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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 535 and 752

[Docket ID: OPM–2026–0232]

RIN 3206–AP02

Critical Position Pay Authority

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is amending its regulations governing the critical position pay (CPP) authority to establish level I of the Executive Schedule as the default maximum critical pay rate, with higher rates subject to written approval by the Director of OPM. The final rule eliminates non-statutory caps and approval criteria; addresses the use of service agreements; clarifies that reductions or terminations of CPP are not adverse actions or subject to grievance or appeal rights; and clarifies the treatment of critical pay rates as basic pay. This final rule simplifies and better aligns OPM's regulations with governing law and delegated authority.

DATES: *Effective date:* This regulation is effective August 26, 2026. OPM is waiving the 30-day delayed effective date under 5 U.S.C. 553(d)(1), as this rule relieves restrictions that are not required by statute.

FOR FURTHER INFORMATION CONTACT: Kristen Foy by telephone at (202) 606–2858 or by email at *paypolicy@opm.gov*.

SUPPLEMENTARY INFORMATION: On April 24, 2026, OPM issued a proposed rule (91 FR 22070) to amend the CPP regulations under 5 CFR part 535 and adverse action regulations at 5 CFR part 752. The proposed rule had a 30-day comment period ending May 26, 2026. OPM received one substantive comment and is adopting the proposed rule without change.

Background

Section 5377 of title 5, United States Code, authorizes CPP as a pay-setting flexibility for positions requiring expertise of an extremely high level in a scientific, technical, professional, or administrative field and that are critical to an agency's successful accomplishment of an important mission. Under this authority, OPM, in consultation with the Office of Management and Budget (OMB), may grant authority to the head of an agency to fix the rate of basic pay for one or more positions designated as critical positions. By law, critical pay may be granted or exercised only to the extent necessary to recruit or retain an individual exceptionally well qualified for the position. The critical pay rate fixed by an agency may not be less than the rate of basic pay (including any locality-based comparability payments) which would otherwise be payable for the position. OPM, in consultation with OMB, may approve critical pay authority for no more than 800 positions at any time, of which not more than 30 may be under the Executive Schedule.

Consistent with this statute, 5 CFR part 535 establishes the regulatory framework governing the request, use, and administration of the CPP authority. Section 535.103 describes the circumstances under which an agency head may exercise CPP authority and sets the limitations on pay rates that may be established. Under prior regulations, 5 CFR 535.103(a) provided that, subject to approval by OPM in consultation with OMB, an agency head may set the rate of basic pay for a critical position up to the following limits: the rate payable for level II of the Executive Schedule (EX–II) in most cases, the rate payable for EX–I when there are ''exceptional circumstances,'' or above the rate for EX–I in ''rare circumstances'' and only with the written approval of the President.

Section 535.104 establishes the process and documentation required for an agency to request use of the CPP authority. Under the law, an agency may request CPP only to the extent necessary to fill a position with an exceptionally well-qualified individual.

History

The current CPP authority under 5 U.S.C. 5377 was enacted as part of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), which allowed OMB to authorize use of the authority in consultation with OPM. The most significant amendment to this statute was made by the Federal Workforce Flexibility Act of 2004 (Pub. L. 108–411) to switch the original roles of OMB and OPM by placing OPM in charge of decisions to approve agency requests after consulting with OMB. The law was also amended to authorize OPM to regulate the CPP authority in place of OMB. *See* 5 U.S.C. 5377(e)(1).

Under 5 U.S.C. 5377, the President holds two functions. Under paragraph (d)(2), the President must provide written approval to fix basic pay at a rate greater than the rate payable for level I of the Executive Schedule. Under paragraph (i)(2), at the request of an agency head, the President may designate 1 or more categories of positions within that agency to be treated as positions eligible to receive CPP.

Under 3 U.S.C. 301, the President may delegate certain functions to other officials within the executive branch. In 2006, the President expressly delegated his authorities under 5 U.S.C. 5377 to the Director of OPM in Executive Order (E.O.) 13415 (71 FR 70641). OPM issued final regulations at 5 CFR part 535 governing the critical pay authority on August 26, 2008 (73 FR 50181) that addressed OPM's authority under 5 U.S.C. 5377(i)(2) (dealing with expanding the categories of positions for which the critical pay authority may be used), as delegated by the E.O. See 5 CFR 535.104(b). However, OPM did not implement its delegated authority with regard to setting critical pay rates above the rate for EX–I under 5 U.S.C. 5377(d)(2), making the prior regulations inconsistent with the delegation framework established by E.O. 13415.

Amendments to the Critical Position Pay and Adverse Actions Regulations

This final rule amends OPM's regulations governing the CPP authority under 5 CFR part 535 and related adverse action regulations under 5 CFR part 752. The amendments align OPM's regulations with the governing statute at 5 U.S.C. 5377 and the President's delegation of authority under E.O. 13415, while simplifying administration of the CPP authority and removing certain non-statutory requirements.

This rule revises 5 CFR 535.103 and 535.104 to remove the requirement for

case-by-case Presidential approval of critical pay rates above EX–I. E.O. 13415 delegates to the Director of OPM the President's authority under 5 U.S.C. 5377(d)(2) to provide written approval of such rates. Approval authority for rates above EX–I therefore resides with the Director of OPM, who provides that written approval in consultation with OMB, and without the need for separate Presidential approval.

This rule also removes the ''rare circumstances'' and ''exceptional circumstances'' criteria from 5 CFR 535.103 through 535.105. These criteria were created by regulation, were not defined in regulation, and were not required by statute. In practice, they were difficult to apply and served as an artificial barrier to appropriate use of the authority. The statutory eligibility criteria under 5 U.S.C. 5377(b) continue to limit use of the authority to positions critical to an agency's mission and only to the extent necessary to recruit or retain an exceptionally well-qualified individual. Under the revised regulations, EX–I serves as the default maximum rate, and rates above EX–I require written approval by the Director of OPM based on objective, evidence-based justification.

This rule also removes the requirement in § 535.104(b) that agencies submit requests covering multiple positions in priority order, and revises (a) to clarify that the agency head has sole and exclusive discretion in determining whether and how to use the CPP authority.

This rule amends 5 CFR 535.106 to clarify that a critical pay rate is not considered a rate of basic pay for purposes of the General Schedule (GS) pay administration rules in 5 CFR part 531, subpart B. New paragraph (c) preserves the existing exception in § 531.221(a)(4), under which a critical pay rate may be treated as a non-GS rate of basic pay in applying the GS maximum payable rate rule. This allows an agency to set pay for an employee in a GS position at a step rate (not to exceed step 10 of the grade) based on a former critical pay rate when doing so produces a higher payable rate than the normal GS pay-setting rules.

This rule adds new paragraph (e) to 5 CFR 535.103 authorizing agencies to require employees to sign written service agreements governing future payments of CPP. OPM may also require an agency to establish a service agreement as a condition of approving critical pay authority and may specify the matters such an agreement must address.

New paragraph (f) to 5 CFR 535.103 clarifies that an employee has no right to grieve or appeal a decision to reduce, not increase, or terminate a CPP rate, although nothing in this paragraph limits any right or remedy provided by another applicable law. This rule also amends 5 CFR part 752 by adding § 752.401(b)(18) to clarify that a reduction or termination of a CPP rate is not an adverse action under chapter 75 when the employee was informed that the rate is approved on a time-limited basis, subject to annual review and reapproval, and may be reduced or terminated if no longer needed. This exclusion reflects that CPP is a discretionary, time-limited pay-setting framework under 5 U.S.C. 5377, rather than a disciplinary ''reduction in pay'' that triggers chapter 75 procedures and Merit Systems Protection Board appeal rights. It uses the same ''notice and limited duration'' approach already employed elsewhere in part 752 (see, *e.g.,* § 752.401(b)(12) (termination of temporary or term promotions)). This amendment is also consistent with 5 U.S.C. 5377(e), which authorizes OPM to prescribe the terms and conditions under which CPP authority is exercised and terminated.

The provisions of this rule are severable. The amendments address distinct aspects of the administration of the CPP authority and are designed to operate independently consistent with 5 U.S.C. 5377. If any provision is held invalid or unenforceable, the remaining provisions are intended to remain in effect. For example, if a court were to find the service agreement provisions in § 535.103(e) to be invalid or unenforceable, agencies could continue to apply the revised pay-setting and approval framework under §§ 535.103(a), 535.104, and 535.105 without impact. Conversely, if a court were to find the pay-setting and approval framework under §§ 535.103(a), 535.104, and 535.105 to be invalid or unenforceable, agencies could continue to apply the service agreement provisions in § 535.103(e) without impact.

Comments Received on the Proposed Rule

Commenter 0002 expressed general support for aligning the CPP regulations with the delegation framework established by E.O. 13415. The commenter noted that transferring approval authority for pay rates above the rate for level I of the Executive Schedule from the President to the Director of OPM would reduce processing time and administrative burden for agencies. The commenter also acknowledged that removing the ''rare circumstances'' threshold would likely increase the volume of agency requests and make the CPP authority a more competitive tool relative to other pay flexibilities. The commenter cautioned that increased utilization could cause agencies to approach the statutory cap of 800 critical pay positions more quickly and urged OPM and OMB to maintain rigorous oversight to ensure approvals remain limited to truly critical, high-impact roles.

OPM agrees with the commenter's general assessment. Consolidating approval authority through OPM, in consultation with OMB, and removing the ''rare circumstances'' and ''exceptional circumstances'' criteria are expected to reduce administrative burden, make the authority more accessible to agencies with mission-critical staffing needs, and make critical pay a more competitive compensation tool. OPM acknowledges the concern that these changes may result in an increased number of requests and approvals that reach the 800-position limit in statute more quickly without proper oversight. OPM is not changing the regulations in response to the commenter's cautions. Several existing requirements and factors will constrain utilization and promote oversight: the requirement that critical pay requests be approved by OPM, in consultation with OMB under 5 U.S.C. 5377(c); the statutory requirement that critical pay be used only to the extent necessary to recruit or retain an exceptionally well-qualified individual under 5 U.S.C. 5377(b); and the requirement for objective market-based justification and the written approval of the Director of OPM for all rates above EX–I. In addition, OPM will continue to monitor utilization through its annual report to Congress under 5 U.S.C. 5377(h) and 5 CFR 535.107.

Regulatory Impact Analysis

Statement of Need

OPM is issuing this final rule pursuant to 5 U.S.C. 5377 and E.O. 13415. The purpose of amending these regulations is to align them with existing authority delegated to the Director of OPM.

Impact

Under the CPP authority, not more than 800 positions may be covered Governmentwide at any one time, and not more than 30 active authorizations may be for positions otherwise paid rates of pay under the Executive Schedule. In 2025, OPM continued to authorize CPP for 65 positions in 15 agencies. However, only 9 of those agencies reported using the CPP

authority during 2025 for 25 total incumbents.

On May 29, 2026, the President issued a memorandum titled ''Approving Critical Position Pay Authority for National Security Investment Workforce,'' authorizing the use of CPP for up to 400 positions supporting investment programs related to national security and authorizing OPM, in consultation with OMB, to approve agency requests at rates of basic pay of up to $400,000, consistent with market comparability and national security urgency. See *https://www.whitehouse.gov/presidential-actions/2026/05/approving-critical-position-pay-authority-for-national-security-investment-workforce/.* These 400 positions are subject to the 800-position Governmentwide statutory cap under 5 U.S.C. 5377(f). OPM, in consultation with OMB, will allocate the positions to executive departments and agencies and oversee their use to ensure CPP is used only to the extent required to recruit or retain exceptionally well-qualified individuals consistent with 5 U.S.C. 5377(b).

Considering the combined effect of existing authorizations, the May 29, 2026, Presidential memorandum, and the changes made by this final rule, OPM anticipates an increase in use of the CPP authority compared to historical levels. However, given the statutory cap of 800 positions Governmentwide and the targeted nature of approved positions, OPM does not anticipate that this final rule will substantially impact local economies or have a large impact on local labor markets.

Costs

OPM expects that the amendments in this final rule may result in some increase in the use of the CPP authority, including approval for certain positions at rates above the rate for level I of the Executive Schedule (EX–I). Removing the requirement for case-by-case Presidential approval and eliminating the ''rare circumstances'' and ''exceptional circumstances'' criteria reduce administrative barriers and make the authority more accessible to agencies.

In the proposed rule, OPM presented an illustrative cost estimate based on the statutory cap of 800 authorized positions Governmentwide, assuming up to one-half could be approved above EX–I at an average increase of $50,000 to $100,000 per position. The May 29, 2026, Presidential memorandum described in the Impact section above now represents the most significant driver of utilization above EX–I and provides a more defined basis for estimating cost impacts. OPM has therefore updated its estimate to reflect the parameters established by that memorandum.

OPM has developed an estimated cost range based on assumptions about how many of the 400 authorized positions will be filled. Each position filled at the $400,000 maximum rate would carry an incremental cost above EX–I of approximately $146,900 annually. On that basis, OPM estimates aggregate incremental costs ranging from approximately $44.1 million annually as a lower bound (if 300 authorized positions are filled) to approximately $58.8 million annually as an upper bound (if all 400 positions are filled). Actual costs will depend on agency-specific decisions, including the number of positions ultimately filled and the rates at which they are set, and may fall outside this range. Average pay rates below the $400,000 ceiling would result in lower aggregate costs than the range presented.

The regulatory changes in this rule may also facilitate above-EX–I approvals outside the scope of the May 29, 2026, Presidential memorandum. OPM expects any incremental cost beyond the estimate above to be modest. Several factors are expected to constrain overall cost impact: the 800-position statutory cap, the OPM approval requirement in consultation with OMB, budgetary constraints, and the statutory ''necessary to recruit or retain'' standard under 5 U.S.C. 5377(b).

Benefits

This final rule eliminates non-statutory procedural constraints, improves the timely use of CPP authority for mission-essential roles, and reduces administrative burden and approval delays. OPM will continue to monitor appropriate use of authorized critical pay positions through its annual report to Congress requirement under 5 U.S.C. 5377(h) and 5 CFR 535.107.

Effective Date

OPM is waiving the 30-day delayed effective date of this final rule pursuant to 5 U.S.C. 553(d)(1), as this rule relieves restrictions that are not required by statute. Prompt implementation of the final rule will assist agencies in filling critical skills gaps and meeting recruitment and retention needs essential to supporting agency missions. See, *e.g.,* ''Building the AI Workforce of the Future,'' Dec. 15, 2025, available at *https://www.opm.gov/chcoc/latest-memos/building-the-ai-workforce-of-the-future.pdf;* ''Human Resources Flexibilities for Recruiting and Retaining Information Technology, Cyber, Artificial Intelligence, and Other Technical Employees,'' Dec. 17, 2025, available at *https://www.opm.gov/chcoc/latest-memos/human-resources-flexibilities-for-recruiting-and-retaining-information-technology-cyber-artificial-intelligence-and-other-technical-employees.pdf;* and ''Approving Critical Position Pay Authority for National Security Investment Workforce,'' May 29, 2026, available at *https://www.whitehouse.gov/presidential-actions/2026/05/approving-critical-position-pay-authority-for-national-security-investment-workforce/.*

Regulatory Compliance

Regulatory Review

OPM has examined the impact of this rule as required by E.O.s 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for rules that 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. This rulemaking does not reach that threshold but has otherwise been designated as a ''significant regulatory action'' under section 3(f) of E.O. 12866. This rule is not considered a regulatory action under E.O. 14192 because it imposes no more than de minimis costs.

Regulatory Flexibility Act

The Director of OPM certifies that this rule would not have a significant economic impact on a substantial number of small entities as it would only impact Federal agencies and employees.

Federalism

OPM has examined this rule in accordance with E.O. 13132, Federalism, and has determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or Tribal governments.

Civil Justice Reform

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

Unfunded Mandates Reform Act of 1995

This rulemaking will not 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 year in 1995 dollars, updated annually for inflation. That threshold is currently approximately $206 million. This rulemaking will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as the Congressional Review Act or CRA) (5 U.S.C. 801 *et seq.*) requires most final rules to be submitted to Congress before taking effect. OPM will submit to Congress and the Comptroller General of the United States a report regarding the issuance of this rule before its effective date. The Office of Information and Regulatory Affairs in the Office of Management and Budget has determined that this rule is not a major rule as defined by the CRA (5 U.S.C. 804).

Paperwork Reduction Act

This rulemaking does not impose any reporting or record-keeping requirements subject to the Paperwork Reduction Act.

List of Subjects

5 CFR Part 535

Administrative practice and procedure, Freedom of information, Government employees, Law enforcement officers, Reporting and recordkeeping requirements, Wages.

5 CFR Part 752

Administrative practice and procedure, Government employees.

Signing Statement

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

Office of Personnel Management.

Jerson Matias,

Federal Register Liaison.

Accordingly, OPM amends 5 CFR parts 535 and 752 as follows:

PART 535—CRITICAL POSITION PAY AUTHORITY

■ 1. The authority citation for part 535 is revised to read as follows:

Authority: 5 U.S.C. 5377. E.O. 13415, 71 FR 70641, 3 CFR, 2006 Comp., p. 250.

■ 2. In § 535.103, revise paragraph (a) and add paragraphs (e) and (f) to read as follows:

§ 535.103 Authority.

(a) Subject to a grant of authority from OPM in consultation with OMB and all other requirements in this part, the head of an agency may, in his or her sole and exclusive discretion, fix the rate of basic pay for a critical position at a rate not less than the rate of basic pay that would otherwise be payable for the position and not greater than—

(1) The rate payable for level I of the Executive Schedule; or

(2) A rate in excess of the rate for level I of the Executive Schedule based on information and data that justify the higher rate, with the written approval of the Director of OPM.

* * * * *

(e) An agency may require an employee to sign a written service agreement with the agency that governs future payments of critical position pay. As part of a determination to grant (or not withdraw) an agency authority to provide a position or positions with critical position pay, OPM may require the agency to establish written service agreement or notice requirements for employees receiving critical pay. OPM may specify the matters such a service agreement or notice must address such as the position the employee will hold and the duties the employee is expected to perform; the level of performance and accomplishments expected; and the factors that an agency must consider in determining whether to continue, increase, reduce, or terminate the employee's critical position pay rate.

(f) An employee has no right to grieve or appeal a decision to reduce, not increase, or terminate a critical position pay rate. Nothing in this paragraph limits any right or remedy provided by another applicable law.

