation of the physical address of the recipient of the proceeds or the beneficiary of the activity, if available; or

(B) The weight assigned to each assessment area benefited or served as provided in paragraph (d)(3).

(3) *Assigning assessment area weight(s).* (i) For purposes of allocating community development loans, community development investments, and community development grants to assessment areas under paragraph (d)(2) of this section, the appropriate Federal financial supervisory agency will assign a weight to an assessment area based on the proportion of deposits in the assessment area as determined by—

(A) The available Summary of Deposits survey data published by the FDIC for the latest year in the evaluation period under the methodology provided in appendix C to this part; or

(B) At the bank's option, another reasonable methodology, as approved by the appropriate Federal financial supervisory agency.

(ii) In allocating deposits under paragraph (d)(3)(i)(B) of this section, a bank or savings association—

(A) Must assign assessment area weight(s) such that the aggregate of the weight(s) equals 100 percent; and

(B) May use all of the deposits included in the Summary of Deposits survey data published by the FDIC or a reasonable subset thereof based on the bank's or savings association's business strategy, such as retail customer deposits or domestic deposits, as approved by the appropriate Federal financial supervisory agency.

(e) *Community development activities outside assessment area(s).* (1) *In general*—(i) The appropriate Federal financial supervisory agency will consider, at a bank's or savings association's option, community development activities that benefit or serve areas outside of the bank's or savings association's assessment area(s) provided that the bank or savings association meets or exceeds the applicable geographic flexibility standard(s) provided in paragraphs (e)(2)(i) and (ii) of this section, subject to paragraphs (e)(3) and (4) of this section.

(ii) A community development activity benefits or serves an area outside of a bank's or savings association's assessment area(s) if the activity does not benefit or serve one or more of the bank's or savings association's assessment areas as provided in paragraph (d)(1) of this section.

[Option 1 for Paragraphs (e)(2)–(4)]

(2) *Geographic flexibility standards.* The geographic flexibility standard(s) are calculated on an assessment area basis as follows—

(i) *Large banks.* (A) *Community development loans.* For each year in the evaluation period, a large bank must expend at least 0.625 percent of the bank's or savings association's tier 1 capital allocated based on the weight assigned to the assessment area, as provided in paragraph (d)(3) of this section, toward community development loans that receive consideration in the bank's assessment area(s), as provided in paragraphs (d)(1) and (2) of this section; and

(B) *Community development investments and community development grants.* For each year in the evaluation period, a large bank must expend at least 0.625 percent of the bank's or savings association's tier 1 capital allocated based on the weight assigned to the assessment area, as provided in paragraph (d)(3) of this section, toward community development investments and community development grants in the aggregate that receive consideration in the bank's assessment area(s), as provided in paragraphs (d)(1) and (2) of this section. (ii) Intermediate banks and savings associations, wholesale banks and savings associations, and limited purpose banks and savings associations. For each year in the evaluation period, an intermediate bank or savings association, wholesale bank or savings association, or limited purpose bank or savings association must expend at least 1.25 percent of the bank's or savings association's tier 1 capital allocated based on the weight assigned to the assessment area, as provided in paragraph (d)(3) of this section, toward community development loans, community development investments, and community development grants in the aggregate that receive consideration in the bank's or savings association's assessment area(s), as provided in paragraphs (d)(1) and (2) of this section.

(3) *Geographic flexibility standard, exception.* Notwithstanding the requirements in paragraph (e)(2)(i) and (ii) of this section, the appropriate Federal financial supervisory agency may determine based on performance context that a bank or savings association that has extended a lesser dollar amount of community development loans or community development investments and community development grants, as applicable, has sufficiently met the community development needs of its assessment area(s) to receive consideration for community development activities outside of its assessment area(s).

(4) *Geographic scope of consideration of community development activities outside assessment area(s).* A bank or savings association that does not meet the standards in paragraph (e)(2) or the exception in paragraph (e)(3) of this section in all of its assessment areas will only receive consideration for community development activities conducted outside of its assessment areas in the assigned rating for any State or multistate MSA in which the bank or savings association met the standards in paragraph (e)(2) or the exception in paragraph (e)(3) of this section for all of the assessment areas in the State or multistate MSA.

[Option 2 for Paragraphs (e)(2)–(4)]

(2) *Geographic flexibility standards.* A bank or savings association meets the geographic flexibility standard for serving the community development needs of an assessment area if the bank or savings association has an adequate level of community development activities in the assessment area over the evaluation period, considering the dollar amount and responsiveness of community development activities to assessment area community development needs.

(3) [Reserved]

(4) *Geographic scope of consideration of community development activities outside assessment area(s).* A bank or savings association that does not meet the geographic flexibility standard(s) in all of its assessment areas will not receive consideration for community development activities conducted outside of its assessment areas in the assigned rating for any State or multistate MSA in which the bank or savings association does not meet the geographic flexibility standard. A bank or savings association will only receive consideration for community development activities conducted outside of its assessment areas in the assigned rating for any State or multistate MSA in which the bank or savings association meets the geographic flexibility standard for all of the assessment areas in the State or multistate MSA.

(5) *Consideration in assigned ratings.* The appropriate Federal financial supervisory agency will consider community development activities that benefit or serve an area outside a bank's of savings association's assessment area(s) in assigning a bank or savings association a rating for a State, multistate MSA, or the bank.

(i) *Rating level—(A) State or multistate MSA assigned rating.* The appropriate Federal financial supervisory agency will consider a community development activity in assigning a State or multistate MSA rating, as applicable, if the bank or savings association is rated in the State or multistate MSA pursuant to 12 U.S.C. 2906(d) and the community development activity benefits or serves the State or multistate MSA; or

(*B*) *Bank or savings association assigned rating.* The appropriate Federal financial supervisory agency will consider a community development activity in assigning the overall bank or savings association rating if the community development activity was not considered at the State or multistate MSA level.

(ii) *Rating area allocation.* A community development activity considered at the State or multistate MSA level pursuant to paragraph (e)(5)(i)(A) that benefits or serves more than one State or multistate MSA will be allocated based on—

(A) Documentation of the physical address of the recipient of the proceeds of the beneficiary of the activity, if available; or

(B) The aggregate weight of the assessment area(s) located in the State or multistate MSA in accordance with paragraph (d)(3) within each state or multistate MSA.

§ 25.14 Responsiveness.

(a) *Responsiveness generally.* Under the applicable performance tests and standards in §§ 25.22 through 25.26, the appropriate Federal financial supervisory agency assesses the responsiveness of a bank's or savings association's retail lending activities, retail banking services, and community development activities in meeting community development and credit needs based on paragraph (b) of this section and, in the context of that assessment, may take into account applicable performance context factors pursuant to § 25.21(b).

(b) *Responsiveness factors.* The factors considered in assessing the responsiveness of a bank's or savings association's retail lending activities, retail banking services, and community development activities include—

(1) The innovativeness, flexibility, complexity, or impact of a retail lending activity, retail banking service, or community development activity, as applicable; and

(2) The quality of a bank's retail lending activities, retail banking services, and community development activities as demonstrated, for example, by the success of the activity or service in meeting an identified community development or credit need.

Subpart B—Standards for Assessing Performance

§ 25.21 Performance tests, standards, and ratings, in general.

(a) *Performance tests and standards.* The appropriate Federal financial supervisory agency assesses the CRA performance of a bank or savings association in an examination as follows—

(1) *Lending, investment, and service tests.* The appropriate Federal financial supervisory agency applies the lending, investment, and service tests, as provided in §§ 25.22 through 25.24, in evaluating the performance of a bank or savings association, except as provided in paragraphs (a)(2), (3), (4), (5), and (6) of this section.

(2) *Community development test for wholesale or limited purpose banks and savings associations.* The appropriate Federal financial supervisory agency applies the community development test for a wholesale or limited purpose bank or savings association, as provided in § 25.25, except as provided in paragraph (a)(5) of this section.

(3) *Performance standards for small banks and savings associations.* The appropriate Federal financial supervisory agency applies the performance standards for small banks or savings associations as provided in § 25.26 in evaluating the performance of a small bank or savings association or a bank or savings association that was a small bank or savings association during the prior calendar year, unless the bank or savings association elects, and receives approval if required, to be assessed as provided in paragraphs (a)(1), (2), or (5) of this section. The bank or savings association may elect to be assessed as provided in paragraph (a)(1) of this section only if it collects and reports the data required for other banks or savings associations under § 25.42.

(4) *Performance standards for intermediate bank and savings association.* The appropriate Federal financial supervisory agency applies the performance standards for intermediate banks or savings associations as provided in § 25.26 in evaluating the performance of an intermediate bank or savings association or a bank or savings association that was an intermediate bank or savings association during the prior calendar year, unless the bank or savings association elects, and receives approval if required, to be assessed as provided in paragraphs (a)(1), (2), or (5) of this section. The bank or savings association may elect to be assessed as provided in paragraph (a)(1) of this section only if it collects and reports the data required for other banks or savings associations under § 25.42.

(5) *Strategic plan.* The appropriate Federal financial supervisory agency evaluates the performance of a bank or savings association under a strategic plan approved in accordance with § 25.27. The appropriate Federal financial supervisory agency evaluates the performance of a bank or savings association under a strategic plan at the end of the plan term based on the measurable goals specified in the plan, including any annual interim measurable goals.

(6) *Military banks and savings associations*—(i) *In general.* The appropriate Federal financial supervisory agency evaluates the performance of a military bank or savings association under the applicable performance tests or standards described in paragraphs (a)(1) through (5) of this section.

(ii) *Military banks and savings associations operating under § 25.41(f).* If a military bank or savings association delineates the United States and its territories as its sole assessment area pursuant to § 25.41(f), the appropriate Federal financial supervisory agency evaluates the bank or savings association exclusively at the institution level based on its performance in its sole assessment area.

(iii) *Geographic components excluded.* Notwithstanding any requirement in subpart B of this part, a military bank or savings association is not evaluated under any component of a performance test or standard that evaluates performance based on geography (*e.g.,* the geographic distribution of a bank's lending activity).

(b) *Performance context.* The appropriate Federal financial supervisory agency applies the performance tests and standards in paragraph (a) of this section and also approves and evaluates a strategic plan in the context of data or information about—

(1) Assessment area demographics, including income levels, distribution of income, nature of housing stock, housing costs, and the economic environment (national, regional, and local);

(2) Lending, investment, grant, and service opportunities maintained by the bank or savings association or obtained from community organizations, State, local, and Tribal governments, economic development agencies, or other sources;

(3) The bank's or savings association's product offerings and business strategy (if provided by the bank or savings association);

(4) Institutional capacity and constraints, including the size and financial condition of the bank or savings association, safety and soundness limitations, and any other factors that significantly affect the bank's or savings association's ability to provide lending, investments, grants, or services in its assessment area(s);

(5) The bank's or savings association's past performance and the performance of similarly situated lenders;

(6) The bank's or savings association's public file, as described in § 25.43, and any written comments about the bank's or savings association's CRA performance submitted to the bank or savings association or the appropriate Federal financial supervisory agency;

(7) The bank's or savings association's community development activities and retail banking services, to the extent not

considered under another performance test; and

(8) Anything else deemed relevant by the appropriate Federal financial supervisory agency.

(c) *Assigned ratings.* The appropriate Federal financial supervisory agency assigns to a bank or savings association one of the following four ratings pursuant to § 25.28 and appendix A to this part: ''outstanding''; ''satisfactory''; ''needs to improve''; or ''substantial noncompliance,'' as provided in 12 U.S.C. 2906. The rating assigned by the appropriate Federal financial supervisory agency reflects the bank's or savings association's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank or savings association.

(d) *Safe and sound operations.* This part and the CRA do not require a bank or savings association to provide loans, investments, grants, or services that are inconsistent with safe and sound operations. To the contrary, the appropriate Federal financial supervisory agency anticipates banks and savings associations can meet the standards of this part with safe and sound loans, investments, grants, and services on which the banks and savings associations expect to make a profit. Banks and savings associations are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- or moderate-income census tracts or individuals, only if consistent with safe and sound operations.

(e) *Activities in cooperation with minority- or women-owned financial institutions and low-income credit unions.* In assessing and taking into account the record of a nonminority-owned and nonwomen-owned bank or savings association under this part, the appropriate Federal financial supervisory agency considers as a factor capital investment, loan participation, and other ventures undertaken by the bank or savings association in cooperation with minority- and women-owned financial institutions and low-income credit unions. Such activities must help meet the credit needs of local communities in which the minority- and women-owned financial institutions and low-income credit unions are chartered. To be considered, such activities need not also benefit the bank's or savings association's assessment area(s).

(f) *Treatment of community development loans, community development investments, and community development grants.* A community development loan, community development investment, or community development grant will be considered in assessing a bank's or savings association's CRA performance in the evaluation period it was originated, made, or purchased by the bank or savings association, and, for community development loans and community development investments, in any subsequent evaluation period for which the community development loan or community development investment remains on the bank's or savings association's balance sheet at the end of the evaluation period.

[Option 1 for Paragraph (g)]

(g) *Major product line.* The appropriate Federal financial supervisory agency assesses a bank's or savings association's performance with respect to retail lending (*i.e.,* home mortgage, small business, small farm, and consumer originations and purchases) based on its major product line(s). A bank's or savings association's major product line(s) are—

(1)(i) The largest two product lines by dollar volume and loan count, as provided in appendix C to this part of home mortgage, small business, small farm, and consumer lending, if the bank makes loans in at least two of these product lines; or

(ii) Home mortgage, small business, small farm, or consumer lending, in the product line in which the bank makes loans, if the bank makes loans in only one of these product lines.

(2) Notwithstanding paragraph (g)(1)(i) of this section, the appropriate Federal financial supervisory agency will only evaluate consumer lending if the bank's or savings association's consumer loans constitute more than 50 percent of its retail lending by dollar volume and loan count or at the bank's or savings association's option, and, if this standard is not met, the agency will evaluate the largest two product lines of home mortgage, small business, and small farm lending.

[Option 2 for Paragraph (g)]

(g) *Major product line.* (1) The appropriate Federal financial supervisory agency assesses a bank's or savings association's retail lending in its major product line(s) in each assessment area. Whether home mortgage, small business, small farm, or consumer lending is a major product line in an assessment area will be based on the—

(i) Bank's or savings association's overall lending volume and business strategy;

(ii) Bank's or savings association's capacity to lend in that assessment area; and

(iii) Extent to which lending in the product line meaningfully contributes to the bank's or savings association's record of meeting the credit needs of that assessment area.

(2) Notwithstanding paragraph (g)(1) of this section, the appropriate Federal financial supervisory agency will only evaluate consumer lending if the bank's or savings association's consumer loans constitute more than 50 percent of its retail lending by dollar volume and loan count, or at the bank's or saving's association's option.

(h) *Meaningful assessment.* (1) *In general.* In assessing a bank's or savings association's retail lending performance in a performance criterion under the applicable performance test or standard, the appropriate Federal financial supervisory agency considers a bank's retail lending activities pursuant to the performance criterion for which the bank may conduct a meaningful assessment, as provided in paragraph (h)(2) of this section.

(2) *Meaningful assessment standards.* The appropriate Federal financial supervisory agency—

(i) Will consider 30 loans to be a sufficient number of loans to perform a meaningful assessment; and

(ii) May consider less than 30 loans if the agency determines that a smaller number would allow for a meaningful assessment.

(3) *Other assessments of retail lending performance.* When a meaningful assessment of the bank's or savings association's loan data cannot be performed, the appropriate Federal financial supervisory agency will assess the bank's or savings association's lending performance based on other lending performance criteria for which a meaningful assessment may be conducted or consideration of applicable performance context factors described in paragraph (b) of this section that inform the bank's or savings association's lending activity in the assessment area.

§ 25.22 Lending test.

(a) *Scope of test.* (1) The appropriate Federal financial supervisory agency evaluates a bank's or savings association's record of meeting community credit needs by assessing the bank's or savings association's major product lines and community development loans, as provided in this part.

(2) A bank or savings association may ask the appropriate Federal financial supervisory agency to consider loans

originated or purchased by consortia in which the bank or savings association participates or by third parties in which the bank or savings association has invested only if the loans meet the definition of community development loans and only in accordance with paragraph (d) of this section. The appropriate Federal financial supervisory agency will only consider these loans under the community development lending criterion in paragraph (b)(4) of this section.

(b) *Performance criteria.* The appropriate Federal financial supervisory agency evaluates a bank's or savings association's lending performance pursuant to the following criteria—

(1) *Lending activity.* The number and dollar amount of the bank's or savings association's loans in its major product lines in the bank's or savings association's assessment area(s);

(2) *Geographic distribution.* The geographic distribution of the bank's or savings association's loans in its major product line(s), based on the loan location, including—

(i) The proportion of the bank's or savings association's lending in the bank's or savings association's assessment area(s);

(ii) The dispersion of lending in the bank's or savings association's assessment area(s); and

(iii) The number and dollar amount of loans in low-, moderate-, middle-, and upper-income census tracts in the bank's or savings association's assessment area(s);

(3) *Borrower characteristics.* The distribution of the bank's or savings association's loans in its major product lines, based on borrower characteristics, including, if applicable, the number and dollar amount of—

(i) Home mortgage loans to low-, moderate-, middle-, and upper-income individuals in the bank's or savings association's assessment area(s);

(ii) Small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less in the bank's or savings association's assessment area(s);

(iii) Small business and small farm loans by dollar amount at origination in the bank's or savings association's assessment area(s); and

(iv) Consumer loans to low-, moderate-, middle-, and upper-income individuals in the bank's or savings association's assessment area(s);

(4) *Community development lending.* The bank's or savings association's community development loans, including the number and dollar amount of community development loans; and

(5) *Responsiveness.* The responsiveness of the bank's or savings association's retail loans and community development loans in meeting community credit needs.

(c) *Affiliate lending.* (1) At a bank's or savings association's option, the appropriate Federal financial supervisory agency will consider loans by an affiliate of the bank or savings association, if the bank or savings association provides data on the affiliate's loans pursuant to § 25.42.

(2) The appropriate Federal financial supervisory agency considers affiliate lending subject to the following constraints—

(i) No affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase; and

(ii) If a bank or savings association elects to have the appropriate Federal financial supervisory agency consider loans within a major product line made by one or more of the bank's or savings association's affiliates in a particular assessment area, the appropriate Federal financial supervisory agency will consider all the loans within that major product line in that particular assessment area made by all of the bank's or savings association's affiliates.

(3) The appropriate Federal financial supervisory agency does not consider affiliate lending in assessing a bank's or savings association's performance under paragraph (b)(2)(i) of this section.

(d) *Lending by a consortium or a third party.* Community development loans originated or purchased by a consortium in which the bank or savings association participates or by a third party in which the bank or savings association has invested—

(1) Will be considered, at the bank's or savings association's option, if the bank or savings association reports the data pertaining to these loans under § 25.42(b)(2); and

(2) May be allocated among participants or investors, as they choose, for purposes of the lending test, except that no participant or investor—

(i) May claim a loan origination or loan purchase if another participant or investor claims the same loan origination or purchase; or

(ii) May claim loans accounting for more than its percentage share (based on the level of its participation or investment) of the total loans originated by the consortium or third party.

(e) *Lending performance rating.* The appropriate Federal financial supervisory agency rates a bank's or savings association's lending performance as provided in appendix A to this part.

§ 25.23 Investment test.

(a) *Scope of test.* The appropriate Federal financial supervisory agency evaluates a bank's or savings association's record of meeting community credit needs by assessing the bank's or savings association's community development investments and community development grants, as provided in this part.

(b) *Exclusion.* Activities considered under the lending or service tests may not be considered under the investment test.

(c) *Affiliate investment.* At a bank's or savings association's option, the appropriate Federal financial supervisory agency will consider, in its assessment of a bank's or savings association's investment performance, a community development investment or community development grant made by an affiliate of the bank or savings association, if the community development investment or community development grant is not claimed by any other institution.

(d) *Disposition of branch premises.* Donating, selling on favorable terms, or making available on a rent-free basis a branch of the bank or savings association that is located in a predominantly minority neighborhood to a minority depository institution or women's depository institution (as these terms are defined in 12 U.S.C. 2907(b)) will be considered as a community development investment or community development grant.

(e) *Performance criteria.* The appropriate Federal financial supervisory agency evaluates the investment performance of a bank or savings association pursuant to the following criteria—

(1) The dollar amount of community development investments and community development grants; and

(2) The responsiveness of the bank's community development investments and community development grants, including their complexity, to community credit needs.

(f) *Investment performance rating.* The appropriate Federal financial supervisory agency rates a bank's or savings association's investment performance as provided in appendix A to this part.

§ 25.24 Service test.

(a) *Scope of test.* The appropriate Federal financial supervisory agency evaluates a bank's or savings association's record of meeting community credit needs under the

service test by assessing the bank's or savings association's retail banking services and community development services, as provided in this part.

(b) *Affiliate service.* At a bank's or savings association's option, the appropriate Federal financial supervisory agency will consider, in its assessment of a bank's or savings association's service performance, a community development service provided by an affiliate of the bank or savings association, if the community development service is not claimed by any other institution.

(c) *Performance criteria—retail banking services.* The appropriate Federal financial supervisory agency evaluates the availability and effectiveness of a bank's or savings association's systems for delivering retail banking services, pursuant to the following criteria—

(1) The current distribution of the bank's or savings association's branches among low-, moderate-, middle-, and upper-income census tracts;

(2) In the context of its current distribution of the bank's or savings association's branches, the bank's or savings association's record of opening and closing branches, particularly branches located in low- or moderate-income census tracts or primarily serving low- or moderate-income individuals;

(3) The availability and effectiveness of alternative systems for delivering retail banking services (*e.g.,* ATMs, ATMs not owned or operated by or exclusively for the bank or savings association, interactive teller machines, banking by telephone, internet or mobile banking, loan production offices, and bank-at-work or bank-by-mail programs) in low- and moderate-income census tracts and to low- and moderate-income individuals; and

(4) The range and responsiveness of the credit services provided in low-, moderate-, middle-, and upper-income census tracts, including the degree to which the services are tailored to meet the credit needs of those census tracts.