■ 3. In § 535.104:

■ a. Amend paragraph (b) by removing the second sentence; and

■ b. Revise paragraphs (c) and (d).

The revisions read as follows:

§ 535.104 Requests for and granting critical position pay authority.

* * * * *

(c) Requests for critical position pay authority must include information and data required by OPM to justify the higher pay, including, as appropriate, market-based justification, evidence of recruitment and retention needs, and the qualifications of the individual. The head of an agency must submit such requests to OPM with the information required in paragraph (d) of this section. If OPM, in consultation with OMB, concurs with a request to set pay above the rate payable for level I of the Executive Schedule, the Director of OPM must provide written approval and may establish a maximum limitation on the critical position pay rate.

(d) Requests for critical position pay authority must include:

(1) Position title;

(2) Position appointment authority (for Senior Executive Service positions, appointment authority for any incumbent);

(3) Pay plan and grade/level;

(4) Occupational series of the position;

(5) Geographic location of the position;

(6) Current salary of the position or incumbent;

(7) Name of incumbent (or ''Vacant'');

(8) Length of time the incumbent has been in the position or length of time the position has been vacant;

(9) A written evaluation of the need to designate the position as critical. Such an evaluation must include—

(i) The kinds of work required by the position and the context within which it operates;

(ii) The range of positions and qualification requirements that characterize the occupational field, including those that require extremely high levels of expertise;

(iii) The rates of pay reasonably and generally required in the public and private sectors for similar positions; and

(iv) The availability of individuals who possess the qualifications to do the work required by the position;

(10) Any additional information the agency may deem appropriate to demonstrate that higher pay is needed to recruit or retain an employee for a critical position;

(11) Unless the position is an Executive Schedule position, a copy of the position description for the critical position; and

(12) The desired rate of basic pay for requests to set pay above the rate for level I of the Executive Schedule and justification, including, as appropriate, market-based justification, evidence of recruitment and retention needs, and qualifications of the individual to show that such a rate is necessary to recruit and retain an individual exceptionally well-qualified for the critical position.

■ 4. In § 535.105, revise paragraphs (b) and (c) to read as follows:

§ 535.105 Setting and adjusting rates of basic pay.

* * * * *

(b) If critical position pay authority is granted for a position, the head of an

agency may initially set pay at an amount up to the rate payable for level I of the Executive Schedule or other maximum rate below level I of the Executive Schedule that is approved by OPM in consultation with OMB. A rate in excess of the rate payable for level I of the Executive Schedule may be established only with the written approval of the Director of OPM under § 535.104(c).

(c) The head of an agency may make subsequent adjustments in the rate of basic pay for a critical position each January at the same time general pay adjustments are authorized for Executive Schedule employees under 5 U.S.C. 5318. Such adjusted rates may not exceed the new rate payable for level I of the Executive Schedule or other maximum rate approved for the critical position under § 535.104(c). However, the employee must have at least a rating of Fully Successful or equivalent, and subsequent adjustments must be based on labor market factors, recruitment and retention needs, and individual accomplishments and contributions to the agency's mission. Any adjustment in the rate of basic pay under this paragraph is also subject to service agreement and notice requirements established under § 535.103(e), if applicable.

* * * * *

■ 5. Amend § 535.106 by:

■ a. Removing the word ''or'' at the end of paragraph (a);

■ b. Removing the period at the end of paragraph (b) and adding ''; or'' in its place; and

■ c. Adding paragraph (c).

The addition reads as follows:

§ 535.106 Treatment as rate of basic pay.

* * * * *

(c) Application of the General Schedule (GS) pay administration rules in 5 CFR part 531, subpart B; however, a critical position pay rate is treated as a non-GS rate of basic pay in applying the maximum payable rate rule in §§ 531.221 through 531.223 of this chapter, as provided in § 531.221(a)(4).

PART 752—ADVERSE ACTIONS

■ 6. The authority citation for part 752 continues to read as follows:

Authority: 5 U.S.C. 6329b, 7504, 7514, 7515, and 7543; 38 U.S.C. 7403. E.O. 10577, 19 FR 7521, 3 CFR, 1954–1958 Comp., p. 218.

■ 7. In § 752.401, add paragraph (b)(18) to read as follows:

§ 752.401 Coverage.

* * * * *

(b) * * *

(18) Action by the agency or OPM that reduces or terminates a critical position pay rate under 5 U.S.C. 5377, if the agency informed the employee that the rate is approved on a time-limited basis, subject to annual review and reapproval, and may be reduced or terminated by the agency or OPM if determined to no longer be needed. (See also §§ 535.106 and 535.107 of this chapter.)

* * * * *

[FR Doc. 2026–17442 Filed 8–25–26; 8:45 am]

BILLING CODE 6325–39–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2026–2806]

RIN 3150–AL72

List of Approved Spent Fuel Storage Casks: TN Americas, LLC Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel, Certificate of Compliance No. 1004, Renewed Amendment No. 19

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the TN Americas, LLC Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 19 to Certificate of Compliance (CoC) No. 1004. Amendment No. 19 revises the certificate of compliance to provide for a 61BTH improved basket design using staggered plates similar the 24PTH Type 3 basket approved in CoC 1004 Amendment 18 and similar to the EOS 37PTH and 89BTH baskets approved in CoC 1042. This will simplify construction, reduce weight and improve fabricability. Additional changes are proposed to address editorial corrections, consistency, and terminology clarifications. The NRC is referring to this amendment as ''Renewed Amendment No. 19'' because it was submitted after the renewal of the TN Americas, LLC Standardized NUHOMS Horizontal Modular Storage System for Irradiated Nuclear Fuel Certificate of Compliance No. 1004 and, therefore, subject to the Aging Management Program requirements of the renewed certificate.

DATES: This direct final rule is effective November 9, 2026, unless significant adverse comments are received by September 25, 2026. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Comments received on this direct final rule will also be considered to be comments on a companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID NRC–2026–2806, at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments are public records; they are publicly displayed exactly as received, and will not be deleted, modified, or redacted. Comments may be submitted anonymously.

Follow the search instructions on *https://www.regulations.gov* to view public comments.

You can read a plain language description of this direct final rule at *https://www.regulations.gov/docket/NRC-2026-2806.* 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: Heath Stroud, Office of Nuclear Material Safety and Safeguards, telephone: 301–287–3664, email: *Heath.Stroud@nrc.gov;* and Tim Mossman, Office of Nuclear Material Safety and Safeguards, telephone: 301–287–9100, email: *Timothy.Mossman@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–2806 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–2026–2806. Address questions about NRC dockets to Helen Chang, telephone: 301–415–3228, email: *Helen.Chang@nrc.gov*. For technical questions contact the individuals 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, Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2026–2806 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

This rule is limited to the changes contained in Amendment No. 19 to Certificate of Compliance No. 1004 and does not include other aspects of the TN Americas, LLC Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel system design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing certificate of compliance that is expected to be non-controversial. Adequate protection of public health and safety continues to be reasonably assured. The amendment to the rule will become effective on November 9, 2026. However, if the NRC receives any significant adverse comment on this direct final rule by September 25, 2026, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register** or as otherwise appropriate. In general, absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule, certificate of compliance, or technical specifications.

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that ''[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the Nuclear Waste Policy Act states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule that added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on December 22, 1994 (59 FR 65898) that approved the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No.1004.

IV. Discussion of Changes

On November 5, 2024, and as supplemented on February 20, 2025, and August 26, 2025, TN Americas, LLC submitted a request to the NRC to amend Certificate of Compliance No. 1004 for the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel. Renewed Amendment No. 19 revises the certificate and technical specifications to provide a 61BTH basket design using staggered plates similar to the 24PTH Type 3 basket to simplify construction, reduce weight, and improve fabricability; and to provide editorial corrections, consistency and terminology clarifications for Updated Final Safety Analysis Report Technical Specifications, Appendix A, B, and C.

As documented in the preliminary safety evaluation report, the NRC performed a safety evaluation of the proposed certificate of compliance amendment request. The NRC determined that this amendment does not reflect a significant change in design or fabrication of the cask. Specifically, the NRC determined that the design of the cask would continue to maintain confinement, shielding, and criticality control in the event of each evaluated accident condition. In addition, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 19 would remain well within the limits specified by 10 CFR part 20, ''Standards for Protection Against Radiation.'' Thus, the NRC found there will be no significant change in the types or amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents.

The NRC staff determined that the amended Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel cask design, when used under the conditions specified in the certificate of compliance, the technical specifications, and the NRC's regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be reasonably assured. When this direct final rule becomes effective, persons who hold a general license under § 72.210 may, consistent with the license conditions under § 72.212, load spent nuclear fuel into Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel casks that meet the criteria of Amendment No. 19 to Certificate of Compliance No. 1004.

V. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC revises the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel Cask System design listed in § 72.214, ''List of approved spent fuel storage casks.'' This action does not constitute the establishment of a standard that contains generally applicable requirements.

VI. Agreement State Compatibility

Under the ''Agreement State Program Policy Statement'' approved by the Commission on October 2, 2017, and published in the **Federal Register** on October 18, 2017 (82 FR 48535), this rule is classified as Compatibility Category NRC—Areas of Exclusive NRC Regulatory Authority. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of 10 CFR chapter I. Therefore, compatibility is not required for program elements in this category.

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885).

VIII. Environmental Assessment and Finding of No Significant Impact

Under the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' the NRC has determined that this direct final rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental assessment or environmental impact statement is not required (per 10 CFR 51.22(a)(12)). The NRC has made a finding of no significant impact on this basis.

A. The Action

The action is to amend § 72.214 to revise the TN Americas, LLC Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 19 to Certificate of Compliance No. 1004.

B. The Need for the Action

This direct final rule amends the certificate of compliance for the TN Americas, LLC Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel design within the list of approved spent fuel storage casks to allow power reactor licensees to store spent fuel at reactor sites in casks with the approved modifications under a general license. Specifically, Amendment No. 19 revises the certificate of compliance as described in Section IV, ''Discussion of Changes,'' of this document, for the use of the Standardized NUHOMS® Horizontal Modular Storage System.

C. Environmental Impacts of the Action

On July 18,1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was analyzed in the environmental assessment for the 1990 final rule. The environmental assessment for this Amendment No. 19 tiers off of the environmental assessment for the July 18, 1990, final rule. Tiering on past environmental assessments is a standard process under the National Environmental Policy Act of 1969, as amended.

The TN Americas, LLC Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel is designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an independent spent fuel storage installation, the type of facility at which a holder of a power reactor operating license would store spent fuel in casks in accordance with 10 CFR part 72, can include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fire, explosions, and other incidents.

This amendment does not reflect a significant change in design or

fabrication of the cask. Because there are no significant design or process changes, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 19 would remain well within the 10 CFR part 20 limits. The NRC has also determined that the design of the cask as modified by this rule would maintain confinement, shielding, and criticality control in the event of an accident. Therefore, the proposed changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposures, and no significant increase in the potential for, or consequences from, radiological accidents. The NRC documented its safety findings in the preliminary safety evaluation report.

D. Alternative to the Action

The alternative to this action is to deny approval of Amendment No. 19 and not issue the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into The TN Americas, LLC Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel in accordance with the changes described in proposed Amendment No. 19 would have to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, interested licensees would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee. The environmental impacts would be the same as the proposed action.

E. Alternative Use of Resources

Approval of Amendment No. 19 to Certificate of Compliance No. 1004 would result in no irreversible and irretrievable commitments of Federal resources.

F. Agencies and Persons Contacted

No agencies or persons outside the NRC were contacted in connection with the preparation of this environmental assessment.

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements in the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.'' Based on the foregoing environmental assessment, the NRC concludes that this direct final rule, ''List of Approved Spent Fuel Storage Casks: TN Americas LLC, Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel, Certificate of Compliance No. 1004, Renewed Amendment No. 19,'' will not have a significant effect on the human environment. Therefore, the NRC has determined that an environmental impact statement is not necessary for this direct final rule.

IX. Regulatory Planning and Review

Executive Order (E.O.) 12866, as amended by E.O. 14215, provides that the Office of Information and Regulatory Affairs (OIRA) will determine whether a regulatory action is significant as defined by E.O. 12866 and will review significant regulatory actions. OIRA determined that this direct final rule is not a significant regulatory action under E.O. 12866.

X. Paperwork Reduction Act Statement

This direct final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information were approved by the Office of Management and Budget, approval number 3150–0132.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget control number.

XI. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this direct final rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only nuclear power plant licensees and TN Americas LLC. These entities do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (§ 2.810).

XII. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if (1) it notifies the NRC in advance; (2) the spent fuel is stored under the conditions specified in the cask's certificate of compliance; and (3) the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On December 22, 1994 (59 FR 65898), the NRC issued an amendment to 10 CFR part 72 that approved Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel by adding it to the list of NRC-approved cask designs in § 72.214.

On November 5, 2024, and as supplemented on February 20, 2025, and August 26, 2025, TN Americas, LLC submitted a request to amend Certificate of Compliance No. 1004 for the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel as described in Section IV, ''Discussion of Changes,'' of this document.

The alternative to this action is to withhold approval of Renewed Amendment No. 19 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into the TN Americas, LLC Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel under the changes described in Renewed Amendment No. 19 to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

Approval of this direct final rule is consistent with previous NRC actions. Further, as documented in the preliminary safety evaluation report and environmental assessment, this direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of this direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other

available alternative is believed to be as satisfactory; therefore, this action is recommended.

XIII. Backfitting and Issue Finality

The NRC has determined that the backfit rule (§ 72.62) does not apply to this direct final rule. Therefore, a backfit analysis is not required. This direct final rule revises Certificate of Compliance No. 1004 for the TN Americas, LLC Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel, as currently listed in § 72.214. The revision consists of the changes in Amendment No. 19 previously described, as set forth in the revised certificate of compliance and technical specifications.

Amendment No. 19 to Certificate of Compliance No. 1004 for the TN Americas, LLC Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel was initiated by TN Americas, LLC and was not submitted in response to new NRC requirements, or an NRC request for amendment. Amendment No. 19 applies only to new casks fabricated and used under Amendment No. 19. These changes do not affect existing users of the TN Americas, LLC Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel, and the current Amendment No. 18 continues to be effective for existing users. While current users of this storage system may comply with the new requirements in Amendment No. 19, this would be a voluntary decision on the part of current users.

For these reasons, Amendment No. 19 to Certificate of Compliance No. 1004 does not constitute backfitting under § 72.62 or § 50.109(a)(1), or otherwise represent an inconsistency with the issue finality provisions applicable to combined licenses in 10 CFR part 52. Accordingly, the NRC has not prepared a backfit analysis for this rulemaking.

XIV. Congressional Review Act

This direct final rule is not a rule as defined in the Congressional Review Act.

XV. Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

Document	ADAMS Accession No./ web link/ **Federal Register** citation
Proposed NUHOMS 1004 Amendment No. 19 Certificate of Compliance	ML26103A253
Proposed NUHOMS 1004 Amendment No. 19 Technical Specification Appendix A	ML26103A254
Proposed NUHOMS 1004 Amendment No. 19 Technical Specification Appendix B Table of Contents	ML26103A255
Proposed NUHOMS 1004 Amendment No. 19 Technical Specification Appendix B Text	ML26103A256
Proposed NUHOMS 1004 Amendment No. 19 Technical Specification Appendix B Tables	ML26103A257
Proposed NUHOMS 1004 Amendment No. 19 Technical Specification Appendix B Figures	ML26103A258
Proposed NUHOMS 1004 Amendment No. 19 Technical Specification Appendix C	ML26103A259
Proposed NUHOMS 1004 Amendment No. 19 Safety Evaluation Report	ML26103A252
Environmental Assessment for Proposed Rule Entitled, ''Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites.'' (1989).	ML051230231
''Environmental Assessment and Finding of No Significant Impact for the Final Rule Amending 10 CFR Part 72 License and Certificate of Compliance Terms'' (2010).	ML100710441
Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel: Final Report (NUREG–2157, Volumes 1 and 2) (2014).	ML14198A440 (package).
Application for Amendment 19 to Standardized NUHOMS® Certificate of Compliance No. 1004 for Spent Fuel Storage Casks, Revision 0 (Docket No. 72–1004), November 5, 2024.	ML24310A095 (package).
Response to Request for Supplemental Information—Application for Amendment 19 to Standardized NUHOMS® Certificate of Compliance No. 1004 for Spent Fuel Storage Casks, Revision 1 (Docket No. 72–1004, CAC No. 001028, EPID: L–2024–LLA–0142), February 20, 2025.	ML25051A273
Response to Request for Additional Information—Application for Amendment 19 to Standardized NUHOMS® Certificate of Compliance No. 1004 for Spent Fuel Storage Casks, Revision 3 (Docket No. 72–1004, CAC No. 001028, EPID: L–2024–LLA–0142), August 26, 2025.	ML25238A033
Plain Language in Government Writing, dated June 10, 1998	63 FR 31885
Storage of Spent Fuel In NRC-Approved Storage Casks at Power Reactor Sites: Final Rule, dated July 18, 1990	55 FR 29181
List of Approved Spent Fuel Storage Casks: TN Americas LLC, NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel, Certificate of Compliance No. 1004: Direct Final Rule, dated December 22, 1994.	59 FR 65898

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2026–2806. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder (NRC–2026–2806); (2) click the ''Subscribe'' link; and (3) enter an email address and click on the ''Subscribe'' link.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851);

National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, Certificate of Compliance No. 1004 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1004.

Initial Certificate Effective Date: January 23, 1995, superseded by Initial Certificate, Revision 1, on April 25, 2017, superseded by Renewed Initial Certificate, Revision 1, on December 11, 2017.

Renewed Initial Certificate, Revision 1, Effective Date: December 11, 2017.

Amendment Number 1 Effective Date: April 27, 2000, superseded by Amendment Number 1, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 1, Revision 1, on December 11, 2017.

Renewed Amendment Number 1, Revision 1, Effective Date: December 11, 2017.

Amendment Number 2 Effective Date: September 5, 2000, superseded by Amendment Number 2, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 2, Revision 1, on December 11, 2017.

Renewed Amendment Number 2, Revision 1, Effective Date: December 11, 2017.

Amendment Number 3 Effective Date: September 12, 2001, superseded by Amendment Number 3, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 3, Revision 1, on December 11, 2017.

Renewed Amendment Number 3, Revision 1, Effective Date: December 11, 2017.

Amendment Number 4 Effective Date: February 12, 2002, superseded by Amendment Number 4, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 4, Revision 1, on December 11, 2017.

Renewed Amendment Number 4, Revision 1, Effective Date: December 11, 2017.

Amendment Number 5 Effective Date: January 7, 2004, superseded by Amendment Number 5, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 5, Revision 1, on December 11, 2017.

Renewed Amendment Number 5, Revision 1, Effective Date: December 11, 2017.

Amendment Number 6 Effective Date: December 22, 2003, superseded by Amendment Number 6, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 6, Revision 1, on December 11, 2017.

Renewed Amendment Number 6, Revision 1, Effective Date: December 11, 2017.

Amendment Number 7 Effective Date: March 2, 2004, superseded by Amendment Number 7, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 7, Revision 1, on December 11, 2017.

Renewed Amendment Number 7, Revision 1, Effective Date: December 11, 2017.

Amendment Number 8 Effective Date: December 5, 2005, superseded by Amendment Number 8, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 8, Revision 1, on December 11, 2017.

Renewed Amendment Number 8, Revision 1, Effective Date: December 11, 2017.

Amendment Number 9 Effective Date: April 17, 2007, superseded by Amendment Number 9, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 9, Revision 1, on December 11, 2017.

Renewed Amendment Number 9, Revision 1, Effective Date: December 11, 2017.

Amendment Number 10 Effective Date: August 24, 2009, superseded by Amendment Number 10, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 10, Revision 1, on December 11, 2017.

Renewed Amendment Number 10, Revision 1, Effective Date: December 11, 2017.

Amendment Number 11 Effective Date: January 7, 2014, superseded by Amendment Number 11, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 11, Revision 1, on December 11, 2017.

Renewed Amendment Number 11, Revision 1, Effective Date: December 11, 2017, as corrected (ADAMS Accession No. ML18018A043).

Amendment Number 12 Effective Date: Amendment not issued by the NRC.

Amendment Number 13 Effective Date: May 24, 2014, superseded by Amendment Number 13, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 13, Revision 1, on December 11, 2017.

Renewed Amendment Number 13, Revision 1, Effective Date: December 11, 2017, as corrected (ADAMS Accession No. ML18018A100).

Amendment Number 14 Effective Date: April 25, 2017, superseded by Renewed Amendment Number 14, on December 11, 2017.

Renewed Amendment Number 14 Effective Date: December 11, 2017.

Renewed Amendment Number 15 Effective Date: January 22, 2019.

Renewed Amendment Number 16 Effective Date: September 14, 2020.

Renewed Amendment Number 17 Effective Date: June 7, 2021.

Renewed Amendment Number 18 Effective Date: December 18, 2023.

Renewed Amendment Number 19 Effective Date: November 9, 2026.

Safety Analysis Report (SAR) Submitted by: TN Americas LLC.

SAR Title: Final Safety Analysis Report for the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel.

Docket Number: 72–1004.

Certificate Expiration Date: January 23, 2015.

Renewed Certificate Expiration Date: January 23, 2055.

Model Number: NUHOMS®–24P, –24PHB, –24PTH, –32PT, –32PTH1, –37PTH, –52B, –61BT, –61BTH, and –69BTH.

* * * * *

Dated: August 14, 2026

For the Nuclear Regulatory Commission.

Michael King,

Executive Director for Operations.

[FR Doc. 2026–17445 Filed 8–25–26; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Part 800

[DOE–HQ–2025–0014]

RIN 1903–AA23

Rescinding Regulations for Loans for Minority Business Enterprises Seeking DOE Contracts and Assistance

AGENCY: Office of Civil Rights and EEO, Department of Energy.

ACTION: Direct final rule; further delay of effective date.

SUMMARY: The U.S. Department of Energy (DOE) is further extending the effective date of the direct final rule ''Rescinding Regulations for Loans for Minority Business Enterprises Seeking DOE Contracts and Assistance,'' published on May 16, 2025.

DATES: As of August 26, 2026, the effective date of the direct final rule published May 16, 2025, at 90 FR 20769, delayed until September 12, 2025 (90 FR 31137), further delayed until December 9, 2025 (90 FR 43539), again delayed until March 9, 2026 (90

FR 56967) and then June 4, 2026 (91 FR 10954), and then delayed until September 1, 2026 (91 FR 33069) is further delayed until December 24, 2026.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Zarate, U.S. Department of Energy, Office of Equal Employment Opportunity, MA–1.3, 1000 Independence Avenue SW, Washington, DC 20585; (202) 586–2218 or email to: *civilrights@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On May 16, 2025, DOE published a direct final rule. 90 FR 20769. DOE stated in that direct final rule that if significant adverse comments were received by June 16, 2025, DOE would withdraw the direct final rule. *Id.* On July 14, 2025, DOE published a document delaying the effective date to consider comments submitted in response to the direct final rule. 90 FR 31137.

In this document, DOE is further extending the effective date in order to follow the Department of Justice direction on the topic of the direct final rule under Executive Order 14281, ''Restoring Equality of Opportunity and Meritocracy'' and Executive Order 12250, ''Leadership and Coordination of Nondiscrimination Laws.'' 90 FR 17537 (April 28, 2025); 45 FR 72995 (Nov. 4, 1980).

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A) and for which no notice or hearing is required by statute. Additionally, this action is not a ''substantive rule'' for which a 30-day delay in effective date is required under 5 U.S.C. 553(d).

Signing Authority

This document of the Department of Energy was signed on August 24, 2026, by Chris Wright, 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 24, 2026.

Treena V. Garrett,

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

[FR Doc. 2026–17381 Filed 8–25–26; 8:45 am]

BILLING CODE 6450–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 621

RIN 3052–AD63

Loan Performance Categories and Financial Reporting

AGENCY: Farm Credit Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Farm Credit Administration (FCA, we, or our) amends our regulatory high-risk loan performance categories by removing ''Formally restructured loans (TDR),'' also known as troubled debt restructurings. In 2022, changes in generally accepted accounting principles (GAAP) eliminated the accounting guidance for TDRs, enhanced disclosure requirements for certain loan refinancings and restructurings undertaken when a borrower is experiencing financial difficulty and changed existing vintage year disclosure requirements for public business entities. This final rule removes TDRs from our regulatory loan performance categories to reflect changes in GAAP. Because FCA regulations require Farm Credit System (System) institutions to prepare financial statements and reports in accordance with GAAP, retaining TDRs as a regulatory loan performance category is no longer consistent with current accounting standards. In addition to making conforming technical changes, the rule also makes minor technical and organizational revisions to ensure internal consistency within the regulation. In addition, FCA determined that no regulatory amendments are necessary to implement GAAP's enhanced disclosure requirements for loan modifications to borrowers experiencing financial difficulty or for amended vintage year disclosures, as existing FCA regulations already require GAAP-compliant financial reporting.

DATES: The final rule was published on July 24, 2026 (91 FR 46703) and is confirmed as August 24, 2026.

FOR FURTHER INFORMATION CONTACT:

Technical information: Darius Hale, Senior Policy Analyst, Office of Regulatory Policy, (703) 883–4165, TTY (703) 883–4056, *haled@fca.gov.*

Legal information: Jennifer Cohn, Assistant General Counsel, Office of General Counsel, (703) 883–4020, TTY (703) 883–4056, *cohnj@fca.gov.*

SUPPLEMENTARY INFORMATION: On July 24, 2026, FCA issued a final rule amending FCA's regulatory high-risk loan performance categories by removing ''Formally restructured loans (TDR),'' also known as troubled debt restructurings. In accordance with 12 U.S.C. 2252(c)(1), the final rule provided the regulation would become effective 30 days after publication in the **Federal Register** during which either or both houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulation is August 24, 2026.

Ashley Waldron,

Secretary to the Board, Farm Credit Administration.

[FR Doc. 2026–17440 Filed 8–25–26; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

RIN 3084–AA98

16 CFR Part 310

Telemarketing Sales Rule Fees

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''Commission'') is amending its Telemarketing Sales Rule (''TSR'') by updating the fees charged to entities accessing the National Do Not Call Registry (''Registry'') as required by the Do-Not-Call Registry Fee Extension Act of 2007.

DATES: The revised fees will become effective October 1, 2026.

ADDRESSES: Copies of this document are available on the internet at the Commission's website: *https://www.ftc.gov.*

FOR FURTHER INFORMATION CONTACT: Ami Joy Dziekan, (202) 326–2648, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: To comply with the Do-Not-Call Registry Fee Extension Act of 2007 (Pub. L. 110–188, 122 Stat. 635, codified at 15 U.S.C. 6152) (''Act''), the Commission is amending the TSR, which is contained in 16 CFR part 310, by updating the fees entities are charged for accessing the Registry. Specifically, the revised rule increases (1) the annual fee for access to

the Registry for each area code of data from $82 to $85 per area code, and (2) the maximum amount that will be charged to any single entity for accessing area codes of data from $22,626 to $23,425. Entities may add area codes during the second six months of their annual subscription period, and the fee for those additional area codes increases from $41 to $43.

These increases are in accordance with the Act, which specifies that beginning after fiscal year 2009, the dollar amounts charged shall be increased by an amount equal to the amounts specified in the Act, multiplied by the percentage (if any) by which the average of the monthly consumer price index (for all urban consumers published by the Department of Labor) (''CPI'') for the most recently ended 12-month period ending on June 30 exceeds the CPI for the 12-month period ending June 30, 2008. The Act also states that any increase shall be rounded to the nearest dollar and that there shall be no increase in the dollar amounts if the change in the CPI since the last fee increase is less than one percent. For fiscal year 2009, the Act specified that the original annual fee for access to the Registry for each area code of data was $54 per area code, or $27 per area code of data during the second six months of an entity's annual subscription period, and that the maximum amount that would be charged to any single entity for accessing area codes of data would be $14,850.

The determination of whether a fee change is required and the amount of the fee changes involves a two-step process. First, to determine whether a fee change is required, we measure the change in the CPI from the time of the previous increase in fees. There was an increase in the fees for fiscal year 2026. Accordingly, we calculated the change in the CPI since last year, and the increase was 3.5 percent. Because this change is over the one percent threshold, the fees will change for fiscal year 2027.

Second, to determine how much the fees should increase this fiscal year, we use the calculation specified by the Act set forth above: the percentage change in the baseline CPI applied to the original fees for fiscal year 2009. The average value of the CPI for July 1, 2007, to June 30, 2008, was 211.702; the average value for July 1, 2025, to June 30, 2026, was 333.952, an increase of 57.75 percent. Applying the 57.75 percent increase to the base amount from fiscal year 2009, leads to a $85 fee for access to a single area code of data for a full year for fiscal year 2027, an increase of $3 from last year. The actual amount is $85.18 but when rounded, pursuant to the Act, $85 is the appropriate fee. The fee for accessing an additional area code for a half year increases by two dollars to $43 (rounded from $42.59). The maximum amount charged increases to $23,425 (rounded from $23,425.32).

Administrative Procedure Act; Regulatory Flexibility Act; Paperwork Reduction Act

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. The fee adjustments set forth in this final rule are mandated by the Do-Not-Call Registry Fee Extension Act of 2007. Accordingly, the amendments to the TSR are merely technical in nature, making notice and comment unnecessary and contrary to the public interest. *See* 5 U.S.C. 553(b). For this reason, the requirements of the Regulatory Flexibility Act also do not apply. *See* 5 U.S.C. 603, 604.

Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501–3521, the Office of Management and Budget (''OMB'') approved the information collection requirements in the TSR and assigned the following existing OMB Control Number: 3084–0169. The amendments outlined in this final rule pertain only to the fee provision (§ 310.8) of the TSR and will not establish or alter any record keeping, reporting, or third-party disclosure requirements elsewhere in the TSR.

List of Subjects in 16 CFR Part 310

Advertising, Consumer protection, Reporting and recordkeeping requirements, Telephone, Trade practices.

Accordingly, the Federal Trade Commission amends part 310 of title 16 of the Code of Federal Regulations as follows:

PART 310–TELEMARKETING SALES RULE

■ 1. The authority citation for part 310 continues to read as follows:

Authority: 15 U.S.C. 6101–6108.

§ 310.8 [Amended]

■ 2. Amend § 310.8 by:
■ a. In paragraph (c):
■ i. Removing ''$82'' and adding ''$85'' in its place; and
■ ii. Removing ''$22,626'' and adding ''$23,425'' in its place;
■ b. In paragraph (d):
■ i. Removing ''$82'' and adding ''$85'' in its place; and
■ ii. Removing ''$41'' and adding ''$43'' in its place.

By direction of the Commission.

Joel Christie,

Acting Secretary.

[FR Doc. 2026–17428 Filed 8–25–26; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–1644]

Schedules of Controlled Substances: Temporary Placement of Mitragynine Pseudoindoxyl, MGM–15, and MGM–16 in Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Temporary amendment; temporary scheduling order.

SUMMARY: The Drug Enforcement Administration (DEA) is issuing this temporary order to schedule three 7-hydroxymitragynine-related substances (mitragynine pseudoindoxyl, MGM–15, and MGM–16), including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible, in schedule I of the Controlled Substances Act. DEA bases this action on a finding that placing mitragynine pseudoindoxyl, MGM–15, and MGM–16 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 these three 7-hydroxymitragynine-related substances.

DATES: This temporary order is effective August 26, 2026, until August 26, 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: 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 three 7-hydroxymitragynine-related substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible, to schedule I under the Controlled Substances Act (CSA):

- Methyl (*E*)-2-((1′*S*,6′*S*,7′S)-6′-ethyl-4-methoxy-3-oxo-3′,5′,6′,7′,8′,8*a*′-hexahydro-2′*H*-spiro[indoline-2,1′-indolizine]-7′-yl)-3-methoxyacrylate (commonly known as mitragynine pseudoindoxyl). Since nomenclature of this substance is not internationally standardized, compounds of this structure, regardless of numerical designation of atomic positions are covered.
- Methyl (*E*)-2-((2*S*,3*S*,7a*S*,12a*R*,12b*S*)-3-ethyl-7*a*-hydroxy-8-methoxy-1,2,3,4,6,7,7*a*,12,12*a*,12*b*-decahydroindolo[2,3-*a*]quinolizin-2-yl)-3-methoxyacrylate (commonly known as MGM–15; also known as dihydro-7-hydroxymitragynine). Since nomenclature of this substance is not internationally standardized, compounds of this structure, regardless of numerical designation of atomic positions are covered.
- Methyl (*E*)-2-((2*S*,3*S*,7a*S*,12a*R*,12b*S*)-3-ethyl-9-fluoro-7*a*-hydroxy-8-methoxy-1,2,3,4,6,7,7*a*,12,12*a*,12*b*-decahydroindolo[2,3-*a*]quinolizin-2-yl)-3-methoxyacrylate (commonly known as MGM–16; also known as 9-fluoro-dihydro-7-hydroxymitragynine; or 10-fluoro-dihydro-7-hydroxymitragynine (depending on numbering convention). Since nomenclature of this substance is not internationally standardized, compounds of this structure, regardless of numerical designation of atomic positions are covered.

Legal Authority

The CSA provides the Attorney General with the authority to temporarily place a substance in schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b), if he finds that such action is necessary to avoid an imminent hazard to 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] The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of DEA (Administrator).[5]

Background

The CSA requires the Administrator to notify the Secretary of the Department 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).[6] By letter dated December 15, 2025, the Administrator transmitted the required notice to place mitragynine pseudoindoxyl, MGM–15, and MGM–16 in schedule I on a temporary basis to the Assistant Secretary for Health of HHS (Assistant Secretary).[7] By letter dated January 20, 2026, the Assistant Secretary responded to this notice and advised that, based on a review by the Food and Drug Administration (FDA), there were currently no investigational new drug applications (IND) or approved new drug applications (NDA) for mitragynine pseudoindoxyl, MGM–15, and MGM–16. The Assistant Secretary also stated that HHS had no objection to the temporary placement of these substances in schedule I of the CSA.

DEA has taken into consideration the Assistant Secretary's comments as required by 21 U.S.C. 811(h)(4). DEA has found the control of mitragynine pseudoindoxyl, MGM–15, and MGM–16 in schedule I on a temporary basis is necessary to avoid an imminent hazard to public safety.

As required by 21 U.S.C. 811(h)(1)(A), DEA published a notice of intent (NOI) to temporarily schedule mitragynine pseudoindoxyl, MGM–15, and MGM–16 in the **Federal Register** on July 6, 2026.[8] That NOI discussed findings from DEA's three-factor analysis dated May 2026, which DEA made available on *www.regulations.gov.*

To find that temporarily placing a substance in schedule I of the CSA is necessary to avoid an imminent hazard to 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 public health.[9] Consideration of these factors includes any information indicating actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution of mitragynine pseudoindoxyl, MGM–15, and MGM–16.[10]

Substances meeting the statutory requirements for temporary scheduling may only be placed in schedule I.[11] Substances in schedule I have high potential for abuse, no currently accepted medical use in treatment in the United States,[12] and a lack of accepted

[1] Though DEA has used the term ''final order'' with respect to temporary scheduling orders in the past, this notice of intent 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] 28 CFR 0.100.

[6] 21 U.S.C. 811(h)(4).

[7] 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).

[8] *Schedules of Controlled Substances: Temporary Placement of mitragynine pseudoindoxyl, MGM–15, and MGM–16 in Schedule I,* 91 *FR* 40909 (July 6, 2026).

[9] 21 U.S.C. 811(c)(4)–(6), (h)(3).

[10] 21 U.S.C. 811(h)(3).

[11] 21 U.S.C. 811(h)(1).

[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 mitragynine pseudoindoxyl, MGM–15, and MGM–16 have 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. *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. Since 2023, HHS has generally applied its own 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

Continued

safety for use under medical supervision.[13]

Three 7-Hydroxymitragynine-Related Substances: Mitragynine Pseudoindoxyl, MGM–15, and MGM–16

The prevalence and misuse of *Mitragyna speciosa* (commonly known as kratom) and its psychoactive alkaloids, including mitragynine and 7-hydroxymitragynine, have led to the proliferation of commercial products containing opioids chemically synthesized from mitragynine or 7-hydroxymitragynine. In recent years, mitragynine pseudoindoxyl, which is a chemical rearrangement product of 7-hydroxymitragynine, and MGM–15, which is a derivative of 7-hydroxymitragynine, have recently emerged on the *Mitragyna speciosa* consumer markets. MGM–16 is a highly potent opioid and shares a similar pharmacological profile with mitragynine pseudoindoxyl and MGM–15. The chemical scaffolds of mitragynine or 7-hydroxymitragynine were used in scientific research to develop mitragynine pseudoindoxyl, MGM–15, or MGM–16 via chemical modifications of purified isolates. Evidence from the *Mitragyna speciosa* retail markets demonstrates that mitragynine pseudoindoxyl and MGM–15 have transitioned from experimental substances studied in research to widely available commercial products. These products are commonly sold in different forms such as powders, tablets, and liquid shots. This is a significant evolution from the traditional administration of *Mitragyna speciosa,* which was once restricted to either chewing raw leaves or steeping the leaves into water decoctions and teas.