(d) *Performance criteria—community development services.* The appropriate Federal financial supervisory agency evaluates community development services pursuant to the following criteria—

(1) The extent to which the bank or savings association provides community development services; and

(2) The responsiveness of the bank's community development services, including their complexity, to community credit needs.

(e) *Service performance rating.* The appropriate Federal financial supervisory agency rates a bank's or savings association's service performance as provided in appendix A to this part.

§ 25.25 Community development test for wholesale or limited purpose banks and savings associations.

(a) *Scope of test.* The appropriate Federal financial supervisory agency evaluates a wholesale or limited purpose bank's or savings association's record of meeting community credit needs under the community development test by assessing its community development activities.

(b) *Designation as a wholesale or limited purpose bank or savings association.* (1) In order to receive a designation as a wholesale or limited purpose bank or savings association, a bank or savings association must file a request, in writing, with the appropriate Federal financial supervisory agency, at least 90 days prior to the proposed effective date of the designation. If the appropriate Federal financial supervisory agency approves the designation, it remains in effect until the bank or savings association requests revocation of the designation or until one year after the appropriate Federal financial supervisory agency notifies the bank or savings association that it has revoked the designation on its own initiative.

(2) Notwithstanding paragraph (b)(1) of this section, an institution that was designated as a wholesale or limited purpose bank or savings association pursuant to this part or was comparably designated pursuant to 12 CFR part 228 or 12 CFR part 345, as applicable, as of the date immediately prior to the date of a conversion may request that the appropriate Federal financial supervisory agency maintain its designation after the conversion. The appropriate Federal financial supervisory agency may approve the request to maintain the bank's or savings association's designation in its sole discretion if the agency determines that it has the information necessary to make the determination.

(c) *Performance criteria.* The appropriate Federal financial supervisory agency evaluates the community development performance of a wholesale or limited purpose bank or savings association pursuant to the following criteria—

(1) The number and dollar amount of the bank's or savings association's community development activities; and

(2) The responsiveness of the bank's or savings association's community development activities, including their complexity, to community credit needs.

(d) *Indirect activities.* At a wholesale or limited purpose bank's or savings association's option, the appropriate Federal financial supervisory agency will consider in its community development performance assessment—

(1) Community development investments, community development grants, or community development services provided by an affiliate of the bank or savings association, if the investments, grants, or services are not claimed by any other institution; and

(2) Community development loans by affiliates, consortia, and third parties, subject to the requirements and limitations in § 25.22(c) and (d).

(e) [Reserved]

(f) *Community development performance rating.* The appropriate Federal financial supervisory agency rates a wholesale or limited purpose bank's or savings association's community development performance as provided in appendix A to this part.

§ 25.26 Performance standards for small banks and savings associations and intermediate banks and savings associations.

(a) *Performance criteria*—(1) *Small banks and savings associations.* The appropriate Federal financial supervisory agency evaluates the record of a small bank or savings association in meeting community credit needs pursuant to the criteria set forth in paragraphs (b) and (d) of this section.

(2) *Intermediate banks and savings associations.* The appropriate Federal financial supervisory agency evaluates the record of an intermediate bank or savings association in meeting community credit needs pursuant to the criteria set forth in paragraphs (b), (c), and (d) of this section.

(b) *Lending test.* A small bank's or savings association's or an intermediate bank's or savings association's record of meeting community credit needs by assessing a bank's or savings association's major product lines and other retail lending activities, as applicable, is evaluated pursuant to the following criteria—

(1) *Loan-to-deposit ratio.* The bank's or savings association's loan-to-deposit ratio, adjusted for seasonal variation;

(2) *Lending in assessment area(s).* The percentage of loans located in the bank's or savings association's assessment area(s);

(3) *Borrower distribution.* The bank's or savings association's record of lending to borrowers of different income levels and businesses and farms of different sizes in the bank's or savings association's assessment area(s); and

(4) *Geographic distribution.* The geographic distribution of the bank's or

savings association's loans in the bank's or savings association's assessment area(s).

(c) *Community development test.* An intermediate bank's or savings association's community development performance also is evaluated pursuant to the following criteria—

(1) *Community development loans.* The number and dollar amount of community development loans;

(2) *Community development investments and community development grants.* The number and dollar amount of community development investments and community development grants; and

(3) *Community development services.* The extent to which the bank or savings association provides community development services.

(d) *Responsiveness.* The responsiveness of the small bank's or savings association's or intermediate bank's or savings association's lending activities and community development activities, including their complexity, to community credit needs.

(e) *Small bank or savings association or intermediate bank or savings association performance rating.* The appropriate Federal financial supervisory agency rates the performance of a bank or savings association evaluated under this section as provided in appendix A to this part.

§ 25.27 Strategic plan.

(a) *In general*—(1) *Evaluation.* The appropriate Federal financial supervisory agency will evaluate a bank's or savings association's record of meeting community credit needs under an approved strategic plan elected by the bank or savings association pursuant to paragraph (a)(2) of this section and as provided in paragraph (a)(2)(i) of this section.

(2) *Alternative election.* A bank or savings association may elect to have the appropriate Federal financial supervisory agency evaluate its performance under a strategic plan if the—

(i) Bank or savings association has submitted the strategic plan to the appropriate Federal financial supervisory agency for approval as provided for in this section;

(ii) Appropriate Federal financial supervisory agency has approved the strategic plan; and

(iii) Strategic plan is in effect.

(3) *Treatment of affiliates.* Affiliated institutions may prepare a joint plan if the plan provides measurable goals for each institution, including interim annual goals, if applicable. Activities may be allocated among institutions at the institutions' option, provided that the same activities are not considered for more than one institution.

(4) *Confidential information.* A bank or savings association may submit additional information to the appropriate Federal financial supervisory agency on a confidential basis, but the goals stated in the plan must be sufficiently specific to enable the public and the appropriate Federal financial supervisory agency to judge the merits of the plan.

(5) *Data collection, reporting, and disclosure.* A bank's or savings association's election to be evaluated under a strategic plan pursuant to paragraph (a)(2) of this section does not affect the applicability of the data collection, reporting, and disclosure provisions in § 25.42.

(b) *Content of a strategic plan.* (1) *Plan requirements.* In order for a plan to be considered technically complete, as provided in paragraph (f) of this section, a bank or savings association must include in its strategic plan—

(i) A general description of the bank or savings association, including discussion of its size, capital levels, branches, staffing levels, product lines, areas served, subsidiaries, affiliates, and its historical CRA performance;

(ii) The plan scope, as provided in paragraph (b)(2) of this section;

(iii) The plan term, as provided in paragraph (b)(3) of this section;

(iv) The assessment areas covered by the plan, as provided in paragraph (b)(4) of this section;

(v) Measurable goals, as provided in paragraph (b)(5) of this section, that meet the requirement for the provision of satisfactory and outstanding measurable goals, as provided in paragraph (b)(6) of this section;

(vi) Any performance context factors, as provided in § 25.21(a)(5) or (b), that the bank or savings association considered in tailoring the scope of the strategic plan; and

(vii) A description of informal and formal efforts to seek suggestions from members of the public, as provided in paragraph (c) of this section, and a copy of any written public comments received.

(2) *Plan scope.* The strategic plan scope must address all three performance categories (*i.e.,* lending, investments, and services) in its strategic plan by—

(i) Specifying one or more measurable goal(s) for a performance category, as provided in paragraph (b)(5) of this section;

(ii) Emphasizing lending and lending-related activities in the strategic plan, unless a different emphasis is responsive to the credit needs of the bank's or savings association's assessment area(s), considering public comment and the bank's or savings association's capacity and constraints, product offerings, and business strategy; and

(iii) Explaining, if applicable, how the exclusion of measurable goals for a performance category is supported by or consistent with the bank's or savings association's performance context.

(3) *Plan Term.* A strategic plan may have a term of no more than five years.

(4) *Assessment areas*—(i) A strategic plan must include a description of the bank's or savings association's assessment area(s) comprised of whole geographic areas (*e.g.,* an MSA, one or more metropolitan divisions, one or more contiguous counties, or one or more contiguous census tracts) that are covered by the strategic plan, delineated pursuant to § 25.41.

(ii) A bank or savings association with more than one assessment area may—

(A) Prepare a separate strategic plan for each assessment area; or

(B) Include multiple assessment areas in a single strategic plan.

(5) *Measurable goals.* In its strategic plan, a bank or savings association must specify measurable goal(s) for meeting the credit needs of each assessment area covered by the plan, including the needs of low- and moderate-income census tracts and low- and moderate-income individuals. A multi-year strategic plan must include annual interim measurable goals for each year in the plan term. A bank or savings association may also include measurable goals that span the entire plan term, which may differ from the aggregate of the bank's or savings association's annual interim measurable goals.

(i) *Measurable goal requirements.* A measurable goal must have a—

(A) Performance measure (*e.g.,* percentage, number, dollar amount, or other quantifiable measure of a particular type of lending, investment, grant, or service); and

(B) Performance level (*i.e.,* the specific value for a performance measure, such as a set percentage of lending by dollar amount or number).

(ii) *Measurable goal rationale or support.* The strategic plan must provide the bank's or savings association's rationale and support for the specified measurable goal(s).

(6) *Satisfactory and outstanding measurable goals*—(i) *Satisfactory measurable goals.* A bank or savings association must specify in its strategic plan measurable goals that constitute ''satisfactory'' performance.

(ii) *Outstanding measurable goals.* A bank or savings association may specify in its strategic plan measurable goals that constitute ''outstanding'' performance.

(c) *Public participation in plan development.* Before submitting a proposed strategic plan to the appropriate Federal financial supervisory agency for approval under paragraph (e) of this section, a bank or savings association must—

(1) Informally seek suggestions from members of the public in assessment area(s) covered by the plan to inform the development of a draft strategic plan;

(2) Formally solicit public comment on the draft strategic plan for at least 30 calendar days by—

(i) Publishing notice of the opportunity to comment on the bank's or savings association's draft strategic plan in at least one newspaper of general circulation in each assessment area covered by the plan;

(ii) Making the draft strategic plan available to the public at no cost (reasonable fees may be charged to cover copying and mailing, if applicable); and

(iii) Providing the draft strategic plan to the appropriate Federal financial supervisory agency, which will publish the plan on its public website and direct the public to send comments to the bank or savings association for consideration.

(3) The comment period will last at least 30 calendar days from the date of the latest publication under paragraph (c)(2) of this section.

(d) *Prefiling communications.* A bank or savings association may consult with the appropriate Federal financial supervisory agency regarding its draft strategic plan prior to submitting the plan for approval under paragraph (e) of this section. The appropriate Federal financial supervisory agency will provide the bank or savings association with preliminary feedback regarding the draft strategic plan, including whether the level of detail in the draft strategic plan is sufficient for the agency to evaluate the plan and the merits of the measurable goals in the draft strategic plan.

(e) *Submission of plan*—(1) Unless otherwise permitted by the appropriate Federal financial supervisory agency, the bank or savings association must submit its proposed strategic plan to the appropriate Federal financial supervisory agency at least 90 calendar days prior to the proposed effective date of the plan.

(2) At the request of a bank or savings association, the appropriate Federal financial supervisory agency, in its discretion, may accept and review a proposed strategic plan submitted less than 90 calendar days prior to the proposed effective date of the plan.

(f) *Plan approval*—(1) *Notice of complete plan*—(i) The appropriate Federal financial supervisory agency will notify the bank or savings association in writing when the agency determines that it has received a technically complete proposed strategic plan containing the information required in paragraph (b) of this section.

(ii) If the appropriate Federal financial supervisory agency determines it has not received a technically complete proposed strategic plan from the bank or savings association, the appropriate Federal financial supervisory agency will send a written communication within 14 calendar days of submission identifying the missing components of the plan.

(iii) Notwithstanding a notification in writing that a proposed strategic plan is technically complete, the appropriate Federal financial supervisory agency may request additional information based on a material change in circumstances underlying the proposed plan.

(2) *Review period.* The appropriate Federal financial supervisory agency will act upon a proposed strategic plan within 60 calendar days after the date of the technically complete notice, unless the agency extends the review period for good cause. If the appropriate Federal financial supervisory agency—

(i) Does not act within the review period, the plan will be deemed approved at the end of the review period.

(ii) Approves a proposed strategic plan after the plan's proposed effective date, the plan will be effective on the date of approval.

(3) *Criteria for evaluating a proposed strategic plan.* The appropriate Federal financial supervisory agency evaluates a proposed strategic plan's measurable goals using the following criteria, as appropriate—

(i) The extent and breadth of lending, including, as appropriate, the distribution of loans among different census tracts, businesses and farms of different sizes, and individuals of different income levels;

(ii) The extent of community development lending, and the responsiveness of lending practices to community credit needs;

(iii) The responsiveness, including complexity, of the bank's or savings association's community development investments and community development grants to community credit needs;

(iv) The availability and effectiveness of the bank's or savings association's systems for delivering retail banking services and the responsiveness, including complexity, of the bank's or savings association's community development services; and

(v) Consideration of performance context as provided in § 25.21(b).

(4) *Publication of approved plan.* The appropriate Federal financial supervisory agency will publish an approved strategic plan on its website, excluding the confidential information described in paragraph (a)(4) of this section.

(g) *Plan denial*—(1) *Reasons.* The appropriate Federal financial supervisory agency may deny a bank's or savings association's request to be evaluated under a strategic plan for any of the following reasons—

(i) The proposed strategic plan's measurable goals do not adequately address the credit needs of the assessment area(s) covered by the plan as evaluated under the criteria described in paragraph (f)(3) of this section;

(ii) The proposed strategic plan's measurable goals are not consistent with the safe and sound operations of the bank or savings association;

(iii) The bank or savings association did not comply with the public participation process described in paragraph (c) of this section;

(iv) The proposed strategic plan otherwise fails to meet the requirements of this section; or

(v) The bank or savings association fails to provide information to the appropriate Federal financial supervisory agency necessary to reach an informed decision on the plan.

(2) *Resubmission.* After denial of a proposed strategic plan, the bank or savings association may resubmit an updated plan that addresses the basis of the denial to the appropriate Federal financial supervisory agency. Unless the appropriate Federal financial supervisory agency determines otherwise in writing, the same review process, including the review period described in paragraph (f)(2) of this section, will apply to resubmission of a proposed strategic plan.

(h) *Plan amendment.* During the term of a plan—

(1) A bank or savings association may request the appropriate Federal financial supervisory agency review an amendment to an approved strategic plan based on a material change in circumstances. A material change in circumstances may include a merger or consolidation, a change in the bank's or savings association's assessment area(s), a change in the bank's or savings association's business strategy, or a change in institutional capacity or

constraints that serve as an impediment to the bank's or savings association's ability to achieve a satisfactory level of performance.

(2) The appropriate Federal financial supervisory agency may require, in its sole discretion, the bank or savings association to develop an amendment to an approved strategic plan in accordance with any of the process requirements of this section, based on the extent of the amendments to the plan.

(i) *Plan assessment*—(1) In evaluating a bank's or savings association's performance under an approved strategic plan, the appropriate Federal financial supervisory agency considers performance context as provided in § 25.21(b) and assesses performance as provided in appendix A to this part.

(2) The appropriate Federal financial supervisory agency will evaluate a bank's or savings association's performance under an approved strategic plan based on the entire plan term at the end of the plan. This evaluation will include consideration of the bank's or savings association's performance on its annual interim measurable goals as well as any measurable goal for the entire plan term.

(3) If a bank's or savings association's strategic plan includes both satisfactory and outstanding measurable goals—

(i) The appropriate Federal financial supervisory agency will consider the bank or savings association eligible for an ''outstanding'' rating; and

(ii) If the bank or savings association fails to achieve one or more of its outstanding measurable goals, the appropriate Federal financial supervisory agency will consider community development activities conducted by the bank or savings association that were not assessed in connection with any measurable goal in determining whether to consider the measurable goals to be substantially met for purposes of eligibility for an ''outstanding'' rating.

(j) *Converting institutions.* For institutions that have engaged in a conversion (*e.g.,* from a State bank to a national bank or vice versa; from a Federal savings association to a State savings association or vice versa) while operating under an approved strategic plan, the appropriate Federal financial supervisory agency will assess performance under a strategic plan approved by another agency if the appropriate Federal financial supervisory agency determines the approval was consistent with the requirements of this section and no amendments are necessary pursuant to paragraph (h)(2) of this section.

(k) *Use of standard performance tests if satisfactory goals not substantially met.* If a bank or savings association fails to substantially meet its plan goals for a ''satisfactory'' rating, the appropriate Federal financial supervisory agency will evaluate the bank's or savings association's performance under the otherwise applicable performance tests or standards, as appropriate.

§ 25.28 Assigned ratings.

(a) *Ratings in general.* Subject to paragraphs (b) and (c) of this section, the appropriate Federal financial supervisory agency assigns to a bank or savings association a rating of ''outstanding,'' ''satisfactory,'' ''needs to improve,'' or ''substantial noncompliance'' based on the bank's or savings association's performance under the lending, investment and service tests; the community development test for wholesale or limited purpose banks and savings associations; the small bank or savings association or the intermediate bank or savings association performance standards; or an approved strategic plan, as applicable.

(b) *Lending, investment, and service tests.* The appropriate Federal financial supervisory agency assigns a rating for a bank or savings association assessed under the lending, investment, and service tests in accordance with the following principles—

(1) A bank or savings association that receives an ''outstanding'' rating on the lending test receives an assigned rating of at least ''satisfactory'';

(2) A bank or savings association that receives an ''outstanding'' rating on both the service test and the investment test and a rating of at least ''high satisfactory'' on the lending test receives an assigned rating of ''outstanding''; and

(3) No bank or savings association may receive an assigned rating of ''satisfactory'' or higher unless it receives a rating of at least ''low satisfactory'' on the lending test.

(c) *Effect of evidence of discriminatory or other illegal credit practices.* (1) The appropriate Federal financial supervisory agency's evaluation of a bank's or a savings association's CRA performance is adversely affected by evidence of discriminatory or other illegal credit practices in any census tract by the bank or savings association or in any assessment area by any affiliate whose loans have been considered as part of the bank's or savings association's lending performance. In connection with any type of lending activity described in § 25.22(a), evidence of discriminatory or other credit practices that violate an applicable law, rule, or regulation includes—

(i) Discrimination against applicants on a prohibited basis in violation, for example, of the Equal Credit Opportunity Act or the Fair Housing Act;

(ii) Violations of the Home Ownership and Equity Protection Act;

(iii) Violations of section 5 of the Federal Trade Commission Act;

(iv) Violations of section 8 of the Real Estate Settlement Procedures Act;

(v) Violations of the Truth in Lending Act provisions regarding a consumer's right of rescission;

(vi) Violations of section 1031 of the Dodd-Frank Wall Street Reform and Consumer Protection Act;

(vii) Violations of the Military Lending Act; and

(viii) Violations of the Servicemembers Civil Relief Act.

[Option A for Paragraph (c)(2)]

(2) The evidence of discriminatory and other illegal credit practices described in paragraph (c)(1) of this section must be a violation of a law, rule, or regulation cited in a public enforcement action taken by a Federal or State agency or judicial order to which a Federal or State agency is a party.

[Option B for Paragraph (c)(2)]

(2) The evidence of discriminatory and other illegal credit practices described in paragraph (c)(1) of this section must be a violation of a Federal or State law, rule, or regulation cited by a Federal or State agency or in a judicial order to which a Federal or State agency is a party. If the citation is confidential supervisory information, the agencies will not disclose such information in the public section of the CRA Performance Evaluation.

(3) In determining the effect of evidence of practices described in paragraph (c)(1) of this section on the bank's or savings association's assigned ratings, the appropriate Federal financial supervisory agency considers—

(i) The policies and procedures that the bank or savings association (or affiliate, as applicable) has in place to prevent the practices;

(ii) Any corrective action that the bank or savings association (or affiliate, as applicable) has taken or has committed to take, including voluntary corrective action resulting from self-assessment; and

(iii) Any other relevant information.

§ 25.29 Effect of CRA performance on applications.

(a) *CRA performance.* Among other factors, the appropriate Federal financial supervisory agency takes into account the record of performance under the CRA of each applicant bank or savings association, and for applications under 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)), of each proposed subsidiary savings association, in considering an application for—

(1) The establishment of—

(i) A domestic branch for insured national banks; or

(ii) A domestic branch or other facility that would be authorized to take deposits for savings associations;

(2) The relocation of the main office, home office, or a branch;

(3) The merger or consolidation with or the acquisition of assets or assumption of liabilities of an insured depository institution requiring approval under the Bank Merger Act (12 U.S.C. 1828(c));

(4) The conversion of an insured depository institution to a national bank or Federal savings association charter; and

(5) Acquisitions subject to section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)).

(b) *Charter application.* (1) An applicant (other than an insured depository institution) for a national bank charter must submit with its application a description of how it will meet its CRA objectives. The OCC takes the description into account in considering the application and may deny or condition approval on that basis.

(2) An applicant for a Federal savings association charter must submit with its application a description of how it will meet its CRA objectives. The appropriate Federal financial supervisory agency takes the description into account in considering the application and may deny or condition approval on that basis.