These products are sold under numerous brand names like Kama, Hydroxie, Fruity Perks, and Happie Tabs,[14] and they are easily purchased on the internet, as well as in gas stations, corner shops, and vape shops. These products are available in consumer-friendly forms, including flavored chewable tablets, which increases their appeal to a broader demographic. Also, the aggressive marketing of these semisynthetic opioids (mitragynine pseudoindoxyl, MGM–15) as ''precision-formulated products,'' ''botanical extracts,'' or as ''mood boosters'' for the treatment of health conditions is deeply concerning. The branding creates a false sense of safety for unknowing consumers who may equate the term ''botanical'' with lower risk. Furthermore, there is paucity of data on quality control or standardized dosage available for these products, making their use especially dangerous.

Mitragynine pseudoindoxyl, MGM–15, and MGM–16 are potent opioids that share a similar pharmacological profile with 7-hydroxymitragynine and morphine. Available pharmacology data demonstrate that mitragynine pseudoindoxyl, MGM–15, and MGM–16 exhibit strong affinity for the mu-opioid receptor (MOR) and function as MOR agonists.[15] [16] Data from preclinical studies show that these substances produce analgesic effects that is more potent than morphine.[17] Because mitragynine pseudoindoxyl, MGM–15, and MGM–16 are potent MOR agonists, they pose similar health risks as other mu-opioid agonists (*i.e.,* morphine and fentanyl), including physical and psychological dependence, and respiratory depression.

A scan of retail data on the internet shows that vendors explicitly market mitragynine pseudoindoxyl and MGM–15 for their ''clean and powerful'' opioid-receptor activation, utilizing deceptive terminology to target individuals seeking alternatives to pharmaceutical opioids. These combinations and marketing strategies pose significant safety risks to unsuspecting consumers who use these products by exposing them to high doses of opioids. Recently, reports have confirmed the positive identification of mitragynine pseudoindoxyl and MGM–15 in toxicology cases in the United States, and evidence demonstrates that these substances are being misused. The lack of clinical data regarding their safety and efficacy, coupled with the risk of life-threatening respiratory depression and addiction, underscores the danger of marketing these unapproved, highly potent opioids under the guise of therapeutic or wellness products.

While no evidence supports the presence of MGM–16 on the *Mitragyna speciosa* consumer market, its profile as a highly potent opioid that is structurally related to 7-hydroxymitragynine lends itself as an attractive substitute that could emerge on the illicit drug market. MGM–16 is synthetically manufactured for research purposes and is not approved for any clinical indication in the United States. DEA's investigation of publicly available information, including popular online platforms, revealed that at least some individuals intend to abuse MGM–16. Recent online surveillance of a vendor site [18] listed MGM–16 for upcoming sale. The sale of products containing mitragynine pseudoindoxyl and MGM–15, and the potential sale of MGM–16, poses an imminent hazard to public safety.

Available data and information for mitragynine pseudoindoxyl, MGM–15, and MGM–16, summarized below, indicate that these substances 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. 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–1644.

Factor 4. History and Current Pattern of Abuse

Mitragynine pseudoindoxyl, MGM–15, and MGM–16 are synthetic derivatives of the indole alkaloids, mitragynine or 7-hydroxymitragynine, of the *Mitragyna speciosa* plant. Unlike the indole alkaloids mitragynine and 7-hydroxymitragynine, which are naturally occurring in the plant, mitragynine pseudoindoxyl, MGM–15,

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 temporary order, there is no evidence that health care providers have widespread experience with medical use of mitragynine pseudoindoxyl, MGM–15, and MGM–16, or that the use of these substances is recognized by entities that regulate the practice of medicine, so the two-part test also is not satisfied. In its letter dated January 20, 2026, HHS advised DEA that there were currently no approved NDAs or INDs for mitragynine pseudoindoxyl, MGM–15, and MGM–16. Additionally, HHS noted it had no objections to the temporary placement of these substances in schedule I of the CSA.

[13] 21 U.S.C. 812(b)(1).

[14] The list of brand names is illustrative, non-exhaustive, and provided solely as market context.

[15] Matsumoto, K., Narita, M., Muramatsu, N., Nakayama, T., Misawa, K., Kitajima, M., Tashima, K., Devi, L.A., Suzuki, T., Takayama, H., & Horie, S. (2014). Orally active opioid μ/δ dual agonist MGM–16, a derivative of the indole alkaloid mitragynine, exhibits potent antiallodynic effect on neuropathic pain in mice. *The Journal of Pharmacology and Experimental Therapeutics,* 348(3):383–392.

[16] Yamamoto, L.T., Horie, S., Takayama, H., Aimi, N., Sakai, S., Yano, S., Shan, J., Pang, P.K., Ponglux, D., & Watanabe, K. (1999). Opioid receptor agonistic characteristics of mitragynine pseudoindoxyl in comparison with mitragynine derived from Thai medicinal plant Mitragyna speciosa. *General Pharmacology,* 33(1):73–81.

[17] Váradi, A., Marrone, G.F., Palmer, T.C., Narayan, A., Szabó, M.R., Le Rouzic, V., Grinnell, S.G., Subrath, J.J., Warner, E., Kalra, S., Hunkele, A., Pagirsky, J., Eans, S.O., Medina, J.M., Xu, J., Pan, Y.X., Borics, A., Pasternak, G.W., McLaughlin, J.P., & Majumdar, S. (2016). Mitragynine/Corynantheidine Pseudoindoxyls As Opioid Analgesics with Mu Agonism and Delta Antagonism, Which Do Not Recruit β-Arrestin-2. *Journal of Medicinal Chemistry,* 59(18):8381–8397.

[18] MGM Series Guide: Science of MGM–15 Alkaloids | Getwell Depot. *https://getwelldepot.com/mgm/*. Accessed April 9, 2026. (Web content subsequently modified or removed; hardcopy preserved in DEA administrative record)

and MGM–16 are produced through synthetic modifications of purified mitragynine isolates or 7-hydroxymitragynine.[19] The chemical scaffolds of mitragynine or 7-hydroxymitragynine were used in scientific research to develop novel mitragynine pseudoindoxyl, MGM–15, and MGM–16. The first mention of mitragynine pseudoindoxyl in scientific literature dates to 1974 when mitragynine pseudoindoxyl was isolated as a metabolite from bio-transformed mitragynine. In 2014, as part of a drug discovery research, MGM–15 and MGM–16 were developed as potent opioid agonists, with potential therapeutic utility for pain.[20]

Market Emergence and Designer-Drug Patterns

The first confirmed appearance of mitragynine pseudoindoxyl in consumer products was reported in 2024.[21] The emergence of MGM–15 in commercially available products was in September 2025.[22] The introduction of these substances into the *Mitragyna speciosa* consumer market follows a classic pattern of new designer drugs, where packaging appears like those of designer novel psychoactive substances and are often advertised as ''sold strictly for laboratory, botanical, and research purposes only'' and ''not intended for human consumption.'' [23] A study on products sold online containing mitragynine pseudoindoxyl showed that of the 51 total products sold online, 35 had an appealing flavor (*e.g.,* various berry, mint, watermelon, pink lemonade, candy apple, grape, citrus, mango, pistachio, and vanilla bean), and 32 of the products had packaging that was formulated using bright colors. Seventy-six percent (39 of 51) of these products were chewable tablets, 18 percent were liquids (9 of 51), and the remaining three were either dried ice cream cones with ice cream (two products) or a chocolate bar (one product).[24] Many of the products typically feature serving sizes that require consumers to split tablets or doses.

Current Patterns of Use

Users seek mitragynine pseudoindoxyl and MGM–15 products for their psychoactive effects and products are often advertised as mood enhancers or alternative to prescription opioid analgesics (*see* Factor 5). These products are commonly sold in different product forms, such as powders, tablets, or liquid shots, which is a sharp contrast from the traditional mode of administration of *Mitragyna speciosa,* which was confined to either water decoctions or brewed into tea or chewing of fresh leaves. A review of vendor websites [25] show that these products are explicitly marketed as ''potent'' and ''fast-acting'' substances and sold at low prices. For example, mitragynine pseudoindoxyl and MGM–15 tablets are sold in varying fruit flavors and in bright colors, and prices vary from about $2–4 per tablet or $34.99 per pack (single pack and 10-pack bulk). Of great concern to DEA is that the price of these products may facilitate high-frequency and rapid escalation of use. Further, open-source signal detection demonstrates that users are seeking MGM–16 with the intent to abuse.[26]

The shift from natural leaf decoctions of *Mitragyna speciosa* to flavored, standardized, and high-potency semi-synthetic substances suggests an intentional market strategy to maximize consumer appeal and sale of products with rapid onset of effects. The use of ''research chemical'' labeling, a common tactic to bypass regulatory oversight, for flavored chewable products further demonstrates a pattern to reach a broader consumer demographics.

Factor 5. Scope, Duration, and Significance of Abuse

The abuse of mitragynine pseudoindoxyl and MGM–15 is concerning due to their high opioid potency and commercial availability. Mitragynine pseudoindoxyl and MGM–15 products are sold in formulations that facilitate ease of use, bypass the traditional, lower-alkaloid preparation (chewing leaves or drinking tea), and provide a highly potent effect that mimics classical opioids such as morphine.

Deceptive Branding and Market Infiltration

Analysis of marketed mitragynine pseudoindoxyl products revealed misleading marketing strategies with claims that the products are ''kratom.'' Available information on vendor website indicates that the concentrated alkaloid products often contain more than one alkaloid with opioid activity (*e.g.,* mitragynine and MGM–15 or 7-hydroxymitragynine and mitragynine pseudoindoxyl). These substance combinations and marketing practices pose significant safety risk to unsuspecting consumers by exposing them to high doses of opioids, and repeated use of opioids can lead to psychological and physical dependence. In fact, data show that chronic use of 7-hydroxymitragynine has sent users to opioid detox clinics and the need for opioid use disorder medication.[27] Furthermore, these products are labeled for ''strong mood enhancement'' and ''analgesic properties.'' Finally, the presence of these products containing mitragynine pseudoindoxyl and MGM–15 is deeply concerning because the identity, purity, and quality of these products' formulations are uncertain, thus presenting additional safety concerns for unsuspecting users. The potential presence of MGM–16 in designer products would have similar concerns.

A study of products sold as mitragynine pseudoindoxyl over the internet found that the 51 unique products sold online as mitragynine pseudoindoxyl were marketed in child-appealing forms and contained other opioid alkaloids, with limited consumer safety information. The serving size varied and alkaloid concentrations for these marketed products were often higher than those in naturally occurring *Mitragyna speciosa* leaves. The analysis

[19] *Id.* 13;14; Takayama, H., Ishikawa, H., Kurihara, M., Kitajima, M., Aimi, N., Ponglux, D., Koyama, F., Matsumoto, K., Moriyama, T., Yamamoto, L.T., Watanabe, K., Murayama, T., & Horie, S. (2002). Studies on the synthesis and opioid agonistic activities of mitragynine-related indole alkaloids: discovery of opioid agonists structurally different from other opioid ligands. *Journal of Medicinal Chemistry,* 45(9):1949–1956.

[20] *Id.* 13.

[21] Hill, K., Boyer, E.W., Grundmann, O., & Smith, K.E. (2025). De facto opioids: Characterization of novel 7-hydroxymitragynine and mitragynine pseudoindoxyl product marketing. *Drug and Alcohol Dependence,* 272: 112701; Krotulski, A.J.; Denn, M.T., Brower, J.O., Papsun, D.M., & Logan, B.K. (2025). Evaluation of Commercially Available Smoke Shop Products Marketed as ''7-Hydroxy Mitragynine'' & Related Alkaloids, Center for Forensic Science Research and Education, United States; Vadiei, N., Evoy, K.E., & Grundmann, O. (2025). The Impact of Diverse Kratom Products on Use Patterns, Dependence, and Toxicity. *Current Psychiatry Reports,* 27(10):584–592.

[22] Gour, A., Mukhopadhyay, S., Henderson, A., Awad, A., Seabra, M.A., Pullman, M., Leon, F., Cutler, J.C., McCurdy, C.R., & Sharma A. (2025). From Kratom to Semi-Synthetic Opioids: The Rise and Risks of MGM–15. *Drug Testing and Analysis,* 17(12):2384–2389.

[23] *Id.* 24.

[24] White, C.M., Belcourt, J., & Sedensky, A. (2025). A Descriptive Assessment of Products Containing the Opioid Receptor Stimulator Mitragynine Pseudoindoxyl. *Substance Use & Misuse,* 60(12):1950–1954.

[25] Market Audit of Online Retailers, Jan. 2026.

[26] Can anyone help with the MGM 16 rumors? *r/KratomKornerhttps://www.reddit.com/r/KratomKorner/comments/1kpz2u3/can_anyone_help_with_the_mgm_16_rumors/?rdt=48097.* Accessed April 9, 2026.

[27] Wightman, R.S., & Hu, D. (2025). A Case of 7-OH Mitragynine Use Requiring Inpatient Medically Managed Withdrawal. *Journal of Addiction Medicine,* 10.1097/ADM.0000000000001558. Advance online publication.

revealed that among the products sampled, 71 percent featured a combination of mitragynine pseudoindoxyl and 7-hydroxymitragynine, while 24 percent contained mitragynine pseudoindoxyl only. The remaining 6 percent contained a combination of mitragynine pseudoindoxyl and other hydroxymitragynine forms (8-hydroxymitragynine or 11-hydroxymitragynine).[28]

National E-Commerce

Data from online sources show that the availability of mitragynine pseudoindoxyl and MGM–15 are not isolated to a single region but have rapidly spread across the United States. Products containing mitragynine pseudoindoxyl and MGM–15 are sold on the internet and are delivered to most states where there are currently no kratom use restrictions, suggesting a national distribution network facilitated by online sales and mass-market retail channels. The significance of the abuse of mitragynine pseudoindoxyl and MGM–15 is underscored by the potent opioid pharmacological profile of these substances and the specific health warnings acknowledged even by those who are marketing the substances. Vendor descriptions listed below provide insight into the duration and pattern of use that characterizes the abuse of these compounds:

Sustained Effect: The duration of effects is reported to last ''several hours.'' [29] This prolonged duration increases the likelihood of cumulative effects and potential for toxicity if doses are repeated.

Deceptive Marketing for Medical Conditions: Despite having no FDA-approved medical use, these products are explicitly marketed for ''easing stress and tension,'' ''internal calm and reduced restlessness,'' and providing ''mental clarity.'' [30] This marketing encourages individuals with legitimate medical needs to utilize potent, unlawful opioids as self-treatment.

Deceptive ''Natural'' Branding: Vendors frequently frame these substances as ''clean and powerful'' alternatives to traditional kratom. This branding is used to minimize the perceived risk of what are highly potent semi-synthetic opioid agonists.

Deceptive Safety Profiles: While products are marketed as a ''midday stress relief'' or ''mental reset,'' the inclusion of warnings for lethal respiratory depression on retail sites confirms that the products possess a toxicity profile identical to scheduled opioids.

Low Barrier to Entry: The use of ''fruity'' flavors and ''chewable'' formats (*e.g.,* Fruity Perks) suggests an effort to appeal to a broader, potentially younger demographic, significantly increasing the scope of potential abuse.

Forensic Surveillance and Identification

According to the National Forensic Laboratory Information System (NFLIS) [31] database, which collects drug identification results from drug cases submitted to and analyzed by Federal State and local forensic laboratories, there have been 19 reports of mitragynine pseudoindoxyl in Arkansas (n = 15), New York (n = 1), Ohio (n = 1), and Wyoming (n = 2) (queried June 23, 2026). Monographs [32] by the Center for Forensic Science Research and Education (CFSRE) report that mitragynine pseudoindoxyl (n > 10) and MGM–15 (n = 2) were detected in at least 12 drug materials. MGM–15 was detected as a tan solid drug that originated from New England, and those involving mitragynine pseudoindoxyl (pills and tablets) initially originated from Pennsylvania and Illinois. Furthermore, a CFSRE [33] trend report identified mitragynine pseudoindoxyl in 103 toxicology specimens and 12 drug materials; similarly, MGM–15 appeared in 21 toxicology specimens and 3 drug materials. This surge in prevalence is underscored by law enforcement action, including a federal and local authorities raid on a Florida-based business distributing 7-hydroxymitragynine and MGM–15 products.

The paucity or lack of seizure data for some of these 7-hydroxymitragynine-related substances as reported in forensic laboratories casework may be due to lack of readily available analytical reference standards and other analytic challenges. Because these are new substances, it often takes time for forensic laboratories to develop and validate the necessary testing methods required for substance identification. Specifically, mitragynine pseudoindoxyl is an oxidative metabolite of 7-hydroxymitragynine, and such closely related compounds require specific method and instrumentation for accurate identification. Also, as these 7-hydroxymitragynine-related substances are not federally controlled under the CSA, some forensic laboratories may not analyze and track encounters of non-controlled substances, and thus reporting could be limited.

The population likely to abuse mitragynine pseudoindoxyl, MGM–15, and MGM–16 appear to be the same as those abusing *Mitragyna speciosa* and prescription opioid analgesics. According to data from the National Survey on Drug Use and Health (NSDUH),[34] as of 2021, an estimated 1.7 million people aged 12 years or older used kratom in the past year. The highest users were among adults aged 26 or older (1.4 million people). The analysis of 2019 NSDUH survey data showed that kratom users are predominately non-Hispanic White and male. The survey finding also revealed a link between kratom use and substance use disorder, particularly

[28] Wilson, L.L., Chakraborty, S., Eans, S.O., Cirino, T.J., Stacy, H.M., Simons, C.A., Uprety, R., Majumdar, S., & McLaughlin, J.P. (2021). Kratom Alkaloids, Natural and Semi-Synthetic, Show Less Physical Dependence and Ameliorate Opioid Withdrawal. *Cell Mol Neurobiol.,* 41(5):1131–1143. doi: 10.1007/s10571–020–01034–7.

[29] *See* Pseudoindoxyl Chewable Tablets—Red Vein—Advanced Alkaloids Descriptions, *https://cbdamericanshaman.com/pseudoindoxyl-chewable-tablets-red-vein-advanced-alkaloids.* Accessed January 2026.

[30] *See* Dozo Perks Extremely Potent Pseudoindoxyl Chewable Tablet Grape 100mg Per Tablet, *https://pureleafkratom.com/products/dozo-perks-100mg-pseudoindoxyl-grape-chewable-tablets-4ct.html.* Accessed January 2026.

[31] NFLIS represents an important resource in monitoring illicit drug trafficking, including the diversion of legally manufactured pharmaceuticals into illegal markets. NFLIS-Drug is a comprehensive information system that includes data from forensic laboratories that handle the nation's drug analysis cases. NFLIS-Drug participation rate, defined as the percentage of the national drug caseload represented by laboratories that have joined NFLIS, is currently 98.5 percent. 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). NFLIS data was queried on March 25, 2026.

[32] *https://www.cfsre.org/nps-discovery/monographs/mitragynine-pseudoindoxyl.* Report Date—November 7, 2025. Accessed January 9, 2026; *https://www.cfsre.org/nps-discovery/monographs/dihydro-7-hydroxy-mitragynine.* Report Date—November 11, 2025. Accessed January 9, 2026.

[33] *https://www.cfsre.org/images/trendreports/2026_Q1_CFSRE_NPS_Discovery_Trend_Reports.pdf.* Quarter 1, 2026 Trend reports. Accessed May 7, 2026.

[34] The NSDUH, formerly known as the National Household Survey on Drug Abuse (NHSDA), is conducted annually by the Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA). It is the primary source of estimates of the prevalence and incidence of nonmedical use of pharmaceutical drugs, illicit drugs, alcohol, and tobacco use in the United States. The survey is based on a nationally representative sample of the civilian, non-institutionalized population 12 years of age and older. The survey excludes homeless people who do not use shelters, active military personnel, and residents of institutional group quarters such as jails and hospitals. The NSDUH provides yearly national and state level estimates of drug abuse, and includes prevalence estimates by lifetime (*i.e.,* ever used), past year, and past month abuse or dependence.

nonmedical prescription opioid use disorder, indicative of a strong trend of use for self-managing opioid dependence.[35] By 2022, the prevalence of people who reported past year kratom use had increased to 1.9 million.[36]

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

Mitragynine pseudoindoxyl, MGM–15, and MGM–16 function as potent MOR agonists. This mechanism of action is inherently associated with high potential of abuse, physical dependence, and psychological dependence, consistent with the effects of controlled schedule I and II opioid substances. As of early 2026, mitragynine pseudoindoxyl and MGM–15 products are sold in smoke shops, gas stations, and through numerous online marketplaces, often positioned alongside dietary supplements, which mask their potent opioid nature. Data from preclinical studies demonstrate that mitragynine pseudoindoxyl is about 100 times more potent than mitragynine at the MOR, and MGM–15 and MGM–16 are about 50 and 240 times more potent than morphine in animal models, respectively.[37] Because of the potency of these compounds, they can be abused in smaller, concentrated doses. It has been demonstrated that mitragynine pseudoindoxyl may cause development of signs of opioid physical dependence after chronic use in rodents. Pre-clinical studies demonstrated that chronic twice-daily administration of mitragynine pseudoindoxyl in rodents induces signs of opioid physical dependence and withdrawal symptoms in morphine addiction rodent models as evidenced by increased diarrhea, jumping, and rearing frequency occurring when naloxone was administered or when treatment with this alkaloid was tapered.[38]

These products are easily accessible in retail environments often with no age restrictions, amplifying public health concerns, particularly to vulnerable populations. Vendor descriptions provide insight into the public health threat posed by the abuse of these compounds:

Rapid Onset: Marketing materials for mitragynine pseudoindoxyl products emphasize a ''quick onset,'' typically occurring within 10 to 60 minutes, often described as a ''wave of calm clarity,'' ''dual-action formula featuring 100mg per piece for maximum potency and a fast-acting hit.'' [39]

Sustained Effect: The duration of effects is reported to last ''several hours.'' [40] This prolonged duration increases the likelihood of cumulative effects and potential for toxicity if doses are repeated.

Potency Information: Marketing information of an MGM–15 product indicates the products contain a very large amount of MGM–15 ''105 mg total per bottle,'' [41] which, given its extreme opioid potency, presents a significant threat to public health.

Opioid Receptor Activation: Marketing materials explicitly state that these compounds directly activate opioid receptors and are ''full agonist at mu receptors,'' providing effects that mirror analgesic and stimulant effects (pain relief and mood enhancement).[42]

Acknowledgment of Severe Risks: Notably, vendors acknowledge significant public health risks, advising users to monitor for ''habit-forming behavior,'' ''high euphoria,'' ''dependence,'' ''overdose,'' and ''death.'' [43] The mention of overdose and death is a significant indicator of the hazard these substances pose.

As with any MOR agonist, the potential health and safety risks for users of 7-hydroxymitragynine-related substances are high. Mitragynine pseudoindoxyl, MGM–15, and MGM–16 abuse carry a high risk of cardiotoxicity, hepatic and renal toxicity, respiratory depression, neurological effects, and physical dependence and withdrawal. According to data from poison control centers, from January to July 2025, there have been 1,690 exposure calls involving kratom, a significant increase from 2024 exposure calls. A recent CDC morbidity and mortality weekly report (MMWR) notes the marked surge in calls related to kratom exposure to poison centers by over 1,200% between 2015 (n = 258) and 2025 (n = 3,434). The MMWR notes that United States poison centers received a total of 14,449 kratom exposure reports during the past 11 years.[44]

According to data from DEA Toxicology Testing Program (DEA TOX),[45] between February 2025–May 2026, mitragynine pseudoindoxyl has been identified in at least 56 overdose cases, of which 48 were fatal events. From February through April 2026, DEA TOX detected MGM–15 in 17 overdose cases, 16 resulting from a fatal event.

A recent clinical case report [46] highlights the severe acute risks associated with mitragynine pseudoindoxyl consumption. A 34-year-old male escalated from powdered kratom use to 7-hydroxymitragynine tablets and then to mitragynine pseudoindoxyl tablets, eventually consuming nine 20 mg doses daily (including one to two nocturnal doses). The individual attempted to reduce dose and frequency of use but was

[35] Palamar, J. J. (2021). Past-Year Kratom Use in the U.S.: Estimates From a Nationally Representative Sample. *Am J Prev Med.,* 61(2):240–245: Rogers, J. M., Smith, K. E., Strickland, J. C., & Epstein, D. H. (2021). Kratom Use in the US: Both a Regional Phenomenon and a White Middle-Class Phenomenon? Evidence From NSDUH 2019 and an Online Convenience Sample. *Frontiers in Pharmacology,* 12:789075.

[36] *https://www.samhsa.gov/data/sites/default/files/reports/rpt42728/NSDUHDetailedTabs2022/NSDUHDetailedTabs2022/NSDUHDetTabs8-21to8-23pe2022.pdf.* Accessed April 2, 2026.

[37] Matsumoto, K., Narita, M., Muramatsu, N., Nakayama, T., Misawa, K., Kitajima, M., Tashima, K., Devi, L.A., Suzuki, T., Takayama, H., & Horie, S. (2014). Orally active opioid μ/δ dual agonist MGM–16, a derivative of the indole alkaloid mitragynine, exhibits potent antiallodynic effect on neuropathic pain in mice. *The Journal of Pharmacology and Experimental Therapeutics,* 348(3):383–392; Yamamoto, L.T., Horie, S., Takayama, H., Aimi, N., Sakai, S., Yano, S., Shan, J., Pang, P.K., Ponglux, D., & Watanabe, K. (1999). Opioid receptor agonistic characteristics of mitragynine pseudoindoxyl in comparison with mitragynine derived from Thai medicinal plant Mitragyna speciosa. *General Pharmacology,* 33(1):73–81; Váradi, A., Marrone, G.F., Palmer, T.C., Narayan, A., Szabó, M.R., Le Rouzic, V., Grinnell, S.G., Subrath, J.J., Warner, E., Kalra, S., Hunkele, A., Pagirsky, J., Eans, S.O., Medina, J.M., Xu, J., Pan, Y.X., Borics, A., Pasternak, G.W., McLaughlin, J.P., & Majumdar, S. (2016). Mitragynine/Corynantheidine Pseudoindoxyls As Opioid Analgesics with Mu Agonism and Delta Antagonism, Which Do Not Recruit β-Arrestin-2. *Journal of Medicinal Chemistry,* 59(18):8381–8397.

[38] Wilson, L.L., Chakraborty, S., Eans, S.O, Cirino, T.J., Stacy, H.M., & Simons, C.A., Uprety, R., Majumdar, S., & McLaughlin, J.P. (2021). Kratom Alkaloids, Natural and Semi-Synthetic, Show Less Physical Dependence and Ameliorate Opioid Withdrawal. *Cell Mol Neurobiol.,* 41(5):1131–1143.

[39] See Kama Kratom *https://greatcbdshop.com/product-category/brands/kama-kratom/* and Pure Leaf Kratom *https://pureleafkratom.com/kama-kratom/.* Accessed March 2026. (Web content subsequently modified or removed; hardcopy preserved in DEA administrative record).

[40] *Id.* 26.

[41] MGM–15 | 7 count—15mg tablets (105mg total)—Can Vertex Bioscience Accessed March 2026. (Web content subsequently modified or removed; hardcopy preserved in DEA administrative record).

[42] *Id.*

[43] *Id;* See 7–OHFactory30mg MGM–15 Tablets—Berries. *https://www.7ohfactory.com/products/30mg-mgm-15-tablets-berries.* Accessed March 2026. (Web content subsequently modified or removed; hardcopy preserved in DEA administrative record).

[44] Towers EB, Thomas YT, Holstege CP, Farah R. Increases in Kratom-Related Reports to Poison Centers—National Poison Data System, United States, 2015–2025. MMWR Morb Mortal Wkly Rep 2026;75:139–145.

[45] DEA TOX is a surveillance program that aims to detect novel psychoactive substances in fatal and nonfatal overdose cases within the United States. From these cases, biological samples, as well as drug paraphernalia (on limited occasions), are submitted for analysis by hospitals, medical examiners, poison centers, and law enforcement nationwide. Query date May 15, 2026.

[46] Stanciu C. N. (2026). Severe Early-Onset Withdrawal Following Intentional Use of Mitragynine Pseudoindoxyl: A Case Report and Emerging Clinical Considerations. *Cureus, 18*(3), e105224.

unsuccessful due to withdrawal characterized as ''crawling out of skin symptom.'' [47] The patient presented with a clinical opiate withdrawal scale score of 31 (categorized as severe), alongside autonomic instability, including hypertension, tachycardia, and physical symptoms (such as severe body aches, tremors, diaphoresis, gastrointestinal distress and chills). The patient required supportive management (clonidine, hydroxyzine, gabapentin, loperamide, and antiemetics) over a 72–96-hour period. In addition, on days 5 and 6, the patient was administered naltrexone depot (Vivitrol) injection.

The sale of products with a combination of high-potency opioids, explicit marketing for medical ailments, and the acknowledged potential for life-threatening respiratory depression and addiction highlights the danger posed by mitragynine pseudoindoxyl and MGM–15. While mitragynine pseudoindoxyl and MGM–15 have already been identified in fatal toxicological screening, the pharmacological profile of MGM–16 presents a significant health risk. As previously mentioned, MGM–16 is an opioid agonist with approximately 240-times the antinociceptive potency of morphine in animal studies. Recent online surveillance of a vendor site [48] lists MGM–16 for upcoming sale. This transition from a research grade chemical to an accessible consumer product, combined with its opioid mechanism of action, underscores its potential as a highly attractive but lethal substitute. Thus, to schedule MGM–15 without MGM–16 would create a regulatory loophole that manufacturers are already poised to exploit. Its inclusion is necessary to prevent a market shift toward an even more potent derivative that poses a significant risk of respiratory depression.

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 mitragynine pseudoindoxyl, MGM–15, and MGM–16 pose an imminent hazard to public safety. DEA is not aware of any currently accepted medical uses for mitragynine pseudoindoxyl, MGM–15, and MGM–16 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 are those that 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 mitragynine pseudoindoxyl, MGM–15, and MGM–16 indicate that these substances 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.

As required by 21 U.S.C. 811(h)(4), the Administrator notified the Assistant Secretary, via letter dated December 15, 2025, of DEA's intention to temporarily place mitragynine pseudoindoxyl, MGM–15, and MGM–16 in schedule I. In a letter dated January 20, 2026, the Assistant Secretary for Health stated that HHS had no objection to the temporary placement of these substances in schedule I. DEA subsequently published this NOI in the **Federal Register** on July 6, 2026.[49]

Conclusion

In accordance with 21 U.S.C. 811(h)(1) and (3), the Administrator considered available data and information, herein set forth the grounds for his determination that it is necessary to temporarily schedule mitragynine pseudoindoxyl, MGM–15, and MGM–16 in schedule I of the CSA, and finds that placement of these substances in schedule I of the CSA is necessary in order to avoid an imminent hazard to the public's safety.

The temporary placement of mitragynine pseudoindoxyl, MGM–15, and MGM–16 in schedule I of the CSA will take effect on the date the order is published in the **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.[50]

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.[51] 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.[52] Temporary scheduling orders are not subject to judicial review.[53]

Requirements for Handling

Upon the effective date of this temporary order, mitragynine pseudoindoxyl, MGM–15, and MGM–16 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, mitragynine pseudoindoxyl, MGM–15, and MGM–16 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 26, 2026. Any person who currently handles mitragynine pseudoindoxyl, MGM–15, and MGM–16 and is not registered with DEA to conduct research with a schedule I controlled substance must submit an application for registration and may not continue to handle mitragynine pseudoindoxyl, MGM–15, and MGM–16 as of August 26, 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 26, 2026, a person is conducting research on mitragynine pseudoindoxyl, MGM–15, and MGM–16 and is already registered to conduct research with another controlled substance in schedule I, the person may continue to conduct research on mitragynine pseudoindoxyl, MGM–15, and MGM–16 if they submit a completed application for registration or modification of

[47] *Id.*

[48] MGM Series Guide: Science of MGM–15 Alkaloids | Getwell Depot. *https://getwelldepot.com/mgm/.* Accessed April 9, 2026.

[49] *Schedules of Controlled Substances: Temporary Placement of mitragynine pseudoindoxyl, MGM–15, and MGM–16 in Schedule I,* 91 *FR* 40909 (July 6, 2026).

[50] 21 U.S.C. 811(h)(1) and (2).

[51] 21 U.S.C. 811.

[52] 21 U.S.C. 877.

[53] 21 U.S.C. 811(h)(6).

existing registration, as applicable, to conduct research with mitragynine pseudoindoxyl, MGM–15, and MGM–16 not later than 90 calendar days after August 26, 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 mitragynine pseudoindoxyl, MGM–15, and MGM–16 and may not receive or otherwise obtain additional mitragynine pseudoindoxyl, MGM–15, and MGM–16. 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 mitragynine pseudoindoxyl, MGM–15, and MGM–16, receipt of the copy by the manufacturer or distributor constitutes sufficient evidence that the person is authorized to receive mitragynine pseudoindoxyl, MGM–15, or MGM–16 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 mitragynine pseudoindoxyl, MGM–15, or MGM–16.

Retail sales of schedule I controlled substances to the general public are not allowed under the CSA. Possession of any quantity of mitragynine pseudoindoxyl, MGM–15, or MGM–16 in a manner not authorized by the CSA on or after August 26, 2026 is unlawful, and those in possession of any quantity of mitragynine pseudoindoxyl, MGM–15, and MGM–16 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 mitragynine pseudoindoxyl, MGM–15, or MGM–16 must surrender all currently held quantities of this substance.

3. Security. Mitragynine pseudoindoxyl, MGM–15, or MGM–16 is subject to schedule I security requirements and must be handled in accordance with 21 CFR 1301.71–1301.93, as of August 26, 2026.

4. Labeling and Packaging. All labels, labeling, and packaging for commercial containers of mitragynine pseudoindoxyl, MGM–15, or MGM–16 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 26, 2026, to comply with all labeling and packaging requirements.

5. Inventory. Every DEA registrant who possesses any quantity of mitragynine pseudoindoxyl, MGM–15, or MGM–16 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 mitragynine pseudoindoxyl, MGM–15, and MGM–16) 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 mitragynine pseudoindoxyl, MGM–15, and MGM–16 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 mitragynine pseudoindoxyl, MGM–15, or MGM–16 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 mitragynine pseudoindoxyl, MGM–15, and MGM–16 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 26, 2026. Manufacturers and distributors must also submit reports regarding mitragynine pseudoindoxyl, MGM–15, and MGM–16 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 mitragynine pseudoindoxyl, MGM–15, and MGM–16 must comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305 as of August 26, 2026.

9. Importation and Exportation. All importation and exportation of mitragynine pseudoindoxyl, MGM–15, and MGM–16 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 26, 2026.

10. Quota. Only DEA-registered manufacturers may manufacture mitragynine pseudoindoxyl, MGM–15, and MGM–16 in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303, as of August 26, 2026.

11. Liability. Any activity involving mitragynine pseudoindoxyl, MGM–15, and MGM–16 not authorized by or in violation of the CSA, occurring as of August 26, 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. 811(h)(1), the Administrator, as delegated by the Attorney General, may, by order, temporarily schedule 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 of HHS, as delegated by the Secretary of HHS.[54]

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 of 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 an order and a rule, 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.*'' [55] 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.[56] 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

[54] 21 U.S.C. 811(h)(1).

[55] 5 U.S.C. 551(6) (emphasis added).