(c) *Interested parties.* The appropriate Federal financial supervisory agency takes into account any views expressed by interested parties that are submitted in accordance with the applicable comment procedures in considering CRA performance in an application listed in paragraphs (a) and (b) of this section.

(d) *Denial or conditional approval of application.* A bank's or savings association's record of performance may be the basis for denying or conditioning approval of an application listed in paragraph (a) of this section.

(e) *Insured depository institution.* For purposes of this section, the term ''insured depository institution'' has the meaning given to that term in 12 U.S.C. 1813.

Subpart C—Records, Reporting, and Disclosure Requirements

§ 25.41 Assessment area delineation.

(a) *In general.* A bank or savings association must delineate one or more assessment areas within which the appropriate Federal financial supervisory agency evaluates the bank's or savings association's record of meeting the credit needs of its community. The appropriate Federal financial supervisory agency does not evaluate the bank's or savings association's delineation of its assessment area(s) as a separate performance criterion, but the appropriate Federal financial supervisory agency reviews the delineation for compliance with the requirements of this section.

(b) *Geographic area(s) for wholesale or limited purpose banks or savings associations.* The assessment area(s) for a wholesale or limited purpose bank or savings association must consist generally of one or more MSAs or metropolitan divisions (using the MSA or metropolitan division boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns, in which the bank or savings association has its main office or home office, as applicable; staffed, non-temporary branches that are available and accessible to the public; and deposit-taking ATMs that are available and accessible to the public.

(c) *Geographic area(s) for other banks and savings association.* The assessment area(s) for a bank or savings association other than a wholesale or limited purpose bank or savings association must—

(1) Consist generally of one or more MSAs or metropolitan divisions (using the MSA or metropolitan division boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns; and

(2) Include the census tracts in which the bank or savings association has its main office or home office, as applicable; staffed, non-temporary branches that are available and accessible to the public; and deposit-taking ATMs that are available and accessible to the public, and the surrounding census tracts in which the bank or savings association has originated or purchased a substantial portion of its loans in its major product lines.

(d) *Adjustments to geographic area(s).* A bank or savings association may adjust the boundaries of its assessment area(s) to include only the portion of a political subdivision that it reasonably can be expected to serve. An adjustment is particularly appropriate in the case of an assessment area that otherwise would be extremely large, of unusual configuration, or divided by significant geographic barriers.

(e) *Limitations on the delineation of an assessment area.* Each bank's or savings association's assessment area(s)—

(1) Must consist only of whole census tracts;

(2) May not reflect illegal discrimination;

(3) May not arbitrarily exclude low- or moderate-income census tracts, taking into account the bank's or savings association's size and financial condition; and

(4) May not extend substantially beyond an MSA boundary or beyond a State boundary unless the assessment area is located in a multistate MSA. If a bank or savings association serves a geographic area that extends substantially beyond a State boundary, the bank or savings association must delineate separate assessment areas for the areas in each State. If a bank or savings association serves a geographic area that extends substantially beyond an MSA boundary, the bank or savings association must delineate separate assessment areas for the areas inside and outside the MSA.

(f) *Military banks and savings associations.* Notwithstanding the requirements of this section, a military bank or savings association may delineate the entire United States and its territories as its sole assessment area.

(g) *Use of assessment area(s).* The appropriate Federal financial supervisory agency uses the assessment area(s) delineated by a bank or savings association in its evaluation of the bank's or savings association's CRA performance unless the appropriate Federal financial supervisory agency determines that the assessment area(s) do not comply with the requirements of this section.

§ 25.42 Data collection, reporting, and disclosure.

(a) *Information required to be collected and maintained.* (1) A large bank or savings association must collect, and maintain in machine-readable form (as prescribed by the appropriate

Federal financial supervisory agency) until the completion of its next CRA examination, the following data for each small business or small farm loan originated or purchased by the bank or savings association—

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(ii) The dollar amount at origination;

(iii) The loan location; and

(iv) An indicator whether the loan was to a business or farm with gross annual revenues of $1 million or less.

(2) A large bank or savings association must collect, and maintain in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency) for each calendar year until the completion of its next CRA examination, the following data for each community development loan originated or purchased or community development investment or community development grant made by the bank or savings association—

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan, investment, or grant;

(ii) The name of the recipient;

(iii) The dollar amount of the loan, investment, or grant;

(iv) The address of the recipient;

(v) The community development activity location;

(vi) An indicator whether the loan or investment involves complexity;

(vii) An indicator of the loan, investment, or grant's community development purpose; and

(viii) An indicator whether the activity is a loan, investment, or grant.

(3) A large bank or savings association must collect and maintain until the completion of its next CRA examination, the following data for each community development grant made by the bank or savings association—

(i) The recipient's written commitment to use the funds for specific projects, programs, or initiatives, in the bank's assessment area(s);

(ii) The recipient's written attestation that the recipient's indirect costs for administering the grant or donation will not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR part 200, or a comparable standard; and

(iii) Documentation provided by the recipient supporting the attestation under paragraph (a)(3)(ii) of this section, including IRS Form 990 (Return for Tax Exempt Organizations) with annual operating and program budgets.

(4) A large bank or savings association that has consumer lending as a major product line pursuant to § 25.21(g) must collect and maintain in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency) until the completion of its next CRA examination data, the following data for each consumer loan originated or purchased by the bank or savings association—

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(ii) The dollar amount at origination or purchase;

(iii) The loan location; and

(iv) The gross annual income of the borrower that the bank or savings association considered in making its credit decision.

(b) *Information required to be reported.* A large bank or savings association must report annually by March 1 to the appropriate Federal financial supervisory agency in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency) the following data for the prior calendar year—

(1) *Small business and small farm loan data.* For each census tract in which the bank or savings association originated or purchased a small business or small farm loan, the aggregate number and dollar amount of loans—

(i) With a dollar amount at origination of $100,000 or less;

(ii) With a dollar amount at origination of more than $100,000 but less than or equal to $250,000;

(iii) With a dollar amount at origination of more than $250,000; and

(iv) To businesses and farms with gross annual revenues of $1 million or less (using the revenues that the bank or savings association considered in making its credit decision);

(2) *Community development data.* (i) The aggregate number and aggregate dollar amount of community development loans originated or purchased; and

(ii) For each community development grant the—

(A) Recipient of the grant;

(B) Recipient's street address; and

(C) Dollar amount of the grant.

(3) *Home mortgage loans.* If the bank or savings association is subject to reporting under part 1003 of this title, the location of each home mortgage loan application, origination, or purchase outside the MSAs in which the bank or savings association has a home or branch office (or outside any MSA) in accordance with the requirements of part 1003 of this title.

(c) *Other loan data.* At its option, a bank or savings association may provide other information concerning its lending performance, including additional loan distribution data.

(d) *Data on affiliate lending.* A bank or savings association that elects to have the appropriate Federal financial supervisory agency consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, must collect, maintain, and report for those loans the data that the bank or savings association would have collected, maintained, and reported pursuant to paragraphs (a), (b), and (c) of this section had the loans been originated or purchased by the bank or savings association. For home mortgage loans, the bank or savings association must also be prepared to identify the home mortgage loans reported under part 1003 of this title by the affiliate.

(e) *Data on lending by a consortium or a third party.* A bank or savings association that elects to have the appropriate Federal financial supervisory agency consider community development loans originated or purchased by a consortium or third party, for purposes of the lending or community development tests or an approved strategic plan, must report for those loans the data that the bank or savings association would have reported under paragraph (b)(2) of this section had the loans been originated or purchased by the bank or savings association.

(f) *Small banks and savings associations and intermediate banks and savings associations electing evaluation under the lending, investment, and service tests.* A bank or savings association that qualifies for evaluation under the small bank or savings association or the intermediate bank or savings association performance standards but elects evaluation under the lending, investment, and service tests in §§ 25.22 through 25.24 must collect, maintain, and report the data required for other banks or savings association pursuant to paragraphs (a) and (b) of this section.

(g) *Assessment area data.* A large bank or savings association must collect and report to the appropriate Federal financial supervisory agency by March 1 of each year a list for each assessment area showing the geographies within the area.

(h) *Determination to not require data based on specific circumstances.* Based on a bank's or savings association's particular facts and circumstances, upon written request the appropriate Federal financial supervisory agency may exempt a bank or savings association from one or more of the requirements to collect, maintain, or report data under

paragraphs (a) through (f) of this section if the appropriate Federal financial supervisory agency determines that the data are not necessary for evaluating the bank's or savings association's performance or more than minimally useful to the agencies' overall data collection.

(i) *CRA Disclosure Statement.* The appropriate Federal financial supervisory agency prepares annually for each bank or savings association that reports data pursuant to this section a CRA Disclosure Statement that contains, on a State-by-State basis—

(1) For each county (and for each assessment area smaller than a county) with a population of 500,000 persons or fewer in which the bank or savings association reported a small business or small farm loan—

(i) The number and dollar amount of small business and small farm loans reported as originated or purchased located in low-, moderate-, middle-, and upper-income census tracts;

(ii) A list grouping each census tract according to whether the census tract is low-, moderate-, middle-, or upper-income;

(iii) A list showing each census tract in which the bank or savings association reported a small business or small farm loan; and

(iv) The number and dollar amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(2) For each county (and for each assessment area smaller than a county) with a population in excess of 500,000 persons in which the bank or savings association reported a small business or small farm loan—

(i) The number and dollar amount of small business and small farm loans reported as originated or purchased located in census tracts with median income relative to the area median income of less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(ii) A list grouping each census tract in the county or assessment area according to whether the median income in the census tract relative to the area median income is less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(iii) A list showing each census tract in which the bank or savings association reported a small business or small farm loan; and

(iv) The number and dollar amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(3) The number and dollar amount of small business and small farm loans located inside each assessment area reported by the bank or savings association and the number and dollar amount of small business and small farm loans located outside the assessment area(s) reported by the bank or savings association; and

(4) The number and dollar amount of community development loans reported as originated or purchased.

(j) *Aggregate disclosure statements.* The OCC, in conjunction with the Board of Governors of the Federal Reserve System and the FDIC, prepares annually, for each MSA or metropolitan division (including an MSA or metropolitan division that crosses a State boundary) and the nonmetropolitan portion of each State, an aggregate disclosure statement of small business and small farm lending by all institutions subject to reporting under this part or parts 228 or 345 of this title. These disclosure statements indicate, for each census tract, the number and dollar amount of all small business and small farm loans originated or purchased by reporting institutions, except that the appropriate Federal financial supervisory agency may adjust the form of the disclosure if necessary, because of special circumstances, to protect the privacy of a borrower or the competitive position of an institution.

(k) *Central data depositories.* The appropriate Federal financial supervisory agency makes the aggregate disclosure statements, described in paragraph (j) of this section, and the individual bank or savings association CRA Disclosure Statements, described in paragraph (i) of this section, available to the public at central data depositories. The appropriate Federal financial supervisory agency publishes a list of the depositories at which the statements are available.

§ 25.43 Content and availability of public file.

(a) *Information available to the public.* A bank or savings association must maintain a public file that includes the following information—

(1) All written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the bank's or savings association's performance in meeting community credit needs, and any response to the comments by the bank or savings association, if neither the comments nor the responses contain statements that reflect adversely on the character or integrity of any persons other than the bank or savings association or publication of which would violate specific provisions of law;

(2) A copy of the public section of the bank's or savings association's most recent CRA Performance Evaluation prepared by the appropriate Federal financial supervisory agency. The bank or savings association must include this copy in the public file within 60 business days after its receipt from the appropriate Federal financial supervisory agency, unless the timing is otherwise extended by the appropriate Federal financial supervisory agency;

(3) A list of the bank's or savings association's branches, their street addresses, and census tracts;

(4) A list of branches opened or closed by the bank or savings association during the current year and each of the prior two calendar years, their street addresses, and census tracts;

(5) A list of services (including hours of operation, available credit products, and transaction fees) generally offered at the bank's or savings association's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. At its option, a bank or savings association may include information regarding the availability of alternative systems for delivering retail banking services (*e.g.,* ATMs, ATMs not owned or operated by or exclusively for the bank or savings association, interactive teller machines, banking by telephone, internet or mobile banking, loan production offices, and bank-at-work or bank-by-mail programs);

(6) A map of each assessment area showing the boundaries of the area and identifying the census tracts contained within the area, either on the map or in a separate list; and

(7) Any other information the bank or savings association chooses.

(b) *Additional information available to the public*—(1) *Large banks or savings associations.* A bank or savings association, except a small bank or

savings association or an intermediate bank or savings association (or a bank or savings association that was a small bank or savings association or an intermediate bank or savings association during the prior calendar year), must include in its public file the following information pertaining to the bank or savings association and its affiliates, if applicable, for each of the prior two calendar years—

(i) If the bank or savings association has consumer loans considered under the lending test as a major product line, for each category of its consumer loans, the number and dollar amount of loans—

(A) To low-, moderate-, middle-, and upper-income individuals;

(B) Located in low-, moderate-, middle-, and upper-income census tracts; and

(C) Located inside the bank's or savings association's assessment area(s) and outside the bank's or savings association's assessment area(s); and

(ii) The bank or savings association must include the statement in the public file within three business days of its receipt from the appropriate Federal financial supervisory agency. The bank or savings association must also indicate that the bank's or savings association's CRA Disclosure Statement is available on the Federal Financial Institutions Examination Council's website.

(2) *Banks and savings associations required to report Home Mortgage Disclosure Act (HMDA) data.* A bank or savings association required to report home mortgage loan data pursuant to part 1003 of this title must include in its public file a written notice that the institution's HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau's (Bureau's) website at *www.consumerfinance.gov/hmda.* In addition, a bank or savings association that elected to have the appropriate Federal financial supervisory agency consider the mortgage lending of an affiliate must include in its public file the name of the affiliate and a written notice that the affiliate's HMDA Disclosure Statement may be obtained at the Bureau's website. The bank or savings association must include the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

(3) *Small banks and savings associations and intermediate banks and savings associations.* A small bank or savings association or an intermediate bank or savings association (or a bank or savings association that was a small bank or savings association or an intermediate bank or savings association during the prior calendar year) must include in its public file—

(i) The bank's or savings association's loan-to-deposit ratio for each quarter of the prior calendar year and, at its option, additional data on its loan-to-deposit ratio; and

(ii) The information required for other banks or savings associations by paragraph (b)(1) of this section, if the bank or savings association has elected to be evaluated under the lending, investment, and service tests.

(4) *Banks and savings associations with strategic plans.* A bank or savings association that has been approved to be assessed under a strategic plan must include in its public file a copy of that plan. A bank or savings association need not include information submitted to the appropriate Federal financial supervisory agency on a confidential basis in conjunction with the plan.

(5) *Banks and savings associations with less than satisfactory ratings.* A bank or savings association that received a less than satisfactory rating during its most recent examination must include in its public file a description of its current efforts to improve its performance in meeting the credit needs of its entire community. The bank or savings association must update the description quarterly.

(c) *Location of public information.* A bank or savings association must make available to the public for inspection, at no cost, the information required in this section on the bank's or savings association's website, or a website maintained on behalf of the bank or savings association.

(d) *Copies.* Upon request, a bank or savings association must provide copies, either on paper or in digital form acceptable to the person making the request, of the information in its public file. The bank or savings association may charge a reasonable fee not to exceed the cost of copying and mailing (if not provided in digital form).

(e) *Updating.* Except as otherwise provided in this section, a bank or savings association must ensure that the information required by this section is current as of April 1 of each year.

§ 25.44 Public notice by banks and savings associations.

(a) *CRA notice.* A bank or savings association must provide on the bank's or savings association's website, or a website maintained on behalf of the bank or savings association, the appropriate CRA notice set forth in appendix B to this part. As provided in paragraphs (b) and (c) of appendix B to this part and where indicated by the bracketed text, a bank or savings association must insert the—

(1) Sentences in paragraph (b) of appendix B to this part, as applicable.

(2) Paragraph in paragraph (c) of appendix B to this part, if the bank has branches.

(b) *Public disclosure of the CRA notice.* In the public lobby of its main office or home office, as applicable and each of its staffed, non-temporary branches that are available and accessible to the public, a bank or savings association must display a written notice, in printed or digital form, that provides that the institution's CRA notice may be viewed on the bank's or savings association's website, or a website maintained on behalf of the bank or savings association.

§ 25.45 Publication of planned examination schedule.

The appropriate Federal financial supervisory agency publishes at least 30 days in advance of the beginning of each calendar quarter a list of banks and savings associations scheduled for CRA examinations in that quarter.

Subpart E [Reserved]

Appendix A to Part 25—Ratings

(a) *Ratings in general.* (1) The appropriate Federal financial supervisory agency evaluates a bank's or savings association's performance and assigns a rating for each State and multistate MSA as provided in 12 U.S.C. 2906(d) and for the bank under the applicable performance tests or standards in this part, in accordance with §§ 25.21 and 25.28.

(2) A bank's or savings association's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others. The bank's or savings association's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as follows.

(b) *Banks and savings associations evaluated under the lending, investment, and service tests*—(1) *Lending performance rating.* The appropriate Federal financial supervisory agency assigns each bank's or savings association's lending performance one of the five following ratings based on its major product lines and community development loans, as applicable.

(i) *Outstanding.* The appropriate Federal financial supervisory agency rates a bank's or savings association's lending performance ''outstanding'' if, in general, it demonstrates—

(A) An excellent record of meeting the community credit needs in its assessment area(s), taking into account the number and

dollar amount of loans in major product lines in its assessment area(s);

(B) A substantial majority of its loans in major product lines are made in its assessment area(s);

(C) An excellent geographic distribution of loans in major product lines in its assessment area(s);

(D) An excellent distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) Extensive use of responsive lending practices, including loans in major product lines and community development loans, in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It is a leader in making community development loans.

(ii) *High satisfactory.* The appropriate Federal financial supervisory agency rates a bank's or savings association's lending performance ''high satisfactory'' if, in general, it demonstrates—

(A) A good record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) A high percentage of its loans in major product lines are made in its assessment area(s);

(C) A good geographic distribution of loans in major product lines in its assessment area(s);

(D) A good distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) Use of responsive lending practices, including loans in major product lines and community development loans, in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It has made a relatively high level of community development loans.

(iii) *Low satisfactory.* The appropriate Federal financial supervisory agency rates a bank's or savings association's lending performance ''low satisfactory'' if, in general, it demonstrates—

(A) An adequate record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) An adequate percentage of its loans in major product lines are made in its assessment area(s);

(C) An adequate geographic distribution of loans in major product lines in its assessment area(s);

(D) An adequate distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) Limited use of responsive lending practices, including loans in major product lines and community development loans, in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It has made an adequate level of community development loans.

(iv) *Needs to improve.* The appropriate Federal financial supervisory agency rates a bank's or savings association's lending performance ''needs to improve'' if, in general, it demonstrates—

(A) A poor record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) A small percentage of its loans in major product lines are made in its assessment area(s);

(C) A poor geographic distribution of loans in major product lines, particularly to low- or moderate-income census tracts, in its assessment area(s);

(D) A poor distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) Little use of responsive lending practices, including loans in major product lines and community development loans in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It has made a low level of community development loans.

(v) *Substantial noncompliance.* The appropriate Federal financial supervisory agency rates a bank's or savings association's lending performance as being in ''substantial noncompliance'' if, in general, it demonstrates—

(A) A very poor record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) A very small percentage of its loans in major product lines are made in its assessment area(s);

(C) A very poor geographic distribution of loans in major product lines, particularly to low- or moderate-income census tracts, in its assessment area(s);

(D) A very poor distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) No use of responsive lending practices, including retail loans and community development loans, in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It has made few, if any, community development loans.

(2) *Investment performance rating.* The appropriate Federal financial supervisory agency assigns each bank's or savings association's investment performance one of the five following ratings.

(i) *Outstanding.* The appropriate Federal financial supervisory agency rates a bank's or savings association's investment performance ''outstanding'' if, in general, it demonstrates—

(A) An excellent level of community development investments or community development grants, often in a leadership position; and

(B) Excellent responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(ii) *High satisfactory.* The appropriate Federal financial supervisory agency rates a bank's or savings association's investment performance ''high satisfactory'' if, in general, it demonstrates—

(A) A significant level of community development investments or community development grants, occasionally in a leadership position; and

(B) Good responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(iii) *Low satisfactory.* The appropriate Federal financial supervisory agency rates a bank's or savings association's investment performance ''low satisfactory'' if, in general, it demonstrates—

(A) An adequate level of community development investments or community development grants, although rarely in a leadership position; and

(B) Adequate responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(iv) *Needs to improve.* The appropriate Federal financial supervisory agency rates a bank's or savings association's investment performance ''needs to improve'' if, in general, it demonstrates—

(A) A poor level of community development investments or community development grants; and

(B) Poor responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(v) *Substantial noncompliance.* The appropriate Federal financial supervisory agency rates a bank's or savings association's investment performance as being in ''substantial noncompliance'' if, in general, it demonstrates—

(A) Few, if any, community development investments or community development grants; and

(B) Very poor responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(3) *Service performance rating.* The appropriate Federal financial supervisory agency assigns each bank's or savings association's service performance one of the five following ratings.