[56] 21 U.S.C. 811(a) and 877.

procedures for *other* kinds of scheduling actions,[57] 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 Assistant Secretary in response to the notice that DEA transmitted to the 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. Section 3(f) of E.O. 12866 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, add paragraphs (h)(89) through (91) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(h) * * *

* * * * * * *	
(89) Methyl (*E*)-2-((1′*S*,6′*S*,7′S)-6′-ethyl-4-methoxy-3-oxo-3′,5′,6′,7′,8′,8a′-hexahydro-2′*H*-spiro[indoline-2,1′-indolizine]-7′-yl)-3-methoxyacrylate (commonly known as mitragynine pseudoindoxyl) including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible. Since nomenclature of this substance is not internationally standardized, compounds of this structure, regardless of numerical designation of atomic positions are covered	9672
(90) Methyl (*E*)-2-((2*S*,3*S*,7a*S*,12a*R*,12b*S*)-3-ethyl-7*a*-hydroxy-8-methoxy-1,2,3,4,6,7,7*a*,12,12*a*,12*b*-decahydroindolo[2,3-*a*]quinolizin-2-yl)-3-methoxyacrylate (commonly known as MGM–15; also known as dihydro-7-hydroxymitragynine) including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible. Since nomenclature of this substance is not internationally standardized, compounds of this structure, regardless of numerical designation of atomic positions are covered	9673
(91) Methyl (*E*)-2-((2*S*,3*S*,7a*S*,12a*R*,12b*S*)-3-ethyl-9-fluoro-7*a*-hydroxy-8- methoxy-1,2,3,4,6,7,7*a*,12,12*a*,12*b*-decahydroindolo[2,3-*a*]quinolizin-2-yl)-3-methoxyacrylate (commonly known as MGM–16; also known as 9-fluoro-dihydro-7-hydroxymitragynine; or 10-fluoro-dihydro-7-hydroxymitragynine (depending on numbering convention)) including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible. Since nomenclature of this substance is not internationally standardized, compounds of this structure, regardless of numerical designation of atomic positions are covered	9674

Signing Authority

This document of the Drug Enforcement Administration was signed on August 24, 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 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. 2026–17429 Filed 8–24–26; 4:15 pm]

BILLING CODE P

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

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 560

Iranian Transactions and Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; stay of effectiveness.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is indefinitely suspending five general licenses issued pursuant to the Iranian Transactions and Sanctions Regulations to align with changes in the foreign policy of the United States towards Iran.

DATES: Effective August 24, 2026, 31 CFR 560.544, 560.550, and 560.554 are stayed indefinitely.

As of August 24, 2026, the effectiveness of the Iran General Licenses F and G, published at 79 FR 11180 and 79 FR 49157, respectively, and available on OFAC's website (*https://ofac.treasury.gov*), are stayed indefinitely.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Regulatory Affairs, 202–622–4855; or *https://ofac.treasury.gov/contact-ofac.*

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: *https://ofac.treasury.gov.*

Background

On October 22, 2012, OFAC issued a final rule that amended the former Iranian Transactions Regulations, 31 CFR part 560 (ITR), and reissued them in their entirety as the Iranian Transactions and Sanctions Regulations (ITSR or ''the Regulations'') (77 FR 64664, October 22, 2012). Since then, OFAC has amended the Regulations on several occasions.

On February 27, 2014, OFAC published in the **Federal Register** General License F, which was issued pursuant to the Regulations on September 10, 2013 (79 FR 11180, February 27, 2014). On August 19, 2014, OFAC published in the **Federal Register** General License G, which was issued pursuant to the Regulations on March 19, 2014 (79 FR 49157, August 19, 2014). These general licenses were issued pursuant to the Regulations and are available on OFAC's website (*www.treasury.gov/ofac*).

Rules To Be Stayed

In response to Iran's continued disruptions to global energy markets, attacks on partners and allies in the Middle East, reconstitution of its conventional and nuclear weapons programs, efforts to monetize the Strait of Hormuz, and continued support to terrorist proxies, OFAC is indefinitely suspending the general licenses contained at 31 CFR 560.544, 560.550, and 560.554. These general licenses authorize, respectively, certain educational activities by U.S. persons in third countries; certain noncommercial, personal remittances to or from Iran; and the importation and exportation of services related to conferences in the United States or third countries. As a result of this suspension, any such transactions are no longer authorized by OFAC as of August 24, 2026.

In addition, OFAC is suspending indefinitely Iran General License F, published at 79 FR 11180, and Iran General License G, published at 79 FR 49157. These general licenses authorize, respectively, certain services in support of professional and amateur sports activities and exchanges involving the United and Iran, and certain academic exchanges and the exportation or importation of certain educational services. As a result of this suspension, any such transactions are no longer authorized by OFAC as of August 24, 2026.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of E.O. 12866 of September 30, 1993, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), as amended, and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, as well as the provisions of E.O. 14192 of January 31, 2025, ''Unleashing Prosperity Through Deregulation'' (90 FR 9065, February 6, 2025) and E.O. 14219 of February 19, 2025, ''Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative'' (90 FR 10583, February 25, 2025) are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Executive Order 14294

Section 5 of E.O. 14294 of May 9, 2025, ''Fighting Overcriminalization in Federal Regulations'' (90 FR 20367, May 14, 2025) directs that all future notices of proposed rulemaking (NPRMs) and final rules published in the **Federal Register**, the violation of which may constitute criminal regulatory offenses, should include a statement identifying that the rule or proposed rule is a criminal regulatory offense and the authorizing statute. E.O. 14294 directs agencies to draft this statement in consultation with the Department of Justice.

E.O. 14294 further directs that the regulatory text of all NPRMs and final rules with criminal consequences published in the **Federal Register** after May 9, 2025 should explicitly state a mens rea requirement for each element of a criminal regulatory offense, accompanied by citations to the relevant provisions of the authorizing statute.

Willful violations of the regulations set forth in this final rule may be subject to criminal penalties pursuant to 50 U.S.C. 1705 and regulations promulgated thereunder. The statutory authority for criminal liability requires a mens rea of willfulness as an element pursuant to 50 U.S.C. 1705(c). In drafting this statement, OFAC has consulted with the Department of Justice.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not impose information collection requirements that would require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 31 CFR Part 560

Administrative practice and procedure, Banks, banking, Blocking of assets, Credit, Foreign trade, Iran, Sanctions, Services.

For the reasons set forth in the preamble, OFAC amends 31 CFR part 560 as follows:

PART 560—IRANIAN TRANSACTIONS AND SANCTIONS REGULATIONS

■ 1. The authority citation for part 560 continues to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2339B, 2332d; 22 U.S.C. 2349aa–9, 7201–7211, 8501–8551, 8701–8795; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note); E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR, 1995 Comp., p. 356; E.O. 13059, 62 FR 44531, 3 CFR, 1997 Comp., p. 217; E.O. 13599, 77 FR 6659, 3 CFR, 2012 Comp., p. 215; E.O. 13846, 83 FR 38939, 3 CFR, 2018 Comp., p. 854.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§§ 560.544, 560.550, and 560.554 [Stayed]

■ 2. Sections 560.544, 560.550, and 560.554 are stayed indefinitely.

Bradley T. Smith,

Director, Office of Foreign Assets Control, Department of the Treasury.

[FR Doc. 2026–17426 Filed 8–24–26; 4:15 pm]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2026–0558]

RIN 1625–AA08

Special Local Regulation; Lake Erie, Kelleys Island, OH

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation (SLR) for certain navigable waters of Lake Erie near Kelleys Island, OH. The SLR is needed to protect personnel, vessels, and the marine environment from potential hazards created by a sailing race. This rulemaking prohibits persons and vessels from being in the regulated area during the enforcement period unless specifically authorized by the Captain of the Port, Sector Detroit or their designated representative.

DATES: This rule is effective from 8:30 a.m. through 5 p.m. on August 29, 2026.

ADDRESSES: To view available documents go to *https://www.regulations.gov* and search for USCG–2026–0558.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rule, contact MST2 Jacob Allen, Waterways Management Division, U.S. Coast Guard Marine Safety Unit Toledo; (419)–418–6050, *D09-SMB-MSUToledo-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

On February 25, 2026, an organization notified the Coast Guard that they will be sponsoring a sailing race on Lake Erie near Kelleys Island, OH on August 29, 2026. The event will be held from 8:30 a.m. to 5 p.m. on August 29, 2026. The race will include approximately 50 participants and 3 spectator craft. On June 25, 2026, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulation; Lake Erie, Kelleys Island, OH (91 FR 38351). In that NPRM, we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this sailing race.

Under the authority in 46 U.S.C. 70041, the COTP has determined that this rule is necessary to protect personnel, vessels, and the marine environment from potential hazards associated with the sailing race. No vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP or their designated representative.

Because of the hazards associated with this event, 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** because it is impracticable. We must establish this regulated area by August 29, 2026, to protect personnel, vessels, and the marine environment.

III. Discussion of Comments and the Rule

During the comment period that ended on July 27, 2026, we received two duplicate comments from the same individual.

The commenter expressed several concerns with the SLR, largely centered on the structure of the SLR and its potential impact on the local business community. Specifically, the commenter was concerned with the potential difficulty of enforcing a moving SLR, suggesting boaters may not know when they are within the exclusionary zone; the duration of the SLR; potential safety risks posed by requiring non-participant vessels to detour around the route; and the potential impact of the restrictions on the local business community on a peak summer tourism Saturday. The commenter questioned whether the Coast Guard could have used less restrictive alternatives, such as patrol boat escorts, broadcast notice to mariners, designated spectator zones, and small buffers. Finally, the commenter felt that the Coast Guard did not provide adequate notice to the public of the proposed SLR, and that the NPRM should have contained more specific information, including the sponsoring organization's name. The commenter also believed that the NPRM was missing certain information, such as the number of participants and the racecourse coordinates.

The Coast Guard has complied with all applicable laws in establishing this SLR to protect vessels and property during a marine event. With respect to the structure of the SLR, a moving exclusion zone is common practice with sailing races. The public is on notice that this event is on August 29, 2026, and thus, should be mindful of where the participants and the exclusionary zone are located as they are transiting in the vicinity of the courses. The duration of the event is not set by the Coast Guard. It was provided by the sponsoring organization, and the time has been confirmed. The rule lasts only as long as the event.

Further, consistent with the ''Impact on Small Entities'' analysis in the NPRM, we expect limited economic impact on the Kelleys Island region. Although the course encompasses Kelleys Island, recreational vessels will be able to go around the event safely and easily as the regulated area is 100 yards around participants, not the entire course. The Coast Guard intends to have a patrol around the vessels. As noted in the NPRM, the Coast Guard will issue a Broadcast Notice to Mariners via VHF FM marine channel 16, which will allow small entities to adjust their transit plans, and the rule allows vessels to request permission to enter the regulated area from the COTP or the COTP's designated representative. The COTP determined a designated spectator zone is not necessary as the only spectators for the event are the designated safety boats provided by the event sponsor. The Coast Guard has utilized the least restrictive mechanism to protect personnel, vessels, and the marine environment from potential hazards created by a sailing race. This appropriately balances the interests of all entities while providing necessary protection for personnel, vessels, and the marine environment from the potential hazards of a sailing race.

The Coast Guard disagrees with the commenter's assertion that the public was not provided adequate notice of the rule. The Coast Guard provided notice of the event on June 25, 2026, and provided a reasonable period of time for public comment. The Coast Guard received only one comment, which was comprehensive in scope. The commenter does not indicate what

additional comments he might have made if given a longer comment period. With respect to the commenter's concern that the NPRM did not contain the sponsoring organization's name, the name of the organization sponsor is not relevant to the rulemaking. Finally, the commenter is mistaken that the NPRM did not contain the number of participants or the racecourse coordinates. The NPRM explicitly lays out the number of participants and the text describing the regulated area sets forth the race course coordinates.

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

This rule establishes a special regulated area from 8:30 a.m. until 5 p.m. on August 29, 2026. The regulated area covers all navigable waters within 100 yards of the participants on the race course. No vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP or their designated representative.

IV. Regulatory Analyses

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

A. Impact on Small Entities

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

The Coast Guard certifies that, although some small entities may intend to transit the regulated area above, this rule will not have a significant economic impact on a substantial number of small entities. Vessel traffic will be able to safely transit around this regulated area. This regulated area will only impact a small, designated area for a few hours. In addition, the Coast Guard will issue a Broadcast Notice to Marines via VHF FM marine channel 16, which will allow small entities to adjust their transit plans, and the rule allows vessels to request permission to enter the zone from the COTP.

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).

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 proposed rule is a special regulated area. It is categorically excluded from further review under paragraph L61.

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

■ 2. Add 100.T999–0558 to read as follows:

§ 100.T999–0558 Special Local Regulation; Lake Erie, Kelleys Island, OH.

(a) *Location.* This special local regulation applies to the following regulated area: All waters of Lake Erie, from surface to bottom, within 100 yards of the participants on the race courses identified below, encompassed by a line connecting the following points for each of the following race courses:

(a) *Course A:* Starting 0.5 nautical miles east of Sandusky Harbor Pier Head Light at 41°29′57.50″ N, 082°39′42.96″ W, thence to Kelleys Island Shoal Light Buoy 1 at 41°38′41″ N, 082°37′56.64″ W, thence to Scott Point Shoal Lighted Buoy 1 at 41°36′05.04″ N, 082°48′22.55″ W, and finishing at Bay Point Shoal Lighted Buoy 2 at 41°30′11″ N, 082°41′28.4″ W.

(b) *Course B:* Starting 0.5 nautical miles east of Sandusky Harbor Pier Head Light at 41°29′57.50″ N, 082°39′42.96″ W, thence to Kelleys Island Shoal Light Buoy 1 at 41°38′41″ N, 082°37′56.64″ W, thence to American Eagle Shoal Lighted Buoy R2 at 41°36′15.20″ N, 082°44′51.20″ W, and finishing at Bay Point Shoal Lighted Buoy 2 at 41°30′11″ N, 082°41′28.4″ W.

(c) *Course C:* Starting 0.5 nautical miles east of Sandusky Harbor Pier Head Light at 41°29′57.50″ N, 082° 39′42.96″ W, thence to Kelleys Island Buoy 1 at 41°37′26.37″ N, 082°40′01.75″ W, thence to American Eagle Shoal Lighted Buoy R2 at 41°36′15.20″ N, 082°44′51.20″ W, and finishing at Bay Point Shoal Lighted Buoy 2 at 41°30′11″ N, 082°41′28.4″ W.

The regulated area will move with the participants as they transit the waters.

These coordinates are based on the World Geodetic System (WGS 84)/North American Datum 83 (NAD 83).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Detroit (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. Those in the special regulated area must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) The COTP will provide notice of the regulated area through advanced notice via broadcast notice to mariners and by on-scene designated representatives.

(d) Enforcement period. This section will be enforced from 8:30 a.m. to 5 p.m. on August 29, 2026.

Caren C. Damon,

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

[FR Doc. 2026–17378 Filed 8–25–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–1027]

RIN 1625–AA00

Safety Zone; Spring Lake, Fruitport, MI

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters on Spring Lake, in the vicinity of Fruitport, MI. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with an overwater aerial drone show. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Lake Michigan, or their designated representative.

DATES: This rule is effective on August 27, 2026, from 8:30 p.m. to 10 p.m.

ADDRESSES: To view available documents, go to *https://www.regulations.gov* and search for USCG–2026–1027.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact MSTC Dylan Caikowski, Sector Lake Michigan, Waterways Management Division, U.S. Coast Guard; telephone (571) 608–0739, or email *D09-SMB-SecLakeMichigan-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

The Coast Guard received notification that an aerial drone show will be conducted above Spring Lake, in the vicinity of Fruitport, MI. The Captain of the Port Sector Lake Michigan has determined that potential hazards associated with aerial drone show are a safety concern for anyone underneath the show.

Therefore, the COTP is issuing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone.

Because of these potential hazards, the Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard was notified of this event on July 29, 2026, but we must establish this safety zone by August 27, 2026, to protect personnel, vessels, and the marine environment. Therefore, we do not have enough time to solicit and respond to comments.

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

III. Discussion of the Rule

This rule establishes a safety zone on August 27, 2026, from 8:30 p.m. until 10 p.m. The safety zone will cover all navigable waters of Spring Lake from surface to bottom, from shoreline to shoreline, east of a line drawn between the following points: originating on the shoreline in position, 43°07.403′ N, 086°09.496′ W, thence south to position, 43°07.279′ N, 086°09.490′ W. Vessels and persons will not be allowed to enter the zone during this time, unless authorized by the Captain of the Port, Sector Lake Michigan or a 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 safety zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–1027 to read as follows:

§ 165.T05–1027 Safety Zone; Spring Lake, Fruitport, MI.

(a) *Location.* The following area is a safety zone: All navigable waters of Spring Lake from surface to bottom, from shoreline to shoreline, east of a line drawn between the following points: originating on the shoreline in position, 43°07.403′ N, 086°09.496′ W, thence south to position, 43°07.279′ N, 086°09.490′ W. 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 Sector Lake Michigan (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 (414) 747–7182. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 8:30 p.m. to 10 p.m. on August 27, 2026.

Rhianna N. Macon,

Captain, U.S. Coast Guard, Captain of the Port Sector Lake Michigan.

[FR Doc. 2026–17375 Filed 8–25–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–1002]

RIN 1625–AA00

Safety Zone; Lake St. Clair; New Baltimore, MI

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of Lake St. Clair within a 420-foot radius of Brandenburg Park on Anchor Bay in Lake St. Clair, New Baltimore, MI for the Anchor Bay Bass, Brew, BBQ fireworks. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards during a fireworks event. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Detroit or their designated representative.

DATES: This rule is effective from 9:30 p.m. on August 28, 2026, until 10:30 p.m. on August 29, 2026. This rule will be enforced from 9:30 p.m. until 10:30 p.m. on August 28, 2026. In the event of inclement weather on August 28, 2026, this rule will be enforced from 9:30 p.m. until 10:30 p.m. on August 29, 2026.

ADDRESSES: To view available documents, go to *https://www.regulations.gov* and search for USCG–2026–1002.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact Tracy Girard, Waterways Management Division, U.S. Coast Guard Sector Detroit; (313) 475–7475, *D09-SMB-SecDetroit-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

The Coast Guard received notification that a fireworks display will be launched from the Brandenburg Township Park Pier and displayed over Lake St. Clair in New Baltimore, MI. The Captain of the Port Detroit (COTP) has determined that potential hazards associated with the fireworks display are a safety concern for anyone within a 420-foot radius of the launch point. Therefore, the Coast Guard is issuing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone.

Because of these potential hazards, the Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard was notified of this event on July 15, 2026, we must establish this safety zone by August 28, 2026, to protect personnel, vessels, and the marine environment. Therefore, we do not have enough time to solicit and respond to comments.