(i) *Outstanding.* The appropriate Federal financial supervisory agency rates a bank's or savings association's service performance ''outstanding'' if, in general, the bank or savings association demonstrates—

(A) Its service delivery systems are readily accessible to census tracts and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- or moderate-income census tracts or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) are tailored to the convenience and needs of its assessment area(s), particularly low- or moderate-income census tracts or low- or moderate-income individuals;

(D) It is a leader in providing community development services; and

(E) Excellent responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(ii) *High satisfactory.* The appropriate Federal financial supervisory agency rates a bank's or savings association's service performance ''high satisfactory'' if, in general, the bank or savings association demonstrates—

(A) Its service delivery systems are accessible to census tracts and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income census tracts and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income census tracts and low- and moderate-income individuals;

(D) It provides a relatively high level of community development services; and

(E) Good responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(iii) *Low satisfactory.* The appropriate Federal financial supervisory agency rates a bank's or savings association's service performance ''low satisfactory'' if, in general, the bank or savings association demonstrates—

(A) Its service delivery systems are reasonably accessible to census tracts and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has generally not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income census tracts and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income census tracts and low- and moderate-income individuals;

(D) It provides an adequate level of community development services; and

(E) Adequate responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(iv) *Needs to improve.* The appropriate Federal financial supervisory agency rates a bank's or savings association's service performance ''needs to improve'' if, in general, the bank or savings association demonstrates—

(A) Its service delivery systems are unreasonably inaccessible to portions of its assessment area(s), particularly to low- or moderate-income census tracts or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income census tracts or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that inconveniences its assessment area(s), particularly low- or moderate-income census tracts or low- or moderate-income individuals;

(D) It provides a limited level of community development services; and

(E) Poor responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(v) *Substantial noncompliance.* The appropriate Federal financial supervisory agency rates a bank's or savings association's service performance as being in ''substantial noncompliance'' if, in general, the bank or savings association demonstrates—

(A) Its service delivery systems are unreasonably inaccessible to significant portions of its assessment area(s), particularly to low- or moderate-income census tracts or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has significantly adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income census tracts or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that significantly inconveniences its assessment area(s), particularly low- or moderate-income census tracts or low- or moderate-income individuals;

(D) It provides few, if any, community development services; and

(E) Very poor responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(c) *Wholesale or limited purpose banks.* The appropriate Federal financial supervisory agency assigns each wholesale or limited purpose bank's or savings association's community development performance one of the four following ratings.

(1) *Outstanding.* The appropriate Federal financial supervisory agency rates a wholesale or limited purpose bank's or savings association's community development performance ''outstanding'' if, in general, it demonstrates—

(i) A high level of community development activities; and

(ii) Excellent responsiveness of community development activities to community credit needs in its assessment area(s).

(2) *Satisfactory.* The appropriate Federal financial supervisory agency rates a wholesale or limited purpose bank's or savings association's community development performance ''satisfactory'' if, in general, it demonstrates—

(i) An adequate level of community development activities; and

(ii) Adequate responsiveness of community development activities to community credit needs in its assessment area(s).

(3) *Needs to improve.* The appropriate Federal financial supervisory agency rates a wholesale or limited purpose bank's or savings association's community development performance as ''needs to improve'' if, in general, it demonstrates—

(i) A poor level of community development activities; and

(ii) Poor responsiveness of community development activities to community credit needs in its assessment area(s).

(4) *Substantial noncompliance.* The appropriate Federal financial supervisory agency rates a wholesale or limited purpose bank's or savings association's community development performance in ''substantial noncompliance'' if, in general, it demonstrates—

(i) Few, if any, community development activities; and

(ii) Very poor responsiveness of community development activities to community credit needs in its assessment area(s).

(d) *Banks and savings associations evaluated under the performance standards for small banks and savings associations and intermediate banks or savings associations—* (1) *Lending test ratings.* (i) *Eligibility for a satisfactory lending test rating.* The appropriate Federal financial supervisory agency rates a small bank's or savings association's or an intermediate bank's or savings association's lending performance ''satisfactory'' if, in general, the bank or savings association demonstrates—

(A) A reasonable loan-to-deposit ratio (considering seasonal variations) given the bank's or savings association's size, financial condition, the credit needs of its assessment area(s);

(B) A majority of its loans are in its assessment area(s);

(C) A reasonable distribution of loans to individuals of different income levels (including low- and moderate-income individuals) and businesses and farms of different sizes given the demographics of the bank's or savings association's assessment area(s); and

(D) A reasonable geographic distribution of loans given the bank's or savings association's assessment area(s).

(ii) *Eligibility for an ''outstanding'' lending test rating.* A small bank or savings association or an intermediate bank or savings association that meets each of the standards for a ''satisfactory'' rating under this paragraph and exceeds some or all of those standards may warrant consideration for a lending test rating of ''outstanding.''

(iii) *Needs to improve or substantial noncompliance ratings.* A small bank or savings association or an intermediate bank or savings association may also receive a lending test rating of ''needs to improve'' or ''substantial noncompliance'' depending on the degree to which its performance has failed to meet the standard for a ''satisfactory'' rating.

(2) *Community development test ratings for intermediate banks and savings associations—*(i) *Eligibility for a satisfactory community development test rating.* The appropriate Federal financial supervisory agency rates an intermediate bank's or savings association's community development performance ''satisfactory'' if

the bank or savings association demonstrates adequate responsiveness to the community development needs of its assessment area(s) through community development activities. The adequacy of the bank's or savings association's response will depend on its capacity for such community development activities, its assessment area's need for such community development activities, and the availability of such opportunities for community development in the bank's or savings association's assessment area(s).

(ii) *Eligibility for an outstanding community development test rating.* The appropriate Federal financial supervisory agency rates an intermediate bank's or savings association's community development performance ''outstanding'' if the bank or savings association demonstrates excellent responsiveness to community development needs in its assessment area(s) through community development activities, as appropriate, considering the bank's or savings association's capacity and the need and availability of such opportunities for community development in the bank's or savings association's assessment area(s).

(iii) *Needs to improve or substantial noncompliance ratings.* An intermediate bank or savings association may also receive a community development test rating of ''needs to improve'' or ''substantial noncompliance'' depending on the degree to which its performance has failed to meet the standards for a ''satisfactory'' rating.

(3) *Overall rating*—(i) *Eligibility for a satisfactory overall rating.* No intermediate bank or savings association may receive an assigned overall rating of ''satisfactory'' or better unless it receives a rating of at least ''satisfactory'' on the lending test.

(ii) *Eligibility for an outstanding overall rating.* (A) An intermediate bank or savings association that receives an ''outstanding'' rating on one test and at least ''satisfactory'' on the other test may receive an assigned overall rating of ''outstanding.''

(B) A small bank or savings association that meets each of the standards for a ''satisfactory'' rating under the lending test and exceeds some or all of those standards may warrant consideration for an overall rating of ''outstanding.'' In assessing whether a bank's or savings association's performance is ''outstanding,'' the appropriate Federal financial supervisory agency considers the extent to which the bank or savings association exceeds each of the performance standards for a ''satisfactory'' rating; its performance in conducting community development activities; and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s).

(iii) *Needs to improve or substantial noncompliance overall ratings.* A small bank or savings association or an intermediate bank or savings association may also receive a rating of ''needs to improve'' or ''substantial noncompliance'' depending on the degree to which its performance has failed to meet the standards for a ''satisfactory'' rating.

(e) *Strategic plan assessment and rating*—(1) *Satisfactory goals.* The appropriate Federal financial supervisory agency approves as satisfactory measurable goals that adequately meet the credit needs of the bank's or savings association's assessment area(s).

(2) *Outstanding measurable goals.* If the plan identifies a separate group of measurable goals that substantially exceed the levels approved as ''satisfactory,'' the appropriate Federal financial supervisory agency will approve those goals as ''outstanding.''

(3) *Rating.* (i) The appropriate Federal financial supervisory agency assesses the performance of a bank or savings association operating under an approved strategic plan to determine if the bank or savings association has met its plan goals—

(A) If the bank or savings association substantially achieves its plan goals for a ''satisfactory'' rating, the appropriate Federal financial supervisory agency will rate the bank's or savings association's performance under the plan as ''satisfactory.''

(B) If the bank or savings association exceeds its plan goals for a ''satisfactory'' rating and substantially achieves its plan goals for an outstanding rating, the appropriate Federal financial supervisory agency will rate the bank's or savings association's performance under the plan as ''outstanding.''

(C) If the bank or savings association fails to meet substantially its plan goals for a ''satisfactory'' rating, the appropriate Federal financial supervisory agency will evaluate the bank's or savings association's performance as provided in § 25.27(k).

Appendix B to Part 25—CRA Notice

(a) *Notice for a bank's or savings association's website or website maintained on behalf of a bank or savings association.*

Community Reinvestment Act Notice

Under the Federal Community Reinvestment Act (CRA), the [Office of the Comptroller of the Currency (OCC) or Federal Deposit Insurance Corporation (FDIC), as appropriate] evaluates our record of meeting the credit needs of our communities consistent with safe and sound operations. The [OCC or FDIC, as appropriate] also takes this record into account when deciding on certain applications submitted by us.

Your Involvement Is Encouraged

You are entitled to certain information about our operations and our performance under the CRA, including, for example, information about our branches, such as their location and services provided at them; the public section of our most recent CRA Performance Evaluation, prepared by the [OCC or FDIC, as appropriate]; and comments received from the public relating to our performance in meeting community credit needs, as well as our responses to those comments. You may review this information on this website.

[Insert paragraph in paragraph (c) of appendix B to this part, as appropriate] If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

At least 30 days before the beginning of each quarter, the [OCC or FDIC, as appropriate] publishes a nationwide list of the banks and savings associations that are scheduled for CRA examination in that quarter. This list is available from the [OCC or FDIC, as appropriate], at [website address]. You may contact us for information about how you can send comments about our performance in meeting community credit needs. Additionally, you may send comments to the [OCC or FDIC, as appropriate], at [website address]. Your comments, together with any response by us, will be considered by the [OCC or FDIC, as appropriate] in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the [OCC or FDIC, as appropriate]. You may also request from the [OCC or FDIC, as appropriate] an announcement of our applications covered by the CRA filed with the [OCC or FDIC, as appropriate]. [Insert sentence(s) in paragraph (b) of appendix B to this part, as appropriate].

(b) *Insured national bank or savings association that is an affiliate of a holding company—Last sentences of the notice.*

(1) *An insured national bank that is an affiliate of a holding company must include the first sentence in brackets in its notice. An insured national bank must include the second sentence in brackets only if it is an affiliate of a holding company that is not prevented by statute from acquiring additional banks.*

(2) *A savings association that is an affiliate of a holding company must include the last two sentences of the notice.*

[We are an affiliate of [name of holding company], a [bank holding company or savings and loan holding company, as appropriate]. [You may request from the [title of responsible official], Federal Reserve Bank of [__] [address] an announcement of applications covered by the CRA filed by [bank holding companies or savings and loan holding companies, as appropriate].]

(c) *Notice for banks and savings associations with branch offices. For banks or savings associations with one or more branch offices the CRA notice provided on the bank's or savings association's website or a website maintained on the bank's or savings association's behalf must include the following sections, as applicable, in the section of the notice titled ''Your Involvement is Encouraged.''*

You may review today the public section of our most recent CRA evaluation, prepared by the [OCC or FDIC, as appropriate], and a list of services provided at our branch[es]. You also have access to the following additional information on this website: (1) A map showing the assessment area[s] containing our branch[es], which are the area[s] in which the [OCC or FDIC, as appropriate] evaluates our CRA performance in [this community][our communities]; (2) information about our branches in [this assessment area][our assessment areas]; (3) a list of services we provide at those locations; (4) data on our lending performance in [this assessment area][our assessment areas]; and (5) copies of all written comments received by us that specifically relate to our CRA performance in [this assessment area][each of our assessment areas], and any responses we have made to those comments.

Appendix C—Methodologies

(a) *Calculating product line share of retail lending by dollar volume and loan count.*

The agencies are adopting a methodology for determining each retail product line's share of total retail lending using a combination of dollar volume and loan count. Each retail lending product line's share is calculated as the average of: (1) its share calculated using loans measured in dollar volume; and (2) its share calculated using loans measured in number of loans.

For example—

A bank's retail lending in an assessment area includes the following:

150 home mortgage loans, with a total dollar volume of $25 million,
175 small business loans, with a total dollar volume of $18 million, and
45 small farm loans, with a total dollar volume of $10 million.

Calculation 1

The share of the bank's retail lending in the assessment in the home mortgage lending loan product area using dollar volume would be calculated as follows:

$25 million (from home mortgage loans), divided by the sum of
$25 million (from home mortgage loans), $18 million (from small business loans) and $10 million (from small farm loans).
$25 million divided by ($25 million + $18 million + $10 million) =
$25 million divided by $53 million =
0.472, which can be stated as 47.2 percent.

The bank's home mortgage lending constitutes 47.2 percent of its retail lending in the assessment area, calculated by dollar volume.

Calculation 2

The share of the bank's retail lending in the assessment in the home mortgage lending loan product area using loan count would be calculated as follows:

150 loans (from home mortgage loans), divided by the sum of
150 loans (from home mortgage loans), 175 loans (from small business loans) and 45 loans (from small farm loans).
150 loans divided by (150 loans + 175 loans + 45 loans) =
150 divided by 370 =
0.405, which can be stated as 40.5 percent.

The bank's home mortgage lending constitutes 40.5 percent of its retail lending in the assessment area, calculated by loan count.

To determine the bank's home mortgage lending loan product's share of retail lending in the assessment area using a combination of dollar volume and loan count, we calculate the average of the results from calculation (1) and calculation (2):

(0.472 + .405)/2 =
0.877/2 =
0.439, which can be stated as 43.9 percent.

The bank's home mortgage lending loan product's share of retail lending in the assessment area, calculated using a combination of dollar volume and loan count, is 43.9 percent.

(b) *Calculation of the distribution of a bank's deposits in each of its assessment areas.*

This calculation uses the dollar volume of deposits the bank reports in the Summary of Deposits data in each of its branches, which are aggregated to calculate the dollar volume of deposits the bank reports in each of its assessment areas.[292] A bank that has only one assessment area will have 100 percent of its deposits assigned to that one assessment area. For a bank with multiple assessment areas, the calculation will proceed as follows:

A bank has a total of $4 billion in deposits reported the Summary of Deposits, allocated across 10 branches, which are distributed across three assessment areas:

Assessment area 1:
Branch A: $2 billion in deposits
Branch B: $350 million in deposits
Branch C: $230 million in deposits
Assessment area 2:
Branch D: $200 million in deposits
Branch E: $250 million in deposits
Branch F: $200 million in deposits
Branch G: $200 million in deposits
Assessment area 3:
Branch H: $220 million in deposits
Branch I: $200 million in deposits
Branch J: $150 million in deposits

The total dollar volume of the bank's deposits associated with each assessment area will be the sum of the dollar volume of the bank's deposits assigned in the Summary of Deposits data to the branches in each of its assessment areas, which, using the example above, would be calculated as follows:

Assessment area 1:
$2 billion + $350 million + $230 million = $2.580 billion
Assessment area 2:
$200 million + $250 million + $200 million + $200 million = $850 million
Assessment area 3:
$220 million + $200 million + $150 million = $570 million

The percentage of the bank's deposits allocated to each assessment area would be calculated as follows:

Assessment Area 1:
$2.580 billion/$4 billion = 0.645 or 64.5 percent
Assessment Area 2:
$850 million/$4 billion = 0.213 or 21.3 percent
Assessment Area 3:
$570 million/$4 billion = 0.143 or 14.3 percent

PART 35—DISCLOSURE AND REPORTING OF CRA-RELATED AGREEMENTS

■ 8. The authority citation for part 35 continues to read as follows:

Authority: 12 U.S.C. 1, 93a, 1462a, 1463, 1464, 1831y, and 5412(b)(2)(B).

[292] The Summary of Deposits data is updated annually and published by the FDIC at *https://banks.data.fdic.gov/bankfind-suite/SOD/branchOffice.*

§ 35.4 [Amended]

■ 9. Amend § 35.4(a)(2) by:
■ a. In paragraph (i), removing ''§ 25.22 of appendix G to 12 CFR Part 25'' and adding in its place ''12 CFR 25.22''.
■ b. In paragraph (ii), removing ''§ 25.23 of appendix G to 12 CFR Part 25'' and adding in its place ''12 CFR 25.23''.
■ c. In paragraph (iii), removing ''§ 25.24(d) of appendix G to 12 CFR Part 25'' and adding in its place ''12 CFR 25.24(c)''.
■ d. In paragraph (iv), removing ''§ 25.24(e) of appendix G to 12 CFR Part 25'' and adding in its place ''12 CFR 25.24(d)''.
■ e. In paragraph (v), removing ''§ 25.25(c) of appendix G to 12 CFR Part 25'' and adding in its place ''12 CFR 25.25(c)''.
■ f. In paragraph (vi), removing ''§ 25.26(a) of appendix G to 12 CFR Part 25'' and adding in its place ''12 CFR 25.26(a)''.
■ g. In paragraph (vii), removing ''§ 25.27(f) of appendix G to 12 CFR Part 25'' and adding in its place ''12 CFR 25.27''.

§ 35.6 [Amended]

■ 10. Amend § 35.6 in paragraph (b)(7) by removing ''§ 25.43 of appendix G to 12 CFR Part 25'' and adding in its place ''12 CFR 25.43''.

§ 35.11 [Amended]

■ 11. Amend § 35.11 in paragraph (d) by removing ''§ 25.43 of appendix G to 12 CFR Part 25'' and adding in its place ''12 CFR 25.43''.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapter III

Authority and Issuance

For the reasons discussed in the preamble, the Federal Deposit Insurance Corporation proposes to revise 12 CFR parts 345 and 346 to read as follows:
■ 12. Part 345 is revised to read as follows:

PART 345 COMMUNITY REINVESTMENT

Subpart A—General

Sec.
345.11 Authority, purposes, scope, and severability.
345.12 Definitions.
345.13 Consideration of community development activities.
345.14 Responsiveness.

Subpart B—Standards for Assessing Performance

345.21 Performance tests, standards, and ratings, in general.
345.22 Lending test.
345.23 Investment test.

345.24 Service test.
345.25 Community development test for wholesale or limited purpose banks.
345.26 Performance standards for small banks and intermediate banks.
345.27 Strategic plan.
345.28 Assigned ratings.
345.29 Effect of CRA performance on applications.

Subpart C—Records, Reporting, and Disclosure Requirements

345.41 Assessment area delineation.
345.42 Data collection, reporting, and disclosure.
345.43 Content and availability of public file.
345.44 Public notice by banks.
345.45 Publication of planned examination schedule.

Appendix A to Part 345—Ratings

Appendix B to Part 345—CRA Notice

Appendix C—Methodologies

Authority: 12 U.S.C. 1814–1817, 1819–1820, 1828, 1831u and 2901–2908, 3103–3104, and 3108(a).

Subpart A—General

§ 345.11 Authority, purposes, scope, and severability.

(a) *Authority and OMB control number—*

(1) *Authority.* The authority for this part is 12 U.S.C. 1814–1817, 1819–1820, 1828, 1831u and 2901–2907, 3103–3104, and 3108(a).

(2) *OMB control number.* The information collection requirements contained in this part were approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 3064–0092.

(b) *Purposes.* In enacting the Community Reinvestment Act (CRA), Congress required each appropriate Federal financial supervisory agency to publish regulations to carry out the purposes of the Act. The purpose of the CRA is to require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered, consistent with the safe and sound operation of such institutions. This part is intended to carry out the purposes of the CRA by:

(1) Establishing the framework and criteria by which the Federal Deposit Insurance Corporation (FDIC) assesses a bank's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank; and

(2) Providing that the FDIC takes that record into account in considering certain applications.

(c) *Scope—*(1) *General.* Except for certain special purpose banks described in paragraph (c)(3) of this section, this part applies to all insured State nonmember banks, including insured State branches as described in paragraph (c)(2) of this section and any uninsured State branch that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(8)).

(2) *Insured State branches.* Insured State branches are branches of a foreign bank established and operating under the laws of any State, the deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act. In the case of insured State branches, references in this part to ''main office'' mean the principal branch within the United States and the term ''branch'' or ''branches'' refers to any insured State branch or branches located within the United States. The ''assessment area'' of an insured State branch is the community or communities located within the United States served by the branch as described in § 345.41.

(3) *Certain special purpose banks.* This part does not apply to special purpose banks that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than on an incidental basis. These banks include banker's banks, as defined in 12 U.S.C. 24(Seventh), and banks that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent banks, trust companies, or clearing agents.

(d) *Severability.* The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the FDIC's intention that the remaining provisions will continue in effect.

§ 345.12 Definitions.

For purposes of this part, the following definitions apply:

Affiliate means any company that controls, is controlled by, or is under common control with another company. The term ''control'' has the meaning given to that term in 12 U.S.C. 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

Area median income means:

(1) The median family income for the MSA, if a person or census tract is located in an MSA, or for the metropolitan division, if a person or census tract is located in an MSA that has been subdivided into metropolitan divisions; or

(2) The statewide nonmetropolitan median family income, if a person or census tract is located in a nonmetropolitan area.

Assessment area means a geographic area delineated in accordance with § 345.41.

Bank means a State nonmember bank, as that term is defined in section 3(e)(2) of the Federal Deposit Insurance Act, as amended (FDIA) (12 U.S.C. 1813(e)(2)), with Federally insured deposits, except as provided in § 345.11(c). The term ''bank'' also includes an insured State branch as defined in § 345.11(c).

Branch means a banking facility authorized as a branch, and only includes a ''domestic branch'' as that term is defined in section 3(o) of the FDIA (12 U.S.C. 1813(o)).

Census tract means a census tract delineated by the U.S. Bureau of the Census in the most recent decennial census.

Community development means

(1) *Affordable housing,* which means—

(i) Rental housing that is:

(A) Likely to be inhabited by low- or moderate-income individuals or families as demonstrated by median rents that do not and are not projected at the time of the transaction to exceed 30 percent of 80 percent of the area median income;

(B) Inhabited by low- or moderate-income individuals or families and is mixed-income housing, such as in connection with a development that has a mixed-income housing component or an affordable housing set-aside required by Federal, State, or local government, in which case the pro rata dollar amount of the total activity will be based on the percentage of units set-aside for affordable housing for low- or moderate-income individuals;

(C) Likely to be inhabited by low-, moderate-, or middle-income individuals or families as demonstrated by median rents that do not and are not projected at the time of the transaction to exceed 30 percent of 120 percent of the area median income in high-cost areas; or

(D) Undertaken in conjunction with an explicit Federal, State, local, or Tribal government affordable housing program for low- or moderate-income individuals or families; or

(ii) Owner-occupied housing purchased, refinanced, or improved by

or on behalf of low- or moderate-income individuals or families, except for home mortgage loans provided directly to individuals or families; or

(2) *Civic assistance,* which means—

(i) Providing support or financing for childcare, education (including low-cost education loans), workforce development, job training, healthcare, housing assistance, financial literacy, homebuyer counseling, or other community-focused assistance that—

(ii) Serves, assists, or is reasonably expected to serve or assist low- or moderate-income individuals or families; or

(3) *Economic development,* which means—

(i) Financing—

(A) For businesses or farms that meet the size eligibility standards of the U.S. Small Business Administration Development Company (13 CFR 121.301) or Small Business Investment Company (13 CFR 121.301 and 121.201) programs or have gross annual revenues of $1 million or less;

(B) That expands, improves, or preserves the business's or farm's productive capacity, physical presence, or employment bases, excluding financing primarily used for ongoing operating liquidity; and

(C) That is not reasonably likely to result in a reduction in jobs at the business or farm;

(ii) Technical assistance and supportive services, such as shared space, technology, or administrative assistance for businesses or farms that meet the size eligibility standards of the U.S. Small Business Administration Development Company (13 CFR 121.301) or Small Business Investment Company (13 CFR 121.301 and 121.201) programs or have gross annual revenues of $1 million or less;

(iii) Federal, State, local, or Tribal government programs, projects, or initiatives that serve small businesses or small farms as those terms are defined in the programs, projects, or initiatives, including a—

(A) U.S. Small Business Administration Certified Development Company, as that term is defined in 13 CFR 120.10;

(B) Small Business Investment Company, as described in 13 CFR part 107;

(C) Qualified Community Development Entity, as defined in 26 U.S.C. 45D(c);

(D) U.S. Department of Agriculture Rural Business Investment Company, as defined in 7 CFR 4290.50; or

(E) Community Development Financial Institution that finances small businesses or small farms; or

(4) *Revitalization or stabilization of targeted geographic areas,* which means—

(i) Activities that revitalize or stabilize—

(A)*(1)*(*i*) Low- or moderate-income census tracts;

(*ii*) Distressed or underserved nonmetropolitan middle-income census tracts;

(*iii*) Indian country or other Tribal and native lands; or

(*iv*) Any other area targeted by a government entity for redevelopment that qualifies for significant economic incentives, such as tax credits, tax abatements, or grants; and

(*2*) By providing financing or other support to the targeted geographic areas in paragraph (4)(i)(A)(*1*) of this definition for—

(*i*) Essential community facilities or essential infrastructure;

(*ii*) Federal, State, local, or Tribal government programs, projects, or initiatives that are consistent with a bona fide government revitalization or stabilization plan;

(*iii*) Programs, projects, or initiatives that assist individuals and communities with preparing for, adapting to, or withstanding natural disasters; or

(*iv*) Programs, projects, or initiatives with a primary purpose of attracting or retaining a major employer that will create long-term job opportunities (*i.e.,* reasonably likely to have a meaningful direct or indirect impact on unemployment in the targeted geographic area); or

(B) A designated disaster area by providing financing or other support consistent with a disaster recovery plan, including activities that assist individuals and communities in the designated disaster area to prepare for, adapt to, or withstand natural disasters.

Community development activity means a community development grant, community development investment, community development loan, or community development service.

Community development activity location. A community development activity is located in:

(1) The assessment area(s) that are benefited or served by the activity; or

(2) The State(s) or multistate MSA(s) that are benefited or served by the activity.

Community development grant means a grant or donation that

(1) Will be directly used by the recipient for a program, project, or initiative that has as its primary purpose community development;

(2) Except as specified in § 345.13(e), benefits the bank's assessment area(s); and

(3) For a large bank, is provided to a recipient whose indirect costs for administering the grant or donation may not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR part 200, or a comparable standard.

Community development investment means a security or a deposit, or membership share in a financial institution, including a legally binding commitment to invest, that

(1) Has as its primary purpose community development,

(2) Is permissible under applicable laws, rules, and regulations, and

(3) Except as specified in § 345.13(e), benefits the bank's assessment area(s).

Community development loan means a loan, including a legally binding commitment to lend, that

(1) Has as its primary purpose community development;

(2) Has not been considered in the bank's assessment as a home mortgage, small business, small farm, or consumer loan, unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title) or is a low-cost education loan; and

(3) Except as specified in § 345.13(e), benefits the bank's assessment area(s).

Community development service means a volunteer service performed by a bank employee representing the bank that—

(1) Has as its primary purpose community development;

(2) Is related to the provision of financial services or the employee's area of expertise at the bank; and

(3) Except as specified in § 345.13(e), benefits the bank's assessment area(s).

Complexity means the extent to which a bank's—

(1) Community development investment, community development grant, or community development service is a necessary or otherwise beneficial component of a multicomponent financing transaction involving a loan; or

(2) Community development loan or community development investment that is the functional equivalent of a loan that otherwise requires specialized expertise in order to consummate the transaction (*e.g.,* a community development activity that is not routinely provided by private investors, such as an activity that relies on public subsidies).

Consumer loan means a loan to one or more individuals for household, family, or other personal expenditures as defined in Schedule RC–C of the instructions for preparation of Consolidated Reports of Condition and Income, including the categories of

credit cards, other revolving credit plans, automobile loans, and other consumer loans.

Designated disaster area means a geographic area that is the subject of a Major Disaster Declaration by the Federal Emergency Management Association for a period of 36 months after the declaration, unless extended by the FDIC in writing.

Distressed or underserved nonmetropolitan middle-income census tract means

(1) A middle-income census tract designated by the Board of Governors of the Federal Reserve System, FDIC, and the OCC as distressed or underserved based on the criteria in paragraph (2) of this definition, compiled in a list, and published annually by the Federal Financial Institutions Examination Council.

(2) A nonmetropolitan middle-income census tract is designated as:

(i) Distressed if it is in a county that meets one or more of the following criteria—

(A) An unemployment rate of at least 1.5 times the national average;

(B) A poverty rate of 20 percent or more; or

(C) A population loss of 10 percent or more between the previous and most recent decennial census or a net migration loss of 5 percent or more over the five-year period preceding the most recent census.

(ii) Underserved if it meets the criteria for population size, density, and dispersion that indicate the area's population is sufficiently small, thin, and distant from a population center to likely have difficulty financing the fixed costs of meeting essential community needs. The criteria for these designations are based on the Urban Influence Codes established by the U.S. Department of Agriculture's Economic Research Service numbered ''6,'' ''8,'' or ''9.''

Essential community facility means a facility that is open to the public and that provides a valuable resource or service, including a school, library, park, supermarket, hospital or other healthcare facility, public safety facility, or youth or community center.

Essential infrastructure means—

(1) Public infrastructure, including public roads, bridges, and tunnels; and

(2) Essential telecommunications infrastructure, mass transit, water supply and distribution, utilities supply and distribution, sewage treatment and collection, industrial parks, or other similar infrastructure that is provided as part of a public and private partnership.

Home mortgage loan means a closed-end mortgage loan or an open-end line of credit as these terms are defined under § 1003.2 of this title and that is not an excluded transaction under § 1003.3(c)(1) through (10) and (13) of this title.

Income level includes:

(1) Low-income, which means an individual income that is less than 50 percent of the area median income or a median family income that is less than 50 percent in the case of a census tract.

(2) Moderate-income, which means an individual income that is at least 50 percent and less than 80 percent of the area median income or a median family income that is at least 50 and less than 80 percent in the case of a census tract.

(3) Middle-income, which means an individual income that is at least 80 percent and less than 120 percent of the area median income or a median family income that is at least 80 and less than 120 percent in the case of a census tract.

(4) Upper-income, which means an individual income that is 120 percent or more of the area median income or a median family income that is 120 percent or more in the case of a census tract.

Incidental basis means—

(1) Provided infrequently as an

(i) Incident to a bank's specialized operations; or

(ii) Accommodation to the bank's customers; and

(2) Not provided as a lending product the bank advertises or markets to the public or its customers; and

(3) For purposes of paragraph (1) of this definition and with respect to the definition of a wholesale bank or limited purpose bank, incidental lending constitutes no more than 5 percent of the bank's total lending as of December 31 of both of the prior two calendar years.

Indian country means a geographic area that is:

(1) Covered by 18 U.S.C. 1151; or

(2) A Tribal Census Tract, an Oklahoma Tribal Statistical Area, a Tribal Designated Statistical Area, an Alaskan Native Village Statistical Area, or an American Indian Joint-Use Area, as those terms are defined by the U.S. Bureau of the Census.

Intermediate bank means a bank with assets of $10 billion or less as of December 31 of either of the prior two calendar years and that is not a small bank.

Large bank means a bank with assets of more than $10 billion as of December 31 of both of the prior two calendar years.

Limited purpose bank means a bank that:

(1) Offers only a narrow product line (such as credit card or motor vehicle loans);

(2) Offers other types of loans only on an incidental basis; and

(3)For which a designation as a limited purpose bank is in effect, in accordance with § 345.25(b).

Loan location means the following, with respect to retail loans:

(1) A consumer loan is located in the census tract where the borrower resides;

(2) A home mortgage loan is located in the census tract where the property securing the loan is located; and

(3) A small business or small farm loan is located in the census tract where the main business facility or farm property securing the loan is located or where the loan proceeds otherwise will be applied, as indicated by the borrower.

Loan production office means a staffed facility, other than a branch, that is open to the public and that provides lending-related services, such as loan information and applications.

Low-cost education loan means any education loan, as defined in section 140(a)(7) of the Truth in Lending Act (15 U.S.C. 1650(a)(7)) (including a loan under a State or local education loan program), originated by the bank for a student at an ''institution of higher education,'' as that term is defined in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002) and the implementing regulations published by the U.S. Department of Education, with interest rates and fees no greater than those of comparable education loans offered directly by the U.S. Department of Education. Such rates and fees are specified in section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e).

Metropolitan division means a metropolitan division as defined by the Director of the Office of Management and Budget.

Military bank—(1) *Definition. Military bank* means a bank whose business predominately consists of serving the needs of military personnel who serve or have served in the U.S. Armed Forces (including the U.S. Army, U.S. Navy, U.S. Marine Corps., U.S. Air Force, U.S. Coast Guard, and U.S. Space Force) or dependents of U.S. military personnel.

(2) *Standard.* A bank's business predominately consists of serving the needs of U.S. military personnel or their dependents if the bank's most important customer group is U.S. military personnel or their dependents.

MSA means a metropolitan statistical area as defined by the Director of the Office of Management and Budget.

Nonmetropolitan area means any area that is not located in an MSA.

Other Tribal and native lands mean State Designated Tribal Statistical Areas, as defined by the U.S. Bureau of the Census, and Hawaiian Home Lands.

Remote Service Facility (RSF) means an automated, unstaffed banking facility available and accessible to members of the public owned or operated by, or operated exclusively for, the bank, such as an automated teller machine, cash dispensing machine, point-of-sale terminal, or other remote electronic facility, at which deposits are received, cash dispersed, or money lent.

Small bank—

(1) *Definition. Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than $1 billion adjusted annually pursuant to paragraph (2) of this definition.

(2) *Adjustment.* The FDIC adjusts and publishes the dollar figure in paragraph (1) of this definition on its website, *www.fdic.gov.* The adjustment is published by the FDIC, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million.

Small business loan means a loan included in ''loans to small businesses'' as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

Small farm loan means a loan included in ''loans to small farms'' as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

Tier 1 capital means tier 1 capital, as defined in 12 CFR 324.2.

Wholesale bank means a bank that

(1) Is not in the business of extending home mortgage, small business, small farm, or consumer loans, other than on an incidental basis; and

(2) The FDIC has designated as a wholesale bank, in accordance with § 345.25(b).

§ 345.13 Consideration of community development activities.

(a) *Illustrative list*—(1) *Maintaining the illustrative list.* The FDIC will maintain and make available to the public a non-exhaustive, illustrative list of examples of community development activities. The illustrative list may include examples of loans, investments, grants, and services that the FDIC has determined are not community development activities. The list is available at *www.fdic.gov.*

(2) *Modifications to the illustrative list.* The FDIC will periodically update the illustrative list described in paragraph (a)(1) of this section.

(b) *Confirmation of community development activity eligibility.* (1) *Request for confirmation of eligibility.* A bank may request that the FDIC review a loan, investment, grant, or service to confirm if it qualifies for consideration as a community development activity in a bank's CRA examination by submitting a request to, and in a format prescribed by, the FDIC.

(2) *Process for confirming eligibility.* (i) To confirm the community development activity eligibility of a loan, investment, grant, or service for which a request has been submitted under paragraph (b)(1) of this section, the FDIC considers:

(A) Information that describes the community development purpose and otherwise supports the request;

(B) Whether the activity is consistent with the safe and sound operation of the bank; and

(C) Any other information that the FDIC deems relevant.

(ii) The FDIC may impose limitations or requirements on a confirmation that a loan, investment, grant, or service qualifies as a community development activity to ensure consistency with this part.

(3) *Notification of eligibility.* (i) The FDIC notifies the requestor in writing of any confirmation of community development activity eligibility under paragraph (b)(2) of this section, as well as the rationale for such determination. The FDIC communicates a response within 90 days after the request is received by the agency, unless the agency notifies the requestor that additional time is needed to consider a request.

(ii) The bank must retain any notification of eligibility issued pursuant to this paragraph until the completion of its next CRA examination.

(c) *Eligible community development activities, consideration.* In assessing a bank's CRA performance under this part, the FDIC will consider any community development activity that was eligible for CRA consideration at the time the bank conducted the activity in that bank's CRA examination if the activity was conducted during the evaluation period or remains on a bank's balance sheet.

(d) *Community development activities in assessment areas.*

(1) *Scope.* A community development activity benefits or serves a bank's assessment area(s) if—

(i) The project, program, or initiative supported by the activity or the recipient of the proceeds or beneficiary of the activity is located in the bank's assessment area; or

(ii) The activity has a purpose, mandate, or function of benefiting or serving the bank's assessment area(s).

(2) *Assessment area allocation.* (i) Community development activities that benefit or serve more than one assessment area will be allocated based on—

(A) Documentation of the physical address of the recipient of the proceeds or the beneficiary of the activity, if available; or

(B) The weight assigned to each assessment area benefited or served as provided in paragraph (d)(3).

(3) *Assigning assessment area weight(s).* (i) For purposes of allocating community development loans, community development investments, and community development grants to assessment areas under paragraph (d)(2) of this section, the FDIC will assign a weight to an assessment area based on the proportion of deposits in the assessment area as determined by

(A) The available Summary of Deposits survey data published by the FDIC for the latest year in the evaluation period under the methodology provided in appendix C to this part; or

(B) At the bank's option, another reasonable methodology, as approved by the FDIC.

(ii) In allocating deposits under paragraph (d)(3)(i)(B) of this section, a bank—

(A) Must assign assessment area weight(s) such that the aggregate of the weight(s) equals 100 percent; and

(B) May use all of the deposits included in the Summary of Deposits survey data published by the FDIC or a reasonable subset thereof based on the bank's business strategy, such as retail customer deposits or domestic deposits, as approved by the FDIC.

(e) *Community development activities outside assessment area(s).* (1) *In general*—(i) The FDIC will consider at a bank's option, community development activities that benefit or serve areas outside of the bank's assessment area(s), provided that the bank meets or exceeds the applicable geographic flexibility standard(s) provided in paragraphs (e)(2)(i) and (ii) of this section, subject to paragraphs (e)(3) and (4) of this section.

(ii) A community development activity benefits or serves an area outside of a bank's assessment area(s) if the activity does not benefit or serve one or more of the bank's assessment areas as provided paragraph (d)(1) of this section.

[Option 1 for Paragraphs (e)(2)–(4)]

(2) *Geographic flexibility standards.* The geographic flexibility standard(s)

are calculated on an assessment area basis as follows—

(i) *Large banks.* (A) *Community development loans.* For each year in the evaluation period, a large bank must expend at least 0.625 percent of the bank's tier 1 capital allocated based on the weight assigned to the assessment area, as provided in paragraph (d)(3) of this section, toward community development loans that receive consideration in the bank's assessment area(s), as provided in paragraphs (d)(1) and (2) of this section; and

(B) *Community development investments and community development grants.* For each year in the evaluation period, a large bank must expend at least 0.625 percent of the bank's tier 1 capital allocated based on the weight assigned to the assessment area, as provided in paragraph (d)(3) of this section, toward community development investments and community development grants in the aggregate that receive consideration in the bank's assessment area(s), as provided in paragraphs (d)(1) and (2) of this section.

(ii) *Intermediate banks, wholesale banks, and limited purpose banks.* For each year in the evaluation period, an intermediate bank, wholesale bank, or limited purpose bank must expend at least 1.25 percent of the bank's tier 1 capital allocated based on the weight assigned to the assessment area, as provided in paragraph (d)(3) of this section, toward community development loans, community development investments, and community development grants in the aggregate that receive consideration in the bank's assessment area(s) as provided in paragraphs (d)(1) and (2) of this section.

(3) *Geographic flexibility standard exception.* Notwithstanding the requirements in paragraph (e)(2)(i) and (ii) of this section, the FDIC may determine based on performance context that a bank that has extended a lesser dollar amount of community development loans or community development investments and community development grants, as applicable, has sufficiently met the community development needs of its assessment area(s) to receive consideration for community development activities outside of its assessment area(s).

(4) *Geographic scope of consideration of community development activities outside assessment area(s).* A bank that does not meet the standards in paragraph (e)(2) or the exception in paragraph (e)(3) of this section in all of its assessment areas will only receive consideration for community development activities conducted outside of its assessment areas in the assigned rating for any State or multistate MSA in which the bank met the standards in paragraph (e)(2) or the exception in paragraph (e)(3) of this section for all of the assessment areas in the State or multistate MSA.

[Option 2 for Paragraphs (e)(2)–(4)]

(2) *Geographic flexibility standards.* A bank meets the geographic flexibility standard for serving the community development needs of an assessment area if the bank has an adequate level of community development activities in the assessment area over the evaluation period, considering the dollar amount and responsiveness of community development activities to assessment area community development needs.

(3) [Reserved]

(4) *Geographic scope of consideration of community development activities outside assessment area(s).* A bank that does not meet the geographic flexibility standard(s) in all of its assessment areas will not receive consideration for community development activities conducted outside of its assessment areas in the assigned rating for any State or multistate MSA in which the bank does not meet the geographic flexibility standard. A bank will only receive consideration for community development activities conducted outside of its assessment areas in the assigned rating for any State or multistate MSA in which the bank meets the geographic flexibility standard for all of the assessment areas in the State or multistate MSA.

(5) *Consideration in assigned ratings.* The FDIC will consider community development activities that benefit or serve an area outside a bank's assessment area(s) in assigning a bank a rating for a State, multistate MSA, or the bank—

(i) *Rating level*—(A) *State or multistate MSA assigned rating.* The FDIC will consider a community development activity in assigning a State or multistate MSA rating, as applicable, if the bank is rated in the State or multistate MSA pursuant to 12 U.S.C. 2906(d) and the community development activity benefits or serves the State or multistate MSA; or

(B) *Bank assigned rating.* The FDIC will consider a community development activity in assigning the overall bank rating if the community development activity was not considered at the State or multistate MSA level.

(ii) *Rating area allocation.* A community development activity considered at the State or multistate MSA level pursuant to paragraph (e)(5)(i)(A) that benefits or serves more than one State or multistate MSA will be allocated based on—

(A) Documentation of the physical address of the recipient of the proceeds of the beneficiary of the activity, if available; or

(B) The aggregate weight of the assessment area(s) located in the State or multistate MSA in accordance with paragraph (d)(3) within each state or multistate MSA.

§ 345.14 Responsiveness.

(a) *Responsiveness generally.* Under the applicable performance tests and standards in §§ 345.22 through 345.26, the FDIC assesses the responsiveness of a bank's retail lending activities, retail banking services, and community development activities in meeting community development and credit needs based on paragraph (b) of this section and, in the context of that assessment, may take into account applicable performance context factors pursuant to § 345.21(b).

(b) *Responsiveness factors.* The factors considered in assessing the responsiveness of a bank's retail lending activities, retail banking services, and community development activities include—

(1) The innovativeness, flexibility, complexity, or impact of retail lending activity, retail banking service, or community development activity, as applicable; and

(2) The quality of a bank's retail lending activities, retail banking services, and community development activities as demonstrated, for example, by the success of the activity or service in meeting an identified community development or credit need.

Subpart B—Standards for Assessing Performance

§ 345.21 Performance tests, standards, and ratings, in general.

(a) *Performance tests and standards.* The FDIC assesses the CRA performance of a bank in an examination as follows:

(1) *Lending, investment, and service tests.* The FDIC applies the lending, investment, and service tests, as provided in §§ 345.22 through 345.24, in evaluating the performance of a bank, except as provided in paragraphs (a)(2), (3), (4), (5), and (6) of this section.