For the same reason, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule

effective less than 30 days after publication in the **Federal Register**.

III. Discussion of the Rule

This rule is effective from 9:30 p.m. on August 28, 2026, until 10:30 p.m. on August 29, 2026. This rule will be enforced from 9:30 p.m. until 10:30 p.m. on August 28, 2026. In the event of inclement weather on August 28, 2026, this rule will be enforced from 9:30 p.m. until 10:30 p.m. on August 29, 2026. The safety zone will cover all navigable waters of Lake St. Clair within a 420-foot radius of the Anchor Bay Bass, Brew, BBQ fireworks site at Brandenburg Township Park Pier in Lake St. Clair, New Baltimore, MI. Vessels and persons will not be allowed to enter the zone during this time, unless authorized by 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 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.T09–1002 to read as follows:

§ 165.T09–1002 Safety Zone; Lake St. Clair, New Baltimore, MI.

(a) *Location.* The following area is a safety zone: All navigable waters of Lake St. Clair within a 420-foot radius of the launch site on the Brandenburg Township Park Pier in Anchor Bay, New Baltimore, MI at position 42°39′55.69″ N, 082°45′23.58″ W. All geographic coordinates are North American Datum of 1983 (NAD 83).

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

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

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16. 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 rule is effective from 9:30 p.m. on August 28, 2026, until 10:30 p.m. on August 29, 2026. This rule will be enforced from 9:30 p.m. until 10:30 p.m. on August 28, 2026. In the event of inclement weather on August 28, 2026, this rule will be enforced from 9:30 p.m. until 10:30 p.m. on August 29, 2026.

Caren C. Damon,

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

[FR Doc. 2026–17389 Filed 8–25–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 6

[Docket No. PTO–T–2026–0463]

RIN 0651–AD96

International Trademark Classification Changes

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (USPTO) issues this final rule to incorporate classification changes adopted by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Agreement). These changes are listed in the International Classification of Goods and Services for the Purposes of the Registration of Marks (13th ed., ver. 2027) (Nice Classification), which is published by the World Intellectual Property Organization (WIPO), and will become effective on January 1, 2027.

DATES: This rule is effective on January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Jessica Ludeman, Office of the Deputy Commissioner for Trademark Examination Policy, at 571–272–7183 or *TMFRNotices@uspto.gov.*

SUPPLEMENTARY INFORMATION: This final rule incorporates classification changes adopted by the Nice Agreement that will become effective on January 1, 2027. Specifically, this rule amends two class headings to more clearly define the types of goods appropriate to the class.

The USPTO is revising 37 CFR 6.1 to incorporate classification changes and modifications, as listed in the Nice Classification, published by WIPO, that will become effective on January 1, 2027. The Nice Agreement is a multilateral treaty, administered by WIPO, that establishes the international classification of goods and services for the purpose of registering trademarks and service marks. As of September 1, 1973, this international classification system is the controlling system used by the United States, and it applies, for all statutory purposes, to all applications filed on or after September 1, 1973, and their resulting registrations. 37 CFR 2.85(a). Every signatory to the Nice Agreement must use the international classification system. Nice Agreement art. 1, June 15, 1957, 550 U.N.T.S. 45 (amended on Sept. 28, 1979).

Each state party to the Nice Agreement is represented in the Committee of Experts of the Nice Union (Committee of Experts), which meets annually to vote on proposed changes to the Nice Classification. Any state that is a party to the Nice Agreement may submit proposals for consideration by the other members of the Committee of Experts, in accordance with agreed-upon rules of procedure. Proposals are currently submitted annually to an electronic forum on the WIPO website, where they are commented on, modified, and compiled for further discussion and voting at the annual Committee of Experts meeting.

In 2013, the Committee of Experts began annual revisions to the Nice Classification. The annual revisions, which are published electronically and enter into force on January 1 each year, are referred to as versions and identified by an edition number and the year of the effective date (*e.g.,* ''Nice Classification, 10th ed., ver. 2013'' or ''NCL 10–2013''). Each annual version includes changes adopted by the Committee of Experts since the adoption of the previous version, consisting of: (1) the addition of new goods and services to, and the deletion of goods and services from, the Alphabetical List; and (2) any modifications to the wording in the Alphabetical List, the class headings, or the explanatory notes that do not involve the transfer of goods or services from one class to another.

As of January 1, 2023, new editions of the Nice Classification are published electronically every three years. They include all changes adopted since the previous annual version, as well as goods or services transferred from one class to another and new classes that have been created since the previous edition.

The 36th session of the Committee of Experts, comprised of member states and WIPO, took place from April 27–May 1, 2026, at WIPO headquarters in Geneva, Switzerland. The revisions contained in this final rule consist of modifications to class headings that were incorporated into the Nice Agreement through voting during the session.

Under the Nice Classification, there are 34 classes of goods and 11 classes of services, each with a class heading. Class headings generally indicate the fields to which goods and services belong. Based on the annual revisions to the Nice Classification, this rule amends descriptions of existing goods in two class headings to more clearly define the types of goods appropriate to the class. As a signatory to the Nice Agreement, the United States adopts these revisions pursuant to Article 1.

Discussion of Regulatory Changes

The USPTO amends § 6.1 to revise Class 6 to replace the comma following ''alloys'' with a semicolon.

The USPTO amends § 6.1 to revise Class 9 to replace ''divers'' in ''divers' masks'' and ''divers'' in ''ear plugs for divers, nose clips for divers'' with ''diving'' and to replace ''gloves for divers'' with ''diving gloves.''

Rulemaking Requirements

A. Administrative Procedure Act: This final rule revises the regulations to reflect modifications to class headings, which indicate the classes to which goods and services belong, that were incorporated into the Nice Agreement. The changes in this final rule do not change the substantive criteria for the registration of a trademark. Therefore, the changes in this rulemaking involve rules of agency practice and procedure and/or interpretive rules and do not require notice-and-comment rulemaking pursuant to 5 U.S.C. 553(b)(B). See *Perez* v. *Mortg. Bankers Ass'n,* 575 U.S. 92, 97, 101 (2015) (explaining that interpretive rules ''advise the public of the agency's construction of the statutes and rules which it administers'' and do not require notice-and-comment when issued or amended); *Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), do not require notice-and-comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice''); *In re Chestek PLLC,* 92 F.4th 1105, 1110 (Fed. Cir. 2024) (noting that rule changes that ''do[ ] not alter the substantive standards by which the USPTO evaluates trademark applications'' are procedural in nature and thus ''exempted from notice-and-comment rulemaking.''); and *JEM Broadcasting Co.* v. *F.C.C.,* 22 F.3d 320, 328 (D.C. Cir. 1994) (''[T]he 'critical feature' of the procedural exception [in 5 U.S.C. 553(b)(A)] 'is that it covers agency actions that do not themselves alter the rights or interests of parties, although [they] may alter the manner in which the parties present themselves or their viewpoints to the agency.''' (quoting *Batterton* v. *Marshall,* 648 F.2d 694, 707 (D.C. Cir. 1980))).

B. Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 or any other law, neither a Regulatory Flexibility Act analysis nor a certification under the Regulatory

Flexibility Act (5 U.S.C. 601 *et seq.*) is required. See 5 U.S.C. 603.

C. Executive Order 12866 (Regulatory Planning and Review): This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The USPTO has complied with Executive Order 13563 (Jan. 18, 2011). Specifically, and as discussed above, the USPTO has, to the extent feasible and applicable: (1) made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, and provided online access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 14192 (Deregulation): This regulation is not an Executive Order 14192 regulatory action because it has been determined to be not significant under Executive Order 12866.

F. Executive Order 13132 (Federalism): This rulemaking pertains strictly to federal agency procedures and does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

G. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) have substantial direct effects on one or more Indian tribes, (2) impose substantial direct compliance costs on Indian tribal governments, or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

H. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

I. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

J. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

K. Executive Order 12630 (Taking of Private Property): This rulemaking will not effect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

L. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), the USPTO will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this rulemaking are not expected to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rulemaking is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

M. Unfunded Mandates Reform Act of 1995: The changes set forth in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, of $100 million (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of $100 million (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. See 2 U.S.C. 1501 *et seq.*

N. National Environmental Policy Act of 1969: This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. See 42 U.S.C. 4321 *et seq.*

O. National Technology Transfer and Advancement Act of 1995: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions that involve the use of technical standards.

P. Paperwork Reduction Act of 1995: This final rule does not involve information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information has a currently valid OMB control number.

Q. E-Government Act Compliance: The USPTO is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 37 CFR Part 6

Administrative practice and procedure, Courts, Lawyers, Trademarks.

For the reasons given in the preamble and under the authority contained in 15 U.S.C. 1112 and 1123 and 35 U.S.C. 2, as amended, the USPTO is amending 37 CFR part 6 as follows:

PART 6—CLASSIFICATION OF GOODS AND SERVICES UNDER THE TRADEMARK ACT

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

Authority: Secs. 30, 41, 60 Stat. 436, 440; 15 U.S.C. 1112, 1123; 35 U.S.C. 2, unless otherwise noted.

■ 2. Revise § 6.1 to read as follows:

§ 6.1 International schedule of classes of goods and services.

Goods

1. Chemicals for use in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; fire extinguishing and fire prevention compositions; tempering and soldering preparations; substances for tanning animal skins and

hides; adhesives for use in industry; compost, manures, fertilizers; biological preparations for use in industry and science.

2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants, dyes; inks for printing, marking and engraving; raw natural resins; metals in foil and powder form for use in painting, decorating, printing and art.

3. Non-medicated cosmetics and toiletry preparations; non-medicated dentifrices; perfumes; bleaching preparations and other substances for laundry use; cleaning, polishing and abrasive preparations.

4. Industrial oils and greases, wax; lubricants; dust absorbing, wetting and binding compositions; fuels and illuminants; candles and wicks for lighting.

5. Pharmaceuticals, medical and veterinary preparations; sanitary preparations for medical purposes; dietetic food and substances adapted for medical or veterinary purposes, food for babies; dietary supplements for human beings and animals; adhesive plasters, materials for dressings; material for filling teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

6. Common metals and their alloys; ores; metal materials for building and construction; transportable buildings of metal; non-electric cables and wires of common metal; small items of metal hardware; metal containers for storage or transport; safes.

7. Machines, machine tools, power-operated tools; motors and engines, except for land vehicles; machine coupling and transmission components, except for land vehicles; agricultural implements, other than hand-operated hand tools; incubators for eggs; automatic vending machines.

8. Hand-operated hand tools and implements; cutlery; side arms, except firearms; razors.

9. Scientific, research, navigation, surveying, photographic, cinematographic, audiovisual, optical, weighing, measuring, signalling, detecting, testing, inspecting, life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling the distribution or use of electricity; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; recorded and downloadable multimedia files, computer software, blank digital or analogue recording and storage media; mechanisms for coin-operated apparatus; cash registers, calculating devices; computers and computer peripheral devices; diving suits, diving masks, ear plugs for diving, nose clips for diving, diving gloves, breathing apparatus for underwater swimming; fire-extinguishing apparatus.

10. Surgical, medical, dental and veterinary apparatus and instruments; artificial limbs, eyes and teeth; spectacles, contact lenses and sunglasses; orthopaedic articles; suture materials; therapeutic and assistive devices adapted for persons with disabilities; massage apparatus; apparatus, devices and articles for nursing infants; sexual activity apparatus, devices and articles.

11. Apparatus and installations for lighting, heating, cooling, steam generating, cooking, drying, ventilating, water supply and sanitary purposes.

12. Vehicles; apparatus for locomotion by land, air or water.

13. Firearms; ammunition and projectiles; explosives; fireworks.

14. Precious metals and their alloys; jewellery, precious and semi-precious stones; horological and chronometric instruments.

15. Musical instruments; music stands and stands for musical instruments; conductors' batons.

16. Paper and cardboard; printed matter; bookbinding material; photographs; stationery and office requisites, except furniture; adhesives for stationery or household purposes; drawing materials and materials for artists; paintbrushes; instructional and teaching materials; plastic sheets, films and bags for wrapping and packaging; printers' type, printing blocks.

17. Unprocessed and semi-processed rubber, gutta-percha, gum, asbestos, mica and substitutes for all these materials; plastics and resins in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, tubes and hoses, not of metal.

18. Leather and imitations of leather; animal skins and hides; luggage and carrying bags; umbrellas and parasols; walking sticks; whips, harness and saddlery; collars, leashes and clothing for animals.

19. Materials, not of metal, for building and construction; rigid pipes, not of metal, for building; asphalt, pitch, tar and bitumen; transportable buildings, not of metal; monuments, not of metal.

20. Furniture, mirrors, picture frames; containers, not of metal, for storage or transport; unworked or semi-worked bone, horn, whalebone or mother-of-pearl; shells; meerschaum; yellow amber.

21. Household or kitchen utensils and containers; cookware and tableware, except forks, knives and spoons; combs and sponges; brushes, except paintbrushes; brush-making materials; articles for cleaning purposes; unworked or semi-worked glass, except building glass; glassware, porcelain and earthenware.

22. Ropes and string; nets; tents and tarpaulins; awnings of textile or synthetic materials; sails; sacks for the transport and storage of materials in bulk; padding, cushioning and stuffing materials, except of paper, cardboard, rubber or plastics; raw fibrous textile materials and substitutes therefor.

23. Yarns and threads for textile use.

24. Textiles and substitutes for textiles; household linen; curtains of textile or plastic.

25. Clothing, footwear, headwear.

26. Lace and embroidery, and haberdashery ribbons and bows; buttons, hooks and eyes, pins and needles; artificial flowers; hair decorations; false hair.

27. Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings, not of textile.

28. Games, toys and playthings; video game apparatus; gymnastic and sporting articles; decorations for Christmas trees.

29. Meat, fish, poultry and game; meat extracts for culinary purposes; preserved, frozen, dried and cooked fruits, vegetables and seaweeds; jellies, jams, compotes; eggs; milk, cheese, butter, yogurt and other milk products; oils and fats for food.

30. Coffee, tea, cocoa and substitutes therefor; rice, pasta and noodles; tapioca and sago; flour and preparations made from cereals; bread, pastries and confectionery; chocolate; ice cream, sorbets and other edible ices; sugar, honey, treacle; yeast, baking-powder; salt, seasonings, spices, preserved herbs; vinegar, sauces and other condiments; ice (frozen water).

31. Raw and unprocessed agricultural, aquacultural, horticultural and forestry products; raw and unprocessed grains and seeds; fresh fruits and vegetables, fresh herbs; natural plants and flowers; bulbs, seedlings and seeds for planting; live animals; foodstuffs and beverages for animals; malt.

32. Beers; non-alcoholic beverages; mineral and aerated waters; fruit beverages and fruit juices; syrups and other preparations for making non-alcoholic beverages.

33. Alcoholic beverages, except beers; alcoholic preparations for making beverages.

34. Tobacco and tobacco substitutes; cigarettes and cigars; electronic

cigarettes and oral vaporizers for smokers; smokers' articles; matches.

Services

35. Advertising; business management, organization and administration; office functions.

36. Financial, monetary and banking services; insurance services; real estate services.

37. Construction services; installation and repair services; mining extraction, oil and gas drilling.

38. Telecommunications services.

39. Transport; packaging and storage of goods; travel arrangement.

40. Treatment of materials; recycling of waste and trash; air purification and treatment of water; printing services; food and drink preservation.

41. Education; providing of training; entertainment; sporting and cultural activities.

42. Scientific and technological services and research and design relating thereto; industrial analysis, industrial research and industrial design services; quality control and authentication services; design and development of computer hardware and software.

43. Services for providing food and drink; temporary accommodation.

44. Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, aquaculture, horticulture and forestry services.

45. Legal services; security services for the physical protection of tangible property and individuals; dating services, online social networking services; funerary services; babysitting.

John A. Squires,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2026–17437 Filed 8–25–26; 8:45 am]

BILLING CODE 3510–16–P

POSTAL SERVICE

39 CFR Part 111

Ballot Mail for Federal Elections

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service is amending the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual, regarding the transmission of mail-in or absentee ballots for federal elections pursuant to its rulemaking authority.

DATES: Effective August 21, 2026.

FOR FURTHER INFORMATION CONTACT: Keith Weidner, (202) 268–2950 or Drew Mitchum, (202) 779–2766.

SUPPLEMENTARY INFORMATION:

I. Background

On March 31, 2026, the President issued Executive Order 14399, *Ensuring Citizenship Verification and Integrity in Federal Elections,* 91 FR 17125 (2026) (''Executive Order'' or ''Order''). The Executive Order stresses the federal government's ''unavoidable duty under Article II of the Constitution of the United States to enforce [f]ederal law, which includes preventing violations of [f]ederal criminal law and maintaining public confidence in election outcomes.'' *Id.* To these ends, the Order points out the need for additional measures concerning the use of the mail in order to facilitate enforcement of federal law, reduce the risk of fraud, and help protect the integrity of federal elections. *Id.* Following the issuance of the Order, the Postal Service engaged in an interagency review process through the Office of Management and Budget (''OMB''), and subsequently issued a proposed rule regarding the preparation of ballot mail for federal elections to facilitate the enforcement of federal law and to implement best practices for Postal Service operations regarding ballot mail. *Ballot Mail for Federal Elections,* 91 FR 32915 (June 2, 2026).

Although exempt by 39 U.S.C. 410(a) from the notice and comment requirements of the Administrative Procedure Act (''APA'') (5 U.S.C. 553) regarding proposed rulemaking, the Postal Service invited public comment on the proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (''DMM''), incorporated by reference in the Code of Federal Regulations, set forth in the proposed rule. The comment period closed on July 2, 2026.