(2) *Community development test for wholesale or limited purpose banks.* The FDIC applies the community development test for a wholesale or limited purpose bank, as provided in § 345.25, except as provided in paragraph (a)(5) of this section.

(3) *Performance standards for small banks.* The FDIC applies the performance standards for small banks as provided in § 345.26 in evaluating the performance of a small bank or a bank that was a small bank during the prior calendar year, unless the bank elects, and receives approval if required, to be assessed as provided in paragraphs (a)(1), (2), or (5) of this section. The bank may elect to be assessed as provided in paragraph (a)(1) of this section only if it collects and reports the data required for other banks under § 345.42.

(4) *Performance standards for intermediate banks.* The FDIC applies the performance standards for intermediate banks as provided in § 345.26 in evaluating the performance of an intermediate bank or a bank that was an intermediate bank during the prior calendar year, unless the bank elects, and receives approval if required, to be assessed as provided in paragraphs (a)(1), (2), or (5) of this section. The bank may elect to be assessed as provided in paragraph (a)(1) of this section only if it collects and reports the data required for other banks under § 345.42.

(5) *Strategic plan.* The FDIC evaluates the performance of a bank under a strategic plan approved in accordance with § 345.27. The FDIC evaluates the performance of a bank under a strategic plan at the end of the plan term based on the measurable goals specified in the plan, including any annual interim measurable goals.

(6) *Military banks*—(i) *In general.* The FDIC evaluates the performance of a military bank under the applicable performance tests or standards described in paragraphs (a)(1) through (5) of this section.

(ii) *Military banks operating under § 345.41(f).* If a military bank delineates the United States and its territories as its sole assessment area pursuant to § 345.41(f), the FDIC evaluates the bank exclusively at the institution level based on its performance in its sole assessment area.

(iii) *Geographic components excluded.* Notwithstanding any requirement in subpart B of this part, a military bank is not evaluated under any component of a performance test or standard that evaluates performance based on geography (*e.g.,* the geographic distribution of a bank's lending activity).

(b) *Performance context.* The FDIC applies the performance tests and standards in paragraph (a) of this section and also approves and evaluates a strategic plan in the context of data or information about—

(1) Assessment area demographics, including income levels, distribution of income, nature of housing stock, housing costs, and the economic environment (national, regional, and local);

(2) Lending, investment, grant, and service opportunities maintained by the bank or obtained from community organizations, State, local, and Tribal governments, economic development agencies, or other sources;

(3) The bank's product offerings and business strategy (if provided by the bank);

(4) Institutional capacity and constraints, including the size and financial condition of the bank, safety and soundness limitations, and any other factors that significantly affect the bank's ability to provide lending, investments, grants, or services in its assessment area(s);

(5) The bank's past performance and the performance of similarly situated lenders;

(6) The bank's public file, as described in § 345.43, and any written comments about the bank's CRA performance submitted to the bank or the FDIC;

(7) The bank's community development activities and retail banking services, to the extent not considered under another performance test; and

(8) Anything else deemed relevant by the FDIC.

(c) *Assigned ratings.* The FDIC assigns to a bank one of the following four ratings pursuant to § 345.28 and appendix A to this part: ''outstanding''; ''satisfactory''; ''needs to improve''; or ''substantial noncompliance,'' as provided in 12 U.S.C. 2906. The rating assigned by the FDIC reflects the bank's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank.

(d) *Safe and sound operations.* This part and the CRA do not require a bank to provide loans, investments, grants, or services that are inconsistent with safe and sound operations. To the contrary, the FDIC anticipates banks can meet the standards of this part with safe and sound loans, investments, grants, and services on which the banks expect to make a profit. Banks are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- or moderate-income census tracts or individuals, only if consistent with safe and sound operations.

(e) *Activities in cooperation with minority- or women-owned financial institutions and low-income credit unions.* In assessing and taking into account the record of a nonminority-owned and nonwomen-owned bank under this part, the FDIC considers as a factor capital investment, loan participation, and other ventures undertaken by the bank in cooperation with minority- and women-owned financial institutions and low-income credit unions. Such activities must help meet the credit needs of local communities in which the minority- and women-owned financial institutions and low-income credit unions are chartered. To be considered, such activities need not also benefit the bank's assessment area(s).

(f) *Treatment of community development loans, community development investments, and community development grants.* A community development loan, community development investment, or community development grant will be considered in assessing a bank's CRA performance in the evaluation period it was originated, made, or purchased by the bank, and, for community development loans and community development investments, in any subsequent evaluation period for which the community development loan or community development investment remains on the bank's balance sheet at the end of the evaluation period.

[Option 1 for Paragraph (g)]

(g) *Major product line.* The FDIC assesses a bank's performance with respect to retail lending (*i.e.,* home mortgage, small business, small farm, and consumer originations and purchases) based on its major product line(s). A bank's major product line(s) are—

(1)(i) The largest two product lines by dollar volume and loan count, as provided in appendix C to this part of home mortgage, small business, small farm, and consumer lending, if the bank makes loans in at least two of these product lines; or

(ii) Home mortgage, small business, small farm, or consumer lending, in the product line in which the bank makes loans, if the bank makes loans in only one of these product lines.

(2) Notwithstanding paragraph (g)(1)(i) of this section, the FDIC will only evaluate consumer lending if the bank's consumer loans constitute more than 50 percent of its retail lending by dollar volume and loan count or at the bank's option, and, if this standard is not met, the agency will evaluate the largest two product lines of home mortgage, small business, and small farm lending.

[Option 2 for Paragraph (g)]

(g) *Major product line.* (1) The FDIC assesses a bank's retail lending in its major product line(s) in each assessment area.

Whether home mortgage, small business, small farm, or consumer lending is a major product line in an assessment area will be based on the—

(i) Bank's overall lending volume and business strategy;

(ii) Bank's capacity to lend in that assessment area; and

(iii) Extent to which lending in the product line meaningfully contributes to the bank's record of meeting the credit needs of that assessment area.

(2) Notwithstanding paragraph (g)(1) of this section, the FDIC will only evaluate consumer lending if the bank's consumer loans constitute more than 50 percent of its retail lending by dollar volume and loan count, or at the bank's option.

(h) *Meaningful assessment.* (1) *In general.* In assessing a bank's retail lending performance in a performance criterion under the applicable performance test or standard, the FDIC considers a bank's retail lending activities pursuant to the performance criterion for which the bank may conduct a meaningful assessment, as provided in paragraph (h)(2) of this section.

(2) *Meaningful assessment standards.* The FDIC—

(i) Will consider 30 loans to be a sufficient number of loans to perform a meaningful assessment; and

(ii) May consider less than 30 loans if the agency determines that a smaller number would allow for a meaningful assessment.

(3) *Other assessments of retail lending performance.* When a meaningful assessment of the bank's loan data cannot be performed, the FDIC will assess the bank's lending performance based on other lending performance criteria for which a meaningful assessment may be conducted or consideration of applicable performance context factors described in paragraph (b) of this section that inform the bank's lending activity in the assessment area.

§ 345.22 Lending test.

(a) *Scope of test.*

(1) The FDIC evaluates a bank's record of meeting community credit needs by assessing the bank's major product lines and community development loans, as provided in this part.

(2) A bank may ask the FDIC to consider loans originated or purchased by consortia in which the bank participates or by third parties in which the bank has invested only if the loans meet the definition of community development loans and only in accordance with paragraph (d) of this section. The FDIC will only consider these loans under the community development lending criterion in paragraph (b)(4) of this section.

(b) *Performance criteria.* The FDIC evaluates a bank's lending performance pursuant to the following criteria:

(1) *Lending activity.* The number and dollar amount of the bank's loans in its major product lines in the bank's assessment area(s);

(2) *Geographic distribution.* The geographic distribution of the bank's loans in its major product line(s), based on the loan location, including:

(i) The proportion of the bank's lending in the bank's assessment area(s);

(ii) The dispersion of lending in the bank's assessment area(s); and

(iii) The number and dollar amount of loans in low-, moderate-, middle-, and upper-income census tracts in the bank's assessment area(s);

(3) *Borrower characteristics.* The distribution of the bank's loans in its major product lines, based on borrower characteristics, including, if applicable, the number and dollar amount of:

(i) Home mortgage loans to low-, moderate-, middle-, and upper-income individuals in the bank's assessment area(s);

(ii) Small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less in the bank's assessment area(s);

(iii) Small business and small farm loans by dollar amount at origination in the bank's assessment area(s); and

(iv) Consumer loans to low-, moderate-, middle-, and upper-income individuals in the bank's assessment area(s).

(4) *Community development lending.* The bank's community development loans, including the number and dollar amount of community development loans; and

(5) *Responsiveness.* The responsiveness of the bank's retail loans and community development loans in meeting community credit needs.

(c) *Affiliate lending.*

(1) At a bank's option, the FDIC will consider loans by an affiliate of the bank, if the bank provides data on the affiliate's loans pursuant to § 345.42.

(2) The FDIC considers affiliate lending subject to the following constraints:

(i) No affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase; and

(ii) If a bank elects to have the FDIC consider loans within a major product line made by one or more of the bank's affiliates in a particular assessment area, the FDIC will consider all the loans within that major product line in that particular assessment area made by all of the bank's affiliates.

(3) The FDIC does not consider affiliate lending in assessing a bank's performance under paragraph (b)(2)(i) of this section.

(d) *Lending by a consortium or a third party.* Community development loans originated or purchased by a consortium in which the bank participates or by a third party in which the bank has invested:

(1) Will be considered, at the bank's option, if the bank reports the data pertaining to these loans under § 345.42(b)(2); and

(2) May be allocated among participants or investors, as they choose, for purposes of the lending test, except that no participant or investor:

(i) May claim a loan origination or loan purchase if another participant or investor claims the same loan origination or purchase; or

(ii) May claim loans accounting for more than its percentage share (based on the level of its participation or investment) of the total loans originated by the consortium or third party.

(e) *Lending performance rating.* The FDIC rates a bank's lending performance as provided in appendix A to this part.

§ 345.23 Investment test.

(a) *Scope of test.* The FDIC evaluates a bank's record of meeting community credit needs by assessing community development investments and community development grants, as provided in this part.

(b) *Exclusion.* Activities considered under the lending or service tests may not be considered under the investment test.

(c) *Affiliate investment.* At a bank's option, the FDIC will consider, in its assessment of a bank's investment performance, a community development investment or community development grant made by an affiliate of the bank, if the community development investment or community development grant is not claimed by any other institution.

(d) *Disposition of branch premises.* Donating, selling on favorable terms, or making available on a rent-free basis a branch of the bank that is located in a predominantly minority neighborhood to a minority depository institution or women's depository institution (as these terms are defined in 12 U.S.C. 2907(b)) will be considered as a community development investment or community development grant.

(e) *Performance criteria.* The FDIC evaluates the investment performance of a bank pursuant to the following criteria:

(1) The dollar amount of community development investments and community development grants; and

(2) The responsiveness of the bank's community development investments and community development grants, including their complexity, to community credit needs.

(f) *Investment performance rating.* The FDIC rates a bank's investment performance as provided in appendix A to this part.

§ 345.24 Service test.

(a) *Scope of test.* The FDIC evaluates a bank's record of meeting community credit needs under the service test by assessing the bank's retail banking services and community development services, as provided in this part.

(b) *Affiliate service.* At a bank's option, the FDIC will consider, in its assessment of a bank's service performance, a community development service provided by an affiliate of the bank, if the community development service is not claimed by any other institution.

(c) *Performance criteria—retail banking services.* The FDIC evaluates the availability and effectiveness of a bank's systems for delivering retail banking services, pursuant to the following criteria:

(1) The current distribution of the bank's branches among low-, moderate-, middle-, and upper-income census tracts;

(2) In the context of its current distribution of the bank's branches, the bank's record of opening and closing branches, particularly branches located in low- or moderate-income census tracts or primarily serving low- or moderate-income individuals;

(3) The availability and effectiveness of alternative systems for delivering retail banking services (*e.g.,* RSFs, RSFs not owned or operated by or exclusively for the bank, interactive teller machines, banking by telephone, internet, or mobile banking, loan production offices, and bank-at-work or bank-by-mail programs) in low- and moderate-income census tracts and to low- and moderate-income individuals; and

(4) The range and responsiveness of the credit services provided in low-, moderate-, middle-, and upper-income census tracts, including the degree to which the services are tailored to meet the credit needs of those census tracts.

(d) *Performance criteria—community development services.* The FDIC evaluates community development services pursuant to the following criteria:

(1) The extent to which the bank provides community development services; and

(2) The responsiveness of the bank's community development services, including their complexity, to community credit needs.

(e) *Service performance rating.* The FDIC rates a bank's service performance as provided in appendix A to this part.

§ 345.25 Community development test for wholesale or limited purpose banks.

(a) *Scope of test.* The FDIC assesses a wholesale or limited purpose bank's record of meeting community credit needs under the community development test by assessing its community development activities.

(b) *Designation as a wholesale or limited purpose bank.* (1) In order to receive a designation as a wholesale or limited purpose bank, a bank must file a request, in writing, with the FDIC, at least 90 days prior to the proposed effective date of the designation. If the FDIC approves the designation, it remains in effect until the bank requests revocation of the designation or until one year after the FDIC notifies the bank that it has revoked the designation on its own initiative.

(2) Notwithstanding paragraph (b)(1) of this section, an institution that was designated as a wholesale or limited purpose bank pursuant to this part or was comparably designated pursuant to 12 CFR part 25 or 12 CFR part 228, as applicable, as of the date immediately prior to the date of a conversion may request that the FDIC maintain its designation after the conversion. The FDIC may approve the request to maintain the bank's designation in its sole discretion if the agency determines that it has the information necessary to make the determination.

(c) *Performance criteria.* The FDIC evaluates the community development performance of a wholesale or limited purpose bank pursuant to the following criteria:

(1) The number and dollar amount of the bank's community development activities; and

(2) The responsiveness of the bank's community development activities, including their complexity, to community credit needs.

(d) *Indirect activities.* At a wholesale or limited purpose bank's option, the FDIC will consider in its community development performance assessment:

(1) Community development investments, community development grants, or community development services provided by an affiliate of the bank, if the investments, grants, or services are not claimed by any other institution; and

(2) Community development loans by affiliates, consortia, and third parties, subject to the requirements and limitations in § 345.22(c) and (d).

(e) [Reserved]

(f) *Community development performance rating.* The FDIC rates a wholesale or limited purpose bank's community development performance as provided in appendix A to this part.

§ 345.26 Performance standards for small banks and intermediate banks.

(a) *Performance criteria*—(1) *Small banks.* The FDIC evaluates the record of a small bank in meeting community credit needs pursuant to the criteria set forth in paragraph (b) and (d) of this section.

(2) *Intermediate banks.* The FDIC evaluates the record of an intermediate bank in meeting community credit needs pursuant to the criteria set forth in paragraphs (b), (c), and (d) of this section.

(b) *Lending test.* A small bank's or intermediate bank's record of meeting community credit needs by assessing a bank's major product lines and other retail lending activities, as applicable, is evaluated pursuant to the following criteria:

(1) *Loan-to-deposit ratio.* The bank's loan-to-deposit ratio, adjusted for seasonal variation;

(2) *Lending in assessment area(s).* The percentage of loans located in the bank's assessment area(s);

(3) *Borrower distribution.* The bank's record of lending to borrowers of different income levels and businesses and farms of different sizes in the bank's assessment area(s); and

(4) *Geographic distribution.* The geographic distribution of the bank's loans in the bank's assessment area(s).

(c) *Community development test.* An intermediate bank's community development performance also is evaluated pursuant to the following criteria:

(1) *Community development loans.* The number and dollar amount of community development loans;

(2) *Community development investments and community development grants.* The number and dollar amount of community development investments and community development grants; and

(3) *Community development services.* The extent to which the bank provides community development services.

(d) *Responsiveness.* The responsiveness of the intermediate bank's lending activities and

community development activities, including their complexity, to community credit needs.

(e) *Small bank or intermediate bank performance rating.* The FDIC rates the performance of a bank evaluated under this section as provided in appendix A to this part.

§ 345.27 Strategic plan.

(a) *In general—(1) Evaluation.* The FDIC will evaluate a bank's record of meeting community credit needs under an approved strategic plan elected by the bank pursuant to paragraph (a)(2) of this section and as provided in paragraph (a)(2)(i) of this section.

(2) *Alternative election.* A bank may elect to have the FDIC agency evaluate its performance under a strategic plan if the:

(i) The bank has submitted the strategic plan to the FDIC for approval as provided for in this section;

(ii) The FDIC has approved the strategic plan; and

(iii) Strategic plan is in effect.

(3) *Treatment of affiliates.* Affiliated institutions may prepare a joint plan if the plan provides measurable goals for each institution, including interim annual goals, if applicable. Activities may be allocated among institutions at the institutions' option, provided that the same activities are not considered for more than one institution.

(4) *Confidential information.* A bank may submit additional information to the FDIC on a confidential basis, but the goals stated in the plan must be sufficiently specific to enable the public and the FDIC to judge the merits of the plan.

(5) *Data collection, reporting, and disclosure.* A bank's election to be evaluated under a strategic plan pursuant to paragraph (a)(2) of this section does not affect the applicability of the data collection, reporting, and disclosure provisions in § 345.42.

(b) *Content of a strategic plan.*

(1) *Plan requirements.* In order for a plan to be considered technically complete, as provided in paragraph (f) of this section, a bank must include in its strategic plan:

(i) A general description of the bank including discussion of its size, capital levels, branches, staffing levels, product lines, areas served, subsidiaries, affiliates, and its historical CRA performance;

(ii) The plan scope, as provided in paragraph (b)(2) of this section;

(iii) The plan term, as provided in paragraph (b)(3) of this section;

(iv) The assessment areas covered by the plan, as provided in paragraph (b)(4) of this section;

(v) Measurable goals, as provided in paragraph (b)(5) of this section, that meet the requirement for the provision of; satisfactory and outstanding measurable goals, as provided in paragraph (b)(6) of this section;

(vi) Any performance context factors, as provided in § 345.21(a)(5) or (b), that the bank considered in tailoring the scope of the strategic plan; and

(vii) A description of informal and formal efforts to seek suggestions from members of the public, as provided in paragraph (c) of this section, and a copy of any written public comments received.

(2) *Plan scope.* The strategic plan scope must address all three performance categories (*i.e.,* lending, investments, and services) in its strategic plan by—

(i) Specifying one or more measurable goal(s) for a performance category as provided in paragraph (b)(5) of this section;

(ii) Emphasizing lending and lending-related activities in the strategic plan, unless a different emphasis is responsive to the credit needs of the bank's assessment area(s), considering public comment and the bank's capacity and constraints, product offerings, and business strategy; and

(iii) Explaining, if applicable, how the exclusion of measurable goals for a performance category is supported by or consistent with the bank's performance context.

(3) *Plan Term*—A strategic plan may have a term of no more than five years.

(4) *Assessment areas*—(i) A strategic plan must include a description of the bank's assessment area(s) comprised of whole geographic areas (*e.g.,* an MSA, one or more metropolitan divisions, one or more contiguous counties, or one or more contiguous census tracts) that are covered by the strategic plan, delineated pursuant to § 345.41.

(ii) A bank with more than one assessment area may:

(A) Prepare a separate strategic plan for each assessment area; or

(B) Include multiple assessment areas in a single strategic plan.

(5) *Measurable goals.* In its strategic plan, a bank must specify measurable goal(s) for meeting the credit needs of each assessment area covered by the plan, including the needs of low- and moderate-income census tracts and low- and moderate-income individuals. A multi-year strategic plan must include annual interim measurable goals for each year in the plan term. A bank may also include measurable goals that span the entire plan term, which may differ from the aggregate of the bank's annual interim measurable goals.

(i) *Measurable goal requirements.* A measurable goal must have a:

(A) Performance measure (*e.g.,* percentage, number, dollar amount, or other quantifiable measure of a particular type of lending, investment, grant, or service); and

(B) Performance level (*i.e.,* the specific value for a performance measure, such as a set percentage of lending by dollar amount or number).

(ii) *Measurable goal rationale or support.* The strategic plan must provide the bank's rationale and support for the specified measurable goal(s).

(6) *Satisfactory and outstanding measurable goals*—(i) *Satisfactory measurable goals.* A bank must specify in its strategic plan measurable goals that constitute ''satisfactory'' performance.

(ii) *Outstanding measurable goals.* A bank may specify in its strategic plan measurable goals that constitute ''outstanding'' performance.

(c) *Public participation in plan development.* Before submitting a proposed strategic plan to the FDIC for approval under paragraph (e) of this section, a bank must

(1) Informally seek suggestions from members of the public in assessment area(s) covered by the plan to inform the development of a draft strategic plan;

(2) Formally solicit public comment on the draft strategic plan for at least 30 calendar days by:

(i) Publishing notice of the opportunity to comment on the bank's draft strategic plan in at least one newspaper of general circulation in each assessment area covered by the plan;

(ii) Making the draft strategic plan available to the public at no cost (reasonable fees may be charged to cover copying and mailing, if applicable); and

(iii) Providing the draft strategic plan to the FDIC, which will publish the plan on its public website and direct the public to send comments to the bank for consideration.

(3) The comment period will last at least 30 calendar days from the date of the latest publication under paragraph (c)(2) of this section.

(d) *Prefiling communications.* A bank may consult with the FDIC regarding its draft strategic plan prior to submitting the plan for approval under paragraph (e) of this section. The FDIC will provide the bank with preliminary feedback regarding the draft strategic plan, including whether the level of detail in the draft strategic plan is sufficient for the agency to evaluate the plan and the merits of the measurable goals in the draft strategic plan.

(e) *Submission of plan*—(1) Unless otherwise permitted by the FDIC the

bank must submit its proposed strategic plan to the FDIC at least 90 calendar days prior to the proposed effective date of the plan.

(2) At the request of a bank, the FDIC, in its discretion may accept and review a proposed strategic plan submitted less than 90 calendar days prior to the proposed effective date of the plan.

(f) *Plan approval*—(1) *Notice of complete plan*—(i) The FDIC will notify the bank in writing when the agency determines that it has received a technically complete proposed strategic plan containing the information required in paragraph (b) of this section.

(ii) If the FDIC determines it has not received a technically complete proposed strategic plan from the bank, the FDIC will send a written communication within 14 calendar days of submission identifying the missing components of the plan.

(iii) Notwithstanding a notification in writing that a proposed strategic plan is technically complete, the FDIC may request additional information based on a material change in circumstances underlying the proposed plan.

(2) *Review period.* The FDIC will act upon a proposed strategic plan within 60 calendar days after the date of the technically complete notice, unless the FDIC extends the review period for good cause. If the FDIC:

(i) Does not act within the review period, the plan will be deemed approved at the end of the review period.

(ii) Approves a proposed strategic plan after the plan's proposed effective date, the plan will be effective on the date of approval.

(3) *Criteria for evaluating a proposed strategic plan.* The FDIC evaluates a proposed strategic plan's measurable goals using the following criteria, as appropriate:

(i) The extent and breadth of lending, including, as appropriate, the distribution of loans among different census tracts, businesses and farms of different sizes, and individuals of different income levels;

(ii) The extent of community development lending, and the responsiveness of lending practices to community credit needs;

(iii) The responsiveness, including complexity, of the bank's community development investments and community development grants to community credit needs;

(iv) The availability and effectiveness of the bank's systems for delivering retail banking services and the responsiveness, including complexity, of the bank's community development services; and

(v) Consideration of performance context as provided in § 345.21(b).

(4) *Publication of approved plan.* The FDIC will publish an approved strategic plan on its website, excluding the confidential information described in paragraph (a)(4) of this section.

(g) *Plan denial*—(1) *Reasons.* The FDIC may deny a bank's request to be evaluated under a strategic plan for any of the following reasons:

(i) The proposed strategic plan's measurable goals do not adequately address the credit needs of the assessment area(s) covered by the plan as evaluated under the criteria described in paragraph (f)(3) of this section;

(ii) The proposed strategic plan's measurable goals are not consistent with the safe and sound operations of the bank;

(iii) The bank did not comply with the public participation process described in paragraph (c) of this section;

(iv) The proposed strategic plan otherwise fails to meet the requirements of this section; or

(v) The bank fails to provide information to the FDIC necessary to reach an informed decision on the plan.

(2) *Resubmission.* After denial of a proposed strategic plan, the bank may resubmit an updated plan that addresses the basis of the denial to the FDIC. Unless the FDIC determines otherwise in writing, the same review process, including the review period described in paragraph (f)(2) of this section will apply to resubmission of a proposed strategic plan.

(h) *Plan amendment.* During the term of a plan:

(1) A bank may request the FDIC review an amendment to an approved strategic plan based on a material change in circumstances. A material change in circumstances may include a merger or consolidation, a change in the bank's assessment area(s), a change in the bank's business strategy, or a change in institutional capacity or constraints that serve as an impediment to the bank's ability to achieve a satisfactory level of performance.

(2) The FDIC may require, in its sole discretion, the bank to develop an amendment to an approved strategic plan in accordance with any of the process requirements of this section, based on the extent of the amendments to the plan.

(i) *Plan assessment*—(1) In evaluating a bank's performance under an approved strategic plan, the FDIC considers performance context as provided in § 345.21(b) and assesses performance as provided in appendix A to this part.

(2) The FDIC will evaluate a bank's performance under an approved strategic plan based on the entire plan term at the end of the plan. This evaluation will include consideration of the bank's performance on its annual interim measurable goals as well as any measurable goal for the entire plan term.

(3) If a bank's strategic plan includes both satisfactory and outstanding measurable goals:

(i) The FDIC will consider the bank eligible for an ''outstanding'' rating; and

(ii) If the bank fails to achieve one or more of its outstanding measurable goals, the FDIC will consider community development activities conducted by the bank that were not assessed in connection with any measurable goal in determining whether to consider the measurable goals to be substantially met for purposes of eligibility for an ''outstanding'' rating.

(j) *Converting institutions.* For institutions that have engaged in a conversion (*e.g.,* from a national bank to a State bank or vice versa) while operating under an approved strategic plan, the FDIC will assess performance under a strategic plan approved by another agency if the FDIC determines the approval was consistent with the requirements of this section and no amendments are necessary pursuant to paragraph (h)(2) of this section.

(k) *Use of standard performance tests if satisfactory goals not substantially met.* If a bank fails to substantially meet its plan goals for a ''satisfactory'' rating, the FDIC will evaluate the bank's performance under the otherwise applicable performance tests or standards, as appropriate.

§ 345.28 Assigned ratings.

(a) *Ratings in general.* Subject to paragraphs (b) and (c) of this section, the FDIC assigns to a bank a rating of ''outstanding,'' ''satisfactory,'' ''needs to improve,'' or ''substantial noncompliance'' based on the bank's performance under the lending, investment and service tests; the community development test for wholesale or limited purpose banks; the small bank and intermediate bank performance standards; or an approved strategic plan, as applicable.

(b) *Lending, investment, and service tests.* The FDIC assigns a rating for a bank assessed under the lending, investment, and service tests in accordance with the following principles:

(1) A bank that receives an ''outstanding'' rating on the lending test receives an assigned rating of at least ''satisfactory'';

(2) A bank that receives an ''outstanding'' rating on both the service test and the investment test and a rating of at least ''high satisfactory'' on the lending test receives an assigned rating of ''outstanding''; and

(3) No bank may receive an assigned rating of ''satisfactory'' or higher unless it receives a rating of at least ''low satisfactory'' on the lending test.

(c) *Effect of evidence of discriminatory or other illegal credit practices.*

(1) The FDIC's evaluation of a bank's CRA performance is adversely affected by evidence of discriminatory or other illegal credit practices in any census tract by the bank or in any assessment area by any affiliate whose loans have been considered as part of the bank's lending performance. In connection with any type of lending activity described in § 345.22(a), evidence of discriminatory or other credit practices that violate an applicable law, rule, or regulation includes:

(i) Discrimination against applicants on a prohibited basis in violation, for example, of the Equal Credit Opportunity Act or the Fair Housing Act;

(ii) Violations of the Home Ownership and Equity Protection Act;

(iii) Violations of section 5 of the Federal Trade Commission Act;

(iv) Violations of section 8 of the Real Estate Settlement Procedures Act;

(v) Violations of the Truth in Lending Act provisions regarding a consumer's right of rescission;

(vi) Violations of section 1031 of the Dodd-Frank Wall Street Reform and Consumer Protection Act;

(vii) Violations of the Military Lending Act; and

(viii) Violations of the Servicemembers Civil Relief Act.

[Option A for Paragraph (c)(2)]

(2) The evidence of discriminatory and other illegal credit practices described in paragraph (c)(1) of this section must be a violation of a law, rule, or regulation cited in a public enforcement action taken by a Federal or State agency or judicial order to which a Federal or State agency is a party.

[Option B for Paragraph (c)(2)]

(2) The evidence of discriminatory and other illegal credit practices described in paragraph (c)(1) of this section must be a violation of a Federal or State law, rule, or regulation cited by a Federal or State agency or in a judicial order to which a Federal or State agency is a party. If the citation is confidential supervisory information, the agencies will not disclose such information in the public section of the CRA Performance Evaluation.

(3) In determining the effect of evidence of practices described in paragraph (c)(1) of this section on the bank's assigned ratings, the FDIC considers

(i) The policies and procedures that the bank (or affiliate, as applicable) has in place to prevent the practices;

(ii)Any corrective action that the bank (or affiliate, as applicable) has taken or has committed to take, including voluntary corrective action resulting from self-assessment; and

(iii) Any other relevant information.

§ 345.29 Effect of CRA performance on applications.

(a) *CRA performance.* Among other factors, the FDIC takes into account the record of performance under the CRA of each applicant bank in considering an application for approval of:

(1) The establishment of a domestic branch or other facility with the ability to accept deposits;

(2) The relocation of the main office or a branch;

(3) The merger, consolidation, acquisition of assets, or assumption of liabilities; and

(4) Deposit insurance for a newly chartered financial institution.

(b) *New financial institutions.* A newly chartered financial institution must submit with its application for deposit insurance a description of how it will meet its CRA objectives. The FDIC takes the description into account in considering the application and may deny or condition approval on that basis.

(c) *Interested parties.* The FDIC takes into account any views expressed by interested parties that are submitted in accordance with the applicable comment procedures in considering CRA performance in an application listed in paragraphs (a) and (b) of this section.

(d) *Denial or conditional approval of application.* A bank's record of performance may be the basis for denying or conditioning approval of an application listed in paragraph (a) of this section.

Subpart C—Records, Reporting, and Disclosure Requirements

§ 345.41 Assessment area delineation.

(a) *In general.* A bank must delineate one or more assessment areas within which the FDIC evaluates the bank's record of meeting the credit needs of its community. The FDIC does not evaluate the bank's delineation of its assessment area(s) as a separate performance criterion, but the FDIC reviews the delineation for compliance with the requirements of this section.

(b) *Geographic area(s) for wholesale or limited purpose banks.* The assessment area(s) for a wholesale or limited purpose bank must consist generally of one or more MSAs or metropolitan divisions (using the MSA or metropolitan division boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns, in which the bank has its main office or home office, as applicable; staffed, non-temporary branches that are available and accessible to the public; and deposit-taking RSFs that are available and accessible to the public.

(c) *Geographic area(s) for other banks.* The assessment area(s) for a bank other than a wholesale or limited purpose bank must:

(1) Consist generally of one or more MSAs or metropolitan divisions (using the MSA or metropolitan division boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns; and

(2) Include the census tracts in which the bank has its main office or home office, as applicable; staffed, non-temporary branches that are available and accessible to the public; deposit-taking RSFs; and the surrounding census tracts in which the bank has originated or purchased a substantial portion of its loans in its major product lines.

(d) *Adjustments to geographic area(s).* A bank may adjust the boundaries of its assessment area(s) to include only the portion of a political subdivision that it reasonably can be expected to serve. An adjustment is particularly appropriate in the case of an assessment area that otherwise would be extremely large, of unusual configuration, or divided by significant geographic barriers.

(e) *Limitations on the delineation of an assessment area.* Each bank's assessment area(s):

(1) Must consist only of whole census tracts;

(2) May not reflect illegal discrimination;

(3) May not arbitrarily exclude low- or moderate-income census tracts, taking into account the bank's size and financial condition; and

(4) May not extend substantially beyond an MSA boundary or beyond a State boundary unless the assessment area is located in a multistate MSA. If

a bank serves a geographic area that extends substantially beyond a State boundary, the bank must delineate separate assessment areas for the areas in each State. If a bank serves a geographic area that extends substantially beyond an MSA boundary, the bank must delineate separate assessment areas for the areas inside and outside the MSA.

(f) *Military banks.* Notwithstanding the requirements of this section, a military bank may delineate the entire United States and its territories as its sole assessment area.

(g) *Use of assessment area(s).* The FDIC uses the assessment area(s) delineated by a bank in its evaluation of the bank's CRA performance unless the FDIC determines that the assessment area(s) do not comply with the requirements of this section.

§ 345.42 Data collection, reporting, and disclosure.

(a) *Information required to be collected and maintained.* (1) A large bank must collect, and maintain in machine readable form (as prescribed by the FDIC) until the completion of its next CRA examination, the following data for each small business or small farm loan originated or purchased by the bank:

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(ii) The dollar amount at origination;

(iii) The loan location; and

(iv) An indicator whether the loan was to a business or farm with gross annual revenues of $1 million or less.

(2) A large bank must collect, and maintain in machine-readable form (as prescribed by the FDIC) for each calendar year until the completion of its next CRA examination, the following data for each community development loan originated or purchased or community development investment or community development grant made by the bank:

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan, investment or grant;

(ii) The name of the recipient;

(iii) The dollar amount of the loan, investment, or grant;

(iv) The address of the recipient;

(v) The community development activity location;

(vi) An indicator whether the loan or investment involves complexity;

(vii) An indicator of the loan, investment, or grant's community development purpose; and

(viii) An indicator whether the activity is a loan, investment or grant.

(3) A large bank must collect and maintain until the completion of its next CRA examination, the following data for each community development grant made by the bank:

(i) The recipient's written commitment to use the funds for specific projects, programs, or initiatives, in the bank's assessment area(s);

(ii) The recipient's written attestation that the recipient's indirect costs for administering the grant or donation will not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR part 200, or a comparable standard; and

(iii) Documentation provided by the recipient supporting the attestation under paragraph (a)(3)(ii) of this section, including IRS Form 990 (Return for Tax Exempt Organizations) with annual operating and program budgets.

(4) A large bank that has consumer lending as a major product line pursuant to § 345.21(g) must collect and maintain in machine-readable form (as prescribed by the FDIC) until the completion of its next CRA examination data, the following data for each consumer loan originated or purchased by the bank:

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(ii) The dollar amount at origination or purchase;

(iii) The loan location; and

(iv) The gross annual income of the borrower that the bank considered in making its credit decision.

(b) *Information required to be reported.* A large bank, must report annually by March 1 to the FDIC in machine readable form (as prescribed by the FDIC) the following data for the prior calendar year:

(1) *Small business and small farm loan data.* For each census tract in which the bank originated or purchased a small business or small farm loan, the aggregate number and dollar amount of loans:

(i) With a dollar amount at origination of $100,000 or less;

(ii) With a dollar amount at origination of more than $100,000 but less than or equal to $250,000;

(iii) With a dollar amount at origination of more than $250,000; and

(iv) To businesses and farms with gross annual revenues of $1 million or less (using the revenues that the bank considered in making its credit decision);

(2) *Community development data.* (i) The aggregate number and aggregate dollar amount of community development loans originated or purchased; and

(ii) For each community development grant the—

(A) Recipient of the grant;

(B) Recipient's street address; and

(C) Dollar amount of the grant.

(3) *Home mortgage loans.* If the bank is subject to reporting under part 1003 of this title, the location of each home mortgage loan application, origination, or purchase outside the MSAs in which the bank has a home or branch office (or outside any MSA) in accordance with the requirements of part 1003 of this title.

(c) *Other loan data.* At its option, a bank may provide other information concerning its lending performance, including additional loan distribution data.

(d) *Data on affiliate lending.* A bank that elects to have the FDIC consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, must collect, maintain, and report for those loans the data that the bank would have collected, maintained, and reported pursuant to paragraphs (a), (b), and (c) of this section had the loans been originated or purchased by the bank. For home mortgage loans, the bank must also be prepared to identify the home mortgage loans reported under part 1003 of this title by the affiliate.

(e) *Data on lending by a consortium or a third party.* A bank that elects to have the FDIC consider community development loans originated or purchased by a consortium or third party, for purposes of the lending or community development tests or an approved strategic plan, must report for those loans the data that the bank would have reported under paragraph (b)(2) of this section had the loans been originated or purchased by the bank.

(f) *Small banks and intermediate banks electing evaluation under the lending, investment, and service tests.* A bank that qualifies for evaluation under the small bank or intermediate bank performance standards but elects evaluation under the lending, investment, and service tests in §§ 345.22 through 345.24 must collect, maintain, and report the data required for other banks pursuant to paragraphs (a) and (b) of this section.

(g) *Assessment area data.* A large bank must collect and report to the FDIC by March 1 of each year a list for each assessment area showing the geographies within the area.

(h) *Determination to not require data based on specific circumstances.* Based on a bank's particular facts and circumstances, upon written request the FDIC may exempt a bank from one or more of the requirements to collect, maintain, or report data under paragraphs (a) through (f) of this section

if the FDIC determines that the data are not necessary for evaluating the bank's performance or more than minimally useful to the agencies' overall data collection.

(i) *CRA Disclosure Statement.* The FDIC prepares annually for each bank that reports data pursuant to this section a CRA Disclosure Statement that contains, on a State-by-State basis:

(1) For each county (and for each assessment area smaller than a county) with a population of 500,000 persons or fewer in which the bank reported a small business or small farm loan:

(i) The number and dollar amount of small business and small farm loans reported as originated or purchased located in low-, moderate-, middle-, and upper-income census tracts;

(ii) A list grouping each census tract according to whether the census tract is low-, moderate-, middle-, or upper-income;

(iii) A list showing each census tract in which the bank reported a small business or small farm loan; and

(iv) The number and dollar amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(2) For each county (and for each assessment area smaller than a county) with a population in excess of 500,000 persons in which the bank reported a small business or small farm loan:

(i) The number and dollar amount of small business and small farm loans reported as originated or purchased located in census tracts with median income relative to the area median income of less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(ii) A list grouping each census tract in the county or assessment area according to whether the median income in the census tract relative to the area median income is less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(iii) A list showing each census tract in which the bank reported a small business or small farm loan; and

(iv) The number and dollar amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(3) The number and dollar amount of small business and small farm loans located inside each assessment area reported by the bank and the number and dollar amount of small business and small farm loans located outside the assessment area(s) reported by the bank; and

(4) The number and dollar amount of community development loans reported as originated or purchased.

(j) *Aggregate disclosure statements.* The FDIC, in conjunction with the Board of Governors of the Federal Reserve System and the Office of the Comptroller of the Currency, prepares annually, for each MSA or metropolitan division (including an MSA or metropolitan division that crosses a State boundary) and the nonmetropolitan portion of each State, an aggregate disclosure statement of small business and small farm lending by all institutions subject to reporting under this part or parts 25, 195, or 228 of this title. These disclosure statements indicate, for each census tract, the number and dollar amount of all small business and small farm loans originated or purchased by reporting institutions, except that the FDIC may adjust the form of the disclosure if necessary, because of special circumstances, to protect the privacy of a borrower or the competitive position of an institution.

(k) *Central data depositories.* The FDIC makes the aggregate disclosure statements, described in paragraph (j) of this section, and the individual bank CRA Disclosure Statements, described in paragraph (i) of this section, available to the public at central data depositories. The FDIC publishes a list of the depositories at which the statements are available.

§ 345.43 Content and availability of public file.

(a) *Information available to the public.* A bank must maintain a public file that includes the following information:

(1) All written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the bank's performance in meeting community credit needs, and any response to the comments by the bank, if neither the comments nor the responses contain statements that reflect adversely on the character or integrity of any persons other than the bank or publication of which would violate specific provisions of law;

(2) A copy of the public section of the bank's most recent CRA Performance Evaluation prepared by the FDIC. The bank must include this copy in the public file within 60 business days after its receipt from the FDIC, unless the timing is otherwise extended by the FDIC;

(3) A list of the bank's branches, their street addresses, and census tracts;

(4) A list of branches opened or closed by the bank during the current year and each of the prior two calendar years, their street addresses, and census tracts;

(5) A list of services (including hours of operation, available credit products, and transaction fees) generally offered at the bank's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. At its option, a bank may include information regarding the availability of alternative systems for delivering retail banking services (*e.g.,* RSFs, RSFs not owned or operated by or exclusively for the bank, interactive teller machines, banking by telephone, internet, or mobile banking, loan production offices, and bank-at-work or bank-by-mail programs);

(6) A map of each assessment area showing the boundaries of the area and identifying the census tracts contained within the area, either on the map or in a separate list; and

(7) Any other information the bank chooses.

(b) *Additional information available to the public—*

(1) *Large banks.* A bank, except a small bank or intermediate bank or a bank that was a small bank or intermediate bank during the prior calendar year, must include in its public file the following information pertaining to the bank and its affiliates, if applicable, for each of the prior two calendar years:

(i) If the bank has consumer loans considered under the lending test as a major product line, for each category of its consumer loans, the number and dollar amount of loans:

(A) To low-, moderate-, middle-, and upper-income individuals;

(B) Located in low-, moderate-, middle-, and upper-income census tracts; and

(C) Located inside the bank's assessment area(s) and outside the bank's assessment area(s); and

(ii) The bank must include the statement in the public file within three

business days of its receipt from the FDIC. The bank must also indicate that the bank's CRA Disclosure Statement is available on the Federal Financial Institutions Examination Council's website.

(2) *Banks required to report Home Mortgage Disclosure Act (HMDA) data.* A bank required to report home mortgage loan data pursuant to part 1003 of this title must include in its public file a written notice that the institution's HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau's (Bureau's) website at *www.consumerfinance.gov/hmda.* In addition, a bank that elected to have the FDIC consider the mortgage lending of an affiliate must include in its public file the name of the affiliate and a written notice that the affiliate's HMDA Disclosure Statement may be obtained at the Bureau's website. The bank must include the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

(3) *Small banks and intermediate banks.* A small bank or an intermediate bank (or a bank that was a small bank or an intermediate bank during the prior calendar year) must include in its public file:

(i) The bank's loan-to-deposit ratio for each quarter of the prior calendar year and, at its option, additional data on its loan-to-deposit ratio; and

(ii) The information required for other banks by paragraph (b)(1) of this section, if the bank has elected to be evaluated under the lending, investment, and service tests.

(4) *Banks with strategic plans.* A bank that has been approved to be assessed under a strategic plan must include in its public file a copy of that plan. A bank need not include information submitted to the FDIC on a confidential basis in conjunction with the plan.

(5) *Banks with less than satisfactory ratings.* A bank that received a less than satisfactory rating during its most recent examination must include in its public file a description of its current efforts to improve its performance in meeting the credit needs of its entire community. The bank must update the description quarterly.

(c) *Location of public information.* A bank must make available to the public for inspection at no cost the information required in this section on the bank's website, or a website maintained on behalf of the bank.

(d) *Copies.* Upon request, a bank must provide copies, either on paper or in digital form acceptable to the person making the request, of the information in its public file. The bank may charge a reasonable fee not to exceed the cost of copying and mailing (if not provided in digital form).

(e) *Updating.* Except as otherwise provided in this section, a bank must ensure that the information required by this section is current as of April 1 of each year.

§ 345.44 Public notice by banks.

(a) *CRA notice.* A bank must provide on the bank's website, or a website maintained on behalf of the bank, the appropriate CRA notice set forth in appendix B to this part. As provided in paragraphs (b) and (c) of appendix B to this part and where indicated by the bracketed text, a bank must insert the

(1) Sentences in paragraph (b) of appendix B to this part, as applicable.

(2) Paragraph in paragraph (c) of appendix B to this part, if the bank has branches.

(b) *Public disclosure of the CRA notice.* In the public lobby of its main office or home office, as applicable, and each of its staffed, non-temporary branches that are available and accessible to the public, a bank must display a written notice, in printed or digital form, that provides that the institution's CRA notice may be viewed on the bank's website, or a website maintained on behalf of the bank.

§ 345.45 Publication of planned examination schedule.

The FDIC publishes at least 30 days in advance of the beginning of each calendar quarter a list of banks scheduled for CRA examinations in that quarter.

Appendix A to Part 345—Ratings

(a) *Ratings in general.*

(1) The FDIC evaluates a bank's performance and assigns a rating for each State and multistate MSA as provided in 12 U.S.C. 2906(d) and for the bank under the applicable performance tests or standards in this part, in accordance with §§ 345.21 and 345.28.

(2) A bank's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others. The bank's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as follows.

(b) *Banks evaluated under the lending, investment, and service tests—*

(1) *Lending performance rating.* The FDIC assigns each bank's lending performance one of the five following ratings based on its major product lines and community development loans, as applicable.

(i) Outstanding. The FDIC rates a bank's lending performance ''outstanding'' if, in general, it demonstrates:

(A) An excellent record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) A substantial majority of its loans in major product lines are made in its assessment area(s);

(C) An excellent geographic distribution of loans in major product lines in its assessment area(s);

(D) An excellent distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) Extensive use of responsive lending practices, including loans in major product lines and community development loans, in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It is a leader in making community development loans.

(ii) *High satisfactory.* The FDIC rates a bank's lending performance ''high satisfactory'' if, in general, it demonstrates:

(A) A good record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) A high percentage of its loans in major product lines are made in its assessment area(s);

(C) A good geographic distribution of loans in major product lines in its assessment area(s);

(D) A good distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) Use of responsive lending practices, including loans in major product lines and community development loans, in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It has made a relatively high level of community development loans.

(iii) *Low satisfactory.* The FDIC rates a bank's lending performance ''low satisfactory'' if, in general, it demonstrates:

(A) An adequate record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) An adequate percentage of its loans in major product lines are made in its assessment area(s);

(C) An adequate geographic distribution of loans in major product lines in its assessment area(s);

(D) An adequate distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) Limited use of responsive lending practices, including loans in major product lines and community development loans, in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It has made an adequate level of community development loans.

(iv) *Needs to improve.* The FDIC rates a bank's lending performance ''needs to improve'' if, in general, it demonstrates:

(A) A poor record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines, in its assessment area(s);

(B) A small percentage of its loans in major product lines are made in its assessment area(s);

(C) A poor geographic distribution of loans in major product lines, particularly to low- or moderate-income census tracts, in its assessment area(s);

(D) A poor distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) Little use of responsive lending practices, including loans in major product lines and community development loans in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It has made a low level of community development loans.

(v) *Substantial noncompliance.* The FDIC rates a bank's lending performance as being in ''substantial noncompliance'' if, in general, it demonstrates:

(A) A very poor record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) A very small percentage of its loans in major product lines are made in its assessment area(s);

(C) A very poor geographic distribution of loans in major product lines, particularly to low- or moderate-income census tracts, in its assessment area(s);

(D) A very poor distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) No use of responsive lending practices, including retail loans and community development loans, in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It has made few, if any, community development loans.

(2) *Investment performance rating.* The FDIC assigns each bank's investment performance one of the five following ratings.

(i) *Outstanding.* The FDIC rates a bank's investment performance ''outstanding'' if, in general, it demonstrates:

(A) An excellent level of community development investments or community development grants, often in a leadership position; and

(B) Excellent responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(ii) *High satisfactory.* The FDIC rates a bank's investment performance ''high satisfactory'' if, in general, it demonstrates:

(A) A significant level of community development investments or community development grants, occasionally in a leadership position; and

(B) Good responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(iii) *Low satisfactory.* The FDIC rates a bank's investment performance ''low satisfactory'' if, in general, it demonstrates:

(A) An adequate level of community development investments or community development grants, although rarely in a leadership position; and

(B) Adequate responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(iv) *Needs to improve.* The FDIC rates a bank's investment performance ''needs to improve'' if, in general, it demonstrates:

(A) A poor level of community development investments or community development grants; and

(B) Poor responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(v) *Substantial noncompliance.* The FDIC rates a bank's investment performance as being in ''substantial noncompliance'' if, in general, it demonstrates:

(A) Few, if any, community development investments or community development grants; and

(B) Very poor responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(3) *Service performance rating.* The FDIC assigns each bank's service performance one of the five following ratings.

(i) *Outstanding.* The FDIC rates a bank's service performance ''outstanding'' if, in general, the bank demonstrates:

(A) Its service delivery systems are readily accessible to census tracts and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- or moderate-income census tracts or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) are tailored to the convenience and needs of its assessment area(s), particularly low- or moderate-income census tracts or low- or moderate-income individuals;

(D) It is a leader in providing community development services; and

(E) Excellent responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(ii) *High satisfactory.* The FDIC rates a bank's service performance ''high satisfactory'' if, in general, the bank demonstrates:

(A) Its service delivery systems are accessible to census tracts and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income census tracts and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income census tracts and low- and moderate-income individuals;

(D) It provides a relatively high level of community development services; and

(E) Good responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(iii) *Low satisfactory.* The FDIC rates a bank's service performance ''low satisfactory'' if, in general, the bank demonstrates:

(A) Its service delivery systems are reasonably accessible to census tracts and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has generally not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income census tracts and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income census tracts and low- and moderate-income individuals;

(D) It provides an adequate level of community development services; and

(E) Adequate responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(iv) *Needs to improve.* The FDIC rates a bank's service performance ''needs to improve'' if, in general, the bank demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to portions of its assessment area(s), particularly to low- or moderate-income census tracts or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income census tracts or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that inconveniences its assessment area(s), particularly low- or moderate-income census tracts or low- or moderate-income individuals;

(D) It provides a limited level of community development services; and

(E) Poor responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(v) *Substantial noncompliance.* The FDIC rates a bank's service performance as being in ''substantial noncompliance'' if, in general, the bank demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to significant

portions of its assessment area(s), particularly to low- or moderate-income census tracts or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has significantly adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income census tracts or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that significantly inconveniences its assessment area(s), particularly low- or moderate-income census tracts or low- or moderate-income individuals;

(D) It provides few, if any, community development services; and

(E) Very poor responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(c) *Wholesale or limited purpose banks.* The FDIC assigns each wholesale or limited purpose bank's community development performance one of the four following ratings.

(1) *Outstanding.* The FDIC rates a wholesale or limited purpose bank's community development performance ''outstanding'' if, in general, it demonstrates:

(i) A high level of community development activities; and

(ii) Excellent responsiveness of community development activities to community credit needs in its assessment area(s).

(2) *Satisfactory.* The FDIC rates a wholesale or limited purpose bank's community development performance ''satisfactory'' if, in general, it demonstrates:

(i) An adequate level of community development activities; and

(ii) Adequate responsiveness of community development activities to community credit needs in its assessment area(s).

(3) *Needs to improve.* The FDIC rates a wholesale or limited purpose bank's community development performance as ''needs to improve'' if, in general, it demonstrates:

(i) A poor level of community development activities; and

(ii) Poor responsiveness of community development activities to community credit needs in its assessment area(s).

(4) *Substantial noncompliance.* The FDIC rates a wholesale or limited purpose bank's community development performance in ''substantial noncompliance'' if, in general, it demonstrates:

(i) Few, if any, community development activities; and

(ii) Very poor responsiveness of community development activities to community credit needs in its assessment area(s).

(d) *Banks evaluated under the performance standards for small banks and intermediate banks—*

(1) *Lending test ratings—*

(i) *Eligibility for a satisfactory lending test rating.* The FDIC rates a small bank's or intermediate bank's lending performance ''satisfactory'' if, in general, the bank demonstrates:

(A) A reasonable loan-to-deposit ratio (considering seasonal variations) given the bank's size, financial condition, the credit needs of its assessment area(s);

(B) A majority of its loans are in its assessment area(s);

(C) A reasonable distribution of loans to individuals of different income levels (including low- and moderate-income individuals) and businesses and farms of different sizes given the demographics of the bank's assessment area(s); and

(D) A reasonable geographic distribution of loans given the bank's assessment area(s).

(ii) *Eligibility for an ''outstanding'' lending test rating.* A small bank or intermediate bank that meets each of the standards for a ''satisfactory'' rating under this paragraph and exceeds some or all of those standards may warrant consideration for a lending test rating of ''outstanding.''

(iii) *Needs to improve or substantial noncompliance ratings.* A small bank or intermediate bank may also receive a lending test rating of ''needs to improve'' or ''substantial noncompliance'' depending on the degree to which its performance has failed to meet the standard for a ''satisfactory'' rating.

(2) *Community development test ratings for intermediate banks—*

(i) *Eligibility for a satisfactory community development test rating.* The FDIC rates an intermediate bank's community development performance ''satisfactory'' if the bank demonstrates adequate responsiveness to the community development needs of its assessment area(s) through community development activities. The adequacy of the bank's response will depend on its capacity for such community development activities, its assessment area's need for such community development activities, and the availability of such opportunities for community development in the bank's assessment area(s).

(ii) *Eligibility for an outstanding community development test rating.* The FDIC rates an intermediate bank's community development performance ''outstanding'' if the bank demonstrates excellent responsiveness to community development needs in its assessment area(s) through community development activities, as appropriate, considering the bank's capacity and the need and availability of such opportunities for community development in the bank's assessment area(s).

(iii) *Needs to improve or substantial noncompliance ratings.* An intermediate bank may also receive a community development test rating of ''needs to improve'' or ''substantial noncompliance'' depending on the degree to which its performance has failed to meet the standards for a ''satisfactory'' rating.

(3) *Overall rating—*

(i) *Eligibility for a satisfactory overall rating.* No intermediate bank may receive an assigned overall rating of ''satisfactory'' or better unless it receives a rating of at least ''satisfactory'' on the lending test.

(ii) *Eligibility for an outstanding overall rating.*

(A) An intermediate bank that receives an ''outstanding'' rating on one test and at least ''satisfactory'' on the other test may receive an assigned overall rating of ''outstanding.''

(B) A small bank that meets each of the standards for a ''satisfactory'' rating under the lending test and exceeds some or all of those standards may warrant consideration for an overall rating of ''outstanding.'' In assessing whether a bank's performance is ''outstanding,'' the FDIC considers the extent to which the bank exceeds each of the performance standards for a ''satisfactory'' rating; its performance in conducting community development activities; and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s).

(iii) *Needs to improve or substantial noncompliance overall ratings.* A small bank or an intermediate bank may also receive a rating of ''needs to improve'' or ''substantial noncompliance'' depending on the degree to which its performance has failed to meet the standards for a ''satisfactory'' rating.

(e) *Strategic plan assessment and rating—*

(1) *Satisfactory goals.* The FDIC approves as ''satisfactory'' measurable goals that adequately meet the credit needs of the bank's assessment area(s).

(2) *Outstanding measurable goals.* If the plan identifies a separate group of measurable goals that substantially exceed the levels approved as ''satisfactory,'' the FDIC will approve those goals as ''outstanding.''

(3) *Rating.* (i) The FDIC assesses the performance of a bank operating under an approved strategic plan to determine if the bank has met its plan goals:

(A) If the bank substantially achieves its plan goals for a satisfactory rating, the FDIC will rate the bank's performance under the plan as ''satisfactory.''

(B) If the bank exceeds its plan goals for a ''satisfactory'' rating and substantially achieves its plan goals for an outstanding rating, the FDIC will rate the bank's performance under the plan as ''outstanding.''

(C) If the bank fails to meet substantially its plan goals for a ''satisfactory'' rating, the FDIC will evaluate the bank's performance, as provided in § 345.27(k).

Appendix B to Part 345—CRA Notice

(a) *Notice for a bank's website or website maintained on behalf of a bank.*

Community Reinvestment Act Notice

Under the Federal Community Reinvestment Act (CRA), the Federal Deposit Insurance Corporation (FDIC) evaluates our record of meeting the credit needs of our communities consistent with safe and sound operations. The FDIC also takes this record into account when deciding on certain applications submitted by us.

Your Involvement Is Encouraged

You are entitled to certain information about our operations and our performance under the CRA, including, for example, information about our branches, such as their location and services provided at them; the public section of our most recent CRA Performance Evaluation, prepared by the FDIC; and comments received from the public relating to our performance in meeting community credit needs, as well as our

responses to those comments. You may review this information on this website.

[Insert paragraph in paragraph (c) of Appendix B to this part, as appropriate] If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

At least 30 days before the beginning of each quarter, the FDIC publishes a nationwide list of the banks that are scheduled for CRA examination in that quarter. This list is available from the Regional Director, FDIC at [website address]. You may contact us for information about how you can send comments about our performance in meeting community credit needs. Additionally, you may send comments electronically through the FDIC's website at *www.fdic.gov/regulations/cra.* Your comments, together with any response by us, will be considered by the FDIC in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the FDIC Regional Director. You may also request from the FDIC Regional Director an announcement of our applications covered by the CRA filed with the FDIC. [Insert sentence(s) in paragraph (b) of appendix B to this part, as appropriate]

(b) *Insured State nonmember bank that is an affiliate of a holding company—Last sentences of the notice.*

(1) *An insured State nonmember bank that is an affiliate of a holding company must include the first sentence in brackets in its notice. An insured State nonmember bank must include the second sentence in brackets only if it is an affiliate of a holding company that is not prevented by statute from acquiring additional banks*

[We are an affiliate of [name of holding company], a bank holding company. You may request from the [title of responsible official], Federal Reserve Bank of [____][address] an announcement of applications covered by the CRA filed by bank holding companies.]

(c) *Notice for banks with branch offices. For banks with one or more branch offices the CRA notice provided on the bank's website or a website maintained on the bank's behalf must include the following sections, as applicable, in the section of the notice titled* ''*Your Involvement is Encouraged*''

You may review today the public section of our most recent CRA evaluation, prepared by the FDIC, and a list of services provided at our branch[es]. You also have access to the following additional information on this website: (1) A map showing the assessment area[s] containing our branch[es], which are the area[s] in which the FDIC evaluates our CRA performance in [this community][our communities]; (2) information about our branches in [this assessment area][our assessment areas]; (3) a list of services we provide at those locations; (4) data on our lending performance in [this assessment area][our assessment areas]; and (5) copies of all written comments received by us that specifically relate to our CRA performance in [this assessment area][each of our assessment areas], and any responses we have made to those comments.

Appendix C—Methodologies

(a) *Calculating product line share of retail lending by dollar volume and loan count.*

The agencies are adopting a methodology for determining each retail product line's share of total retail lending using a combination of dollar volume and loan count. Each retail lending product line's share is calculated as the average of: (1) its share calculated using loans measured in dollar volume; and (2) its share calculated using loans measured in number of loans.

For example—

A bank's retail lending in an assessment area includes the following:

150 home mortgage loans, with a total dollar volume of $25 million,
175 small business loans, with a total dollar volume of $18 million, and
45 small farm loans, with a total dollar volume of $10 million.

Calculation 1

The share of the bank's retail lending in the assessment in the home mortgage lending loan product area using dollar volume would be calculated as follows:

$25 million (from home mortgage loans), divided by the sum of
$25 million (from home mortgage loans), $18 million (from small business loans) and $10 million (from small farm loans).
$25 million divided by ($25 million + $18 million + $10 million) =
$25 million divided by $53 million =
0.472, which can be stated as 47.2 percent.

The bank's home mortgage lending constitutes 47.2 percent of its retail lending in the assessment area, calculated by dollar volume.

Calculation 2

The share of the bank's retail lending in the assessment in the home mortgage lending loan product area using loan count would be calculated as follows:

150 loans (from home mortgage loans), divided by the sum of
150 loans (from home mortgage loans), 175 loans (from small business loans) and
45 loans (from small farm loans).
150 loans divided by (150 loans + 175 loans + 45 loans) =
150 divided by 370 =
0.405, which can be stated as 40.5 percent.

The bank's home mortgage lending constitutes 40.5 percent of its retail lending in the assessment area, calculated by loan count.

To determine the bank's home mortgage lending loan product's share of retail lending in the assessment area using a combination of dollar volume and loan count, we calculate the average of the results from calculation (1) and calculation (2):

(0.472 + 0.405)/2 =
0.877/2 =
0.439, which can be stated as 43.9 percent.

The bank's home mortgage lending loan product's share of retail lending in the assessment area, calculated using a combination of dollar volume and loan count, is 43.9 percent.

(b) *Calculation of the distribution of a bank's deposits in each of its assessment areas.*

This calculation uses the dollar volume of deposits the bank reports in the Summary of Deposits data in each of its branches, which are aggregated to calculate the dollar volume of deposits the bank reports in each of its assessment areas.[293] A bank that has only one assessment area will have 100 percent of its deposits assigned to that one assessment area. For a bank with multiple assessment areas, the calculation will proceed as follows:

A bank has a total of $4 billion in deposits reported the Summary of Deposits, allocated across 10 branches, which are distributed across three assessment areas:

Assessment area 1:
Branch A: $2 billion in deposits
Branch B: $350 million in deposits
Branch C: $230 million in deposits
Assessment area 2:
Branch D: $200 million in deposits
Branch E: $250 million in deposits
Branch F: $200 million in deposits
Branch G: $200 million in deposits
Assessment area 3:
Branch H: $220 million in deposits
Branch I: $200 million in deposits
Branch J: $150 million in deposits

The total dollar volume of the bank's deposits associated with each assessment area will be the sum of the dollar volume of the bank's deposits assigned in the Summary of Deposits data to the branches in each of its assessment areas, which, using the example above, would be calculated as follows:

Assessment area 1:
$2 billion + $350 million + $230 million = $2.580 billion
Assessment area 2:
$200 million + $250 million + $200 million + $200 million = $850 million
Assessment area 3:
$220 million + $200 million + $150 million = $570 million

The percentage of the bank's deposits allocated to each assessment area would be calculated as follows:

Assessment Area 1:
$2.580 billion/$4 billion = 0.645 or 64.5 percent
Assessment Area 2:
$850 million/$4 billion = 0.213 or 21.3 percent
Assessment Area 3:
$570 million/$4 billion = 0.143 or 14.3 percent

PART 346—DISCLOSURE AND REPORTING OF CRA-RELATED AGREEMENTS

■ 13. The authority citation for part 346 continues to read as follows:

Authority: 12 U.S.C. 1831y.

§ 346.4 [Amended]

■ 14. Amend § 346.4 by:

[293] The Summary of Deposits data is updated annually and published by the FDIC at *https://banks.data.fdic.gov/bankfind-suite/SOD/branchOffice.*

■ a. In paragraph (a)(2)(i), removing ''§ 345.22 of appendix G to 12 CFR Part 345'' and adding in its place ''§ 345.22 of this chapter''.

■ b. In paragraph (a)(2)(ii), removing ''§ 345.23 of appendix G to 12 CFR Part 345'' and adding in its place ''§ 345.23 of this chapter''.

■ c. In paragraph (a)(2)(iii), removing ''§ 345.24(d) of appendix G to 12 CFR Part 345'' and adding in its place ''§ 345.24(c) of this chapter''.

■ d. In paragraph (a)(2)(iv), removing ''§ 345.24(e) of appendix G to 12 CFR Part 345'' and adding in its place ''§ 345.24(d) of this chapter''.

■ e. In paragraph (a)(2)(v), removing ''§ 345.25(c) of appendix G to 12 CFR Part 345'' and adding in its place ''§ 345.25(c) of this chapter''.

■ f. In paragraph (a)(2)(vi), removing ''§ 345.26(a) of appendix G to 12 CFR Part 345'' and adding in its place ''§ 345.26(a) of this chapter''.

■ g. In paragraph (a)(2)(vii), removing ''§ 345.27(f) of appendix G to 12 CFR Part 345'' and adding in its place ''§ 345.27 of this chapter''.

§ 346.6 [Amended]

■ 15. Amend § 346.6(b)(7) by removing ''§ 345.43 of appendix G to 12 CFR Part 345'' and adding in its place ''§ 345.43 of this chapter''.

§ 346.11 [Amended]

■ 16. Amend § 346.11(d) by removing ''§ 345.43 of appendix G to 12 CFR Part 345'' and adding in its place ''§ 345.43 of this chapter''.

Jonathan V. Gould,

Comptroller of the Currency.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on July 31, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026–16454 Filed 8–11–26; 8:45 am]

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