To ensure the faithful execution of federal law in connection with federal elections, this rule has an immediate effective date. Delaying the effective date would jeopardize implementation of this rule in time for the 2026 general election, which will be held on November 3, 2026. Given injunctions currently in place in *State of California* v. *Trump,* No. 26–cv–11581 (D. Mass. June 25, 2026), and *League of Women Voters of Massachusetts* v. *Trump,* No. 26–cv–11549 (D. Mass. Aug. 11, 2026), the Postal Service will not take actions to implement the rule specifically for the 2026 election unless and until the government obtains relief from those injunctions. If the government obtains timely relief from the injunctions, implementation immediately thereafter will provide election officials as much time as possible before the next election to comply with the rule's preparation standards for Federal Ballot Mail envelopes, and to prepare to submit data to the Federal Ballot Mail Portal (''Portal''), before the mail-in and absentee ballots subject to this rule aremailed (which generally occurs in September or thereafter, as determined by state law). The Portal will become active (along with the verification process that relies on Portal data) at the time of the publication of the system of records (''SOR'') governing the Portal. Publication of the SOR will occur on or after August 17, 2026 (pending the Postal Service's separate consideration of the comments on that SOR proposal). Finally, the terms ''mail-in ballot'' and ''absentee ballot'' are synonymous and interchangeable for the purposes of this rule. These terms include any ballot sent through the U.S. Mail, irrespective of state law terminology.

II. Overview of Comments

The Postal Service received more than 200,000 responses during the comment period. These comments consisted primarily of form letters that appeared to be drawn from templates; brief statements of general support for or opposition to the proposed rule; and individualized messages from concerned citizens. Additionally, organizational commenters individually and jointly submitted over 250 letters. This group of commenters included postal unions; federal, state, local, and tribal officials, including state attorneys general, governors, and members of Congress; election officials, including secretaries of state and county election administrators; voting rights organizations; and a range of other issue-based and political advocacy groups.

As discussed below, some opposition to the proposed rule reflected misunderstandings about how the rule will operate in practice; to these misunderstandings the Postal Service offers explanations in the ''Operation of the Final Rule'' section below.

A. Comments in Support of the Rule

Supportive comments emphasized several themes. Some discussed voter fraud as a significant problem and lauded the proposed rule for helping to restore voters' confidence in election integrity. One letter, submitted by an Alabama-led coalition of thirteen state attorneys general, contended that the proposed rule would facilitate efforts to combat voter fraud while shoring up public confidence in ways that states could not achieve on their own

initiative. That coalition further emphasized that states retain full control of ballots until they are transferred to the Postal Service, and that the proposed rule would help mitigate weaknesses in the chain of custody of Federal Ballot Mail.

Supporting commenters also appraised the proposed rule as enhancing election security by improving the visibility of Federal Ballot Mail in the mailstream; approved of the ballot envelope design standards it would normalize; emphasized the benefits of creating reconcilable data (through the state-specific Mail-In and Absentee Participation Lists (''Lists'')) that offers a neutral administrative check which strengthens confidence in elections; and predicted that the rule would reduce uncertainty as to whether ballots have reached their intended destination.

Supporting commenters further evaluated the actions that state and local election officials may need to take to comply with the proposed rule's standards. The Alabama-led coalition of state attorneys general, for instance, acknowledged that the proposal would impose certain burdens but characterized them as ''plainly justified by the security and accountability benefits of the proposed rule,'' concluding that the rule ''addresses real vulnerabilities inherent in mail-in voting, responds to legitimate and widespread public concerns about federal election integrity, and equips States with tools that strengthen their own oversight capabilities without displacing their authority.''

Finally, many supporting commenters affirmed the Postal Service's statutory and constitutional authority to enact the rule. Some cited Article II, Section 3 of the U.S. Constitution (requiring the President to ''take Care that the Laws be faithfully executed'') as legal grounds for the rule, while also endorsing the analysis of authorities set out in the Notice of Proposed Rulemaking. There, the Postal Service cited authority to regulate the mail as embodied in 39 U.S.C. 401 and 404 and described the proposed regulations as setting forth ''mailpiece preparation and data reporting standards that can provide information regarding the sending of ballots through the mail that would be available for use by law enforcement, and are consistent with title 39 of the U.S. Code.'' The Postal Service addresses the legal authority to promulgate the final rule at greater length in the ''Legal Authority'' section below.

Finally, some commenters urged the Postal Service to adopt additional measures, including citizenship-verification requirements, as part of a final rule.

B. Comments in Opposition to the Rule

Comments received in opposition to the proposed rule generally urged the Postal Service to withdraw the rule or to delay its implementation until after the November 3, 2026, general election. Several commenters argued that the rule should be withdrawn in light of an injunction entered by the United States District Court for the District of Massachusetts (*California* v. *Trump,* 2026 WL 1826490 (D. Mass. June 25, 2026)) and a now-stayed injunction issued by the United States District Court for the District of Columbia, in litigation arising out of a 2021 settlement with the National Association for the Advancement of Colored People (''NAACP'') in the United States District Court for the District of Columbia (*NAACP* v. *U.S. Postal Serv.,* 2026 WL 1893762 (D.D.C. July 1, 2026)).

Concerns raised by opposing commenters largely fell into three broad categories, each of which is addressed in greater detail below:

- The alleged legal deficiencies of the proposed rule;
- Concerns regarding the purported practical implementation challenges;
- Concerns about the proposed rule's alleged broader political and social impact.

With respect to legal objections, opposing commenters argued that the Postal Service lacks legal authority to adopt or implement the proposed rule. Commenters further argued that, even if the Postal Service possesses the requisite authority, adoption of the proposed rule would be arbitrary and capricious. These legal objections are addressed at length in the ''Legal Authority'' and ''Impact of the Final Rule'' sections below.

With respect to the substance of the proposed rule, opposing commenters frequently focused on the Portal, the acceptance (or verification) provisions, and the fact that the Postal Service would refuse to accept certain ballots for federal elections that states tender without satisfying the data-entry obligations that the rule would impose. Although these provisions were uniformly opposed by commenters not otherwise supportive of the rule, some expressed greater openness to the envelope-design requirements, asserting that such requirements would fall more squarely within the Postal Service's sphere of authority. Thus, in the opinion of some commenters, the envelope design provisions for Outbound and Return Federal Ballot Mail in DMM 705.24.3 could be retained while the verification, Portal, and optional notice provisions should be removed. In a similar vein, at least one commenter signaled conditional support for the proposed rule so long as all mandatory provisions were made voluntary. Comments raising specific implementation concerns—arising from asserted costs and burdens associated with implementation before the 2026 general election, as well as those costs and burdens that would purportedly be incurred on an ongoing basis; the potential risk of administrative or data errors leading to ballot rejection; and the Postal Service's perceived lack of readiness—are addressed at length in the sections below.

A number of commenters urged the Postal Service to publish a system of records notice (''SORN'') under the Privacy Act and raised questions addressable through the SORN, including whether personally identifiable information will be collected and stored, how long such information will be retained, which entities and personnel will have access to it, whether it will be shared with other federal entities or contractors, what cybersecurity safeguards will be implemented, and what remedies will be available in the event of improper disclosure. The Postal Service published a SORN on July 17, 2026. 91 FR 44880. The public was invited to submit comments relevant to the SORN and related Privacy Act considerations in that proceeding.

C. Comments Outside the Scope of This Rulemaking

The Postal Service also received a significant number of comments that fall outside the scope of this proceeding.

First, many commenters described voting by mail as an effective means of exercising their franchise due to their individual circumstances. Other commenters, by contrast, criticized mail-in voting as a general practice and urged the Postal Service to cease delivering ballot mail altogether. The Postal Service takes no position on whether, or the extent to which, states should utilize the mail as part of the administration of their elections. Indeed, the Postal Service does not advocate for or against voting by mail. Instead, the Postal Service collects, processes, transports, and delivers mail and packages, and remains fully committed to transporting all types of mail, including Federal Ballot Mail that conforms with the Postal Service's mail preparation, data reporting, acceptance, and entry standards. As discussed

further below, under the proposed rule, and as retained in the final rule, the states retain full authority to decide whether to utilize the U.S. Mail as part of their electoral systems, and to determine who should be eligible to vote by mail.

Second, comments that comprehensively address state and local election administration or the Postal Service's election mail procedures fall outside the scope of this proceeding. By way of example, one commenter raised concerns regarding the accuracy of voter registration rolls, recounted their experience of observing purported irregularities during the 2020 election cycle, and urged the Postal Service to undertake a comprehensive review of all mail-in ballot procedures. Comments in this vein, which concern the entire system of election mail administration, rather than the DMM provisions set forth in the Notice of Proposed Rulemaking, will not be addressed below.

Third, numerous comments raised concerns influenced by partisan political speculation. This included conjecture about the underlying intent of the Order and the impact it may have on voter turnout or election outcomes. Such remarks are speculative and exceed the scope of this proceeding. In any event, as explained further below, this rule does not—nor is it intended to—facilitate any form of voter suppression, affect election outcomes, or target particular demographics, districts, or states.

Fourth, a number of comments raised issues that fall outside both the scope of this proceeding and the Postal Service's authority generally, extending the rule's logic beyond election mail and/or invoking executive branch entities not involved in Postal Service operations. Some, for example, proposed that ballots be accepted only if they arrive by election day; demanded that mail-in voting be discontinued; urged Congress to enact the Safeguard American Voter Eligibility (SAVE) Act; and weighed in on sections of Executive Order 14399 that do not concern the Postal Service. Comments addressing election deadlines, the policy of mail-in voting, other election administration changes, pending legislation, and other entities' law enforcement priorities are not relevant to this proceeding.

Fifth, some commenters raised broad issues of service performance and operational decision-making. Such issues include which facilities process particular mail classes; postmarking practices; service performance complaints; the scope of Postal Police Officers' authority; operational changes or service commitments for ballots mailed to and from military and overseas voters; and collateral consequences to the Postal Service's brand reputation or revenue if a final rule is issued. Such comments are beyond the scope of this proceeding and will not be addressed below.

Sixth, the Postal Service received numerous comments addressing matters unrelated to election mail or to the matters discussed in this proceeding. These included comments expressing personal opinions of the President; remarks concerning nominees to the Postal Service Board of Governors and criticisms of the Board's leadership; objections to postage and stamp prices; requests for congressional action; appraisals of judges who have issued decisions concerning election mail; appraisals of the current and former Postmaster General; comments aimed at postal management and staff; comments on postal reform and privatization; comments on voter intimidation; comments regarding the role of public election auditors and observers; opinions about the impact of the Supreme Court's recent decisions dealing with the Voting Rights Act; comments regarding the Federal Election Commission's Clearinghouse on Election Administration; and feedback on other administrative proceedings, including a Department of Justice (''DOJ'') rulemaking concerning the review of state bar complaints and allegations against DOJ attorneys and a separate Postal Service rulemaking concerning the mailability of firearms. Such comments are also beyond the scope of this proceeding and will not be addressed below.

D. Conclusion

The Postal Service has carefully considered all comments received. The summary above is intended to broadly cover the issues they raise. Substantive legal objections, operational issues, requests for additional study, suggested revisions to the proposed rule, and additional topics related to the proposed rule are addressed in the dedicated subsections that follow.

III. Legal Authority

Numerous commenters asserted, on varying grounds, that the Postal Service lacks the legal authority to implement the proposed rule. This section recites the specific arguments advanced by commenters, followed in each case by a response affirming the legal basis of the DMM changes.

A. General Remarks

Ballot mail presents unique considerations, given the role it plays in the electoral process. This role has also grown in importance in recent years, as many states have expanded eligibility for mail-in voting, with some states moving to universal mail-in voting. The number of voters using the mail to receive and cast their ballots has commensurately increased. The Postal Service's policies regarding election mail in general, and ballot mail in particular, have evolved to reflect these unique considerations. From an operational standpoint, the Postal Service deploys special practices on a nationwide basis for the processing and delivery of ballot mail to ensure that such mail is prioritized across the postal network and timely delivered. These practices include the use of extraordinary measures during the period surrounding federal general elections to accelerate the delivery of return ballot mail beyond the Postal Service's typical operations when its employees are able to identify a mailpiece as a ballot. In recognition of the importance of ballot mail, the Postal Service regularly issues nationwide guidance documents in federal election cycles, has dedicated points of contact to coordinate with election officials, and has created a dedicated election mail group tasked with overseeing the Postal Service's election mail procedures nationwide. The Postal Service also amended DMM 703.8.0 in 2022 to add its longstanding best-practices recommendations concerning ballot mail to facilitate efficient handling and prompt delivery and to improvemailpiece visibility. Some jurisdictions have adopted those recommendations.

The use of the U.S. Mail to vote also implicates federal interests regarding whether the postal system is being used in a manner that is consistent with federal law, including those laws governing who is allowed to vote in federal elections. Executive Order 14399 emphasizes the constitutional obligation of the Executive Branch to take care that these laws are faithfully executed, and discusses the importance of applying additional measures concerning the use of the mail to vote in federal elections, in order to facilitate enforcement of federal law, reduce the risk of fraud, and help protect the integrity of federal elections—a point subsequently echoed by some comments supporting the rule. It is fully appropriate for the Postal Service, as an establishment of the Executive Branch, to take actions deemed necessary to ensure the faithful

execution of federal law and enhance the efficiency of postal operations. As discussed below, the Postal Service has the statutory and constitutional authority to take such actions.

B. Election Integrity

The Postal Service received many comments expressing differing views on the incidence of voter fraud and its impact on election integrity. Some commenters, in voicing support for the proposed rule, portrayed voter fraud as a significant problem, while commenters opposing the rule argued that it is not a problem, and disputed the Postal Service's legal authority and rationale to impose preparation requirements for Outbound Federal Ballot Mail.

While the Postal Service acknowledges the range of disagreement on this point, the incidence of voter fraud does not impact the proposed rule's legal grounding. As discussed in the Notice of Proposed Rulemaking and in further detail below, the rule will afford significantly enhanced visibility into the sending of Federal Ballot Mail, and this will in turn facilitate law enforcement efforts by enabling law enforcement to better detect potential issues meriting further investigation. Such enhanced visibility will help identify potential issues that would have otherwise gone undetected; at the very least, it will provide increased assurance that any potential issues are more capable of being effectively identified and investigated. *Cf. Crawford* v. *Marion Cnty. Election Bd.,* 553 U.S. 181, 196–97 (2008) (noting the propriety of taking steps designed to detect and deter potential electoral fraud, which also has the benefit of ''safeguarding voter confidence'' in elections). Whether or not voter fraud is common or uncommon, the Postal Service has the legal authority to take the measures in this rule to facilitate enforcement of federal law, reduce the risk of fraud, and help protect the integrity of federal elections.

C. The Constitution's Elections Clause and the 10th Amendment

Numerous commenters argued that the Postal Service, through the proposed DMM provisions, would supplant the states' authority to administer elections. Some of these comments characterized the proposed rule as inconsistent with the Elections Clause of the Constitution, Article I, Section 4, Clause 1 (vesting authority over the ''manner of elections'' with the States and Congress), and with the 10th Amendment (reserving all non-enumerated powers to the states). According to many of these comments, the proposed rule would allegedly recast the Postal Service as an ''auditor of state voter rolls and an arbiter of ballot validity,'' a ''gatekeeper of who can vote by mail,'' or a ''checkpoint for voting.'' In a similar vein, commenters asserted that the proposed rule contravenes the separation of powers by arrogating powers that lie with Congress. Finally, at least one commenter argued that, by requiring that states expend resources to comply with the standards mandated by the Postal Service, the proposed rule would unconstitutionally commandeer State resources.

These comments are fundamentally erroneous. The rule does not recast the Postal Service as an election administrator, nor dictate the manner of elections in the states. On the contrary, it sets forth mailpiece design and data reporting standards tied to the use of the mail. States maintain complete control over their own voter registration rolls, deciding who within their jurisdiction is eligible to vote by mail. States also retain complete autonomy to determine the extent to which they utilize the postal system as an aspect of their elections. The rule is plainly consistent with the Elections Clause, the 10th Amendment, and the separation of powers, as well as the Postal Service's statutory and regulatory authority.

Some commenters acknowledged the Postal Service's authority to impose general standards governing the dispatch of election mail, including ballot mail. For instance, election mail must today conform with the DMM provisions that apply to the class of mail in which it is entered, and users of such mail must pay the required postage. The requirement to follow federal mail regulations if states choose to use the federal postal system, then, cannot inherently violate the Elections Clause, nor would it in any way ''commandeer'' state resources. The Postal Service is not constitutionally obliged to defer to a given state's Outbound Federal Ballot Mail design preferences or accept a given state's decision not to use barcodes. On the contrary, establishing a standardized set of mailpiece design requirements for Outbound Federal Ballot Mail—requirements that, being tailored to enable more efficient handling of Outbound Federal Ballot Mail, improve such mail's visibility in the mailstream, and Postal Service operations—lies within the Postal Service's authority. These requirements do not amount to election administration, nor do they usurp state resources; rather, they regulate the use of the mail to improve operational efficiency and support the faithful execution of federal law. In this regard, as a general matter, states do not have to use the U.S. mail to conduct their elections, and the Postal Service can take steps to ensure that if states do use the mail, that use occurs in a manner that achieves these legitimate purposes.

Similarly, the requirement to report mail piece-level data into the Portal is not tantamount to election administration. States retain full control over who within their jurisdictions is (or is not) eligible to vote by mail in federal elections; they would, moreover, determine who is enrolled in their respective Mail-In and Absentee Participation Lists. DMM 705.24.4 only requires that states provide to the Postal Service certain information inscribed on the Outbound and Return Federal Ballot Mail envelopes that they mail to voters, prior to or at the time of the outbound mailing. This information, which necessarily lies in the states' possession, would not be subject to revision by the Postal Service. Eligible voters will therefore be listed by and at the discretion of election officials, and the Postal Service will not second-guess the states' submissions. State election officials will thus retain full control over who is permitted to vote in federal elections in their state by U.S. mail.

Finally, the verification process aims only to ensure that states adhere to the mailpiece design and data reporting standards. By checking the outbound barcode, the Postal Service will be able to verify that the state or political subdivision thereof has satisfied the Portal data entry requirements (*e.g.,* certifying that Outbound and Return Federal Ballot Mail envelopes have been submitted for Mailpiece Design Analyst (''MDA'') review and that feedback has been received, all required data fields have been entered). Again, the Postal Service will exercise no discretion or authority over whether an individual should or should not be on the list a state provides.

This rule does not involve or authorize inspection of a mail-in ballot's contents, review of individual voter's eligibility, or auditing of state voter rolls. It instead focuses exclusively on exterior mailpiece criteria and barcode scan data. As DMM 704.24.6 explains, ''[t]his rule relates only to the use of the U.S. Mail,'' leaving states ''fully responsible for the contents of [their] Mail-In and Absentee Participation List.'' 91 FR 32929. Specifically, DMM 705.24.1.b limits enrollment in the Portal to users authorized by a state's chief election official; accordingly, and as detailed in DMM 705.24.4.3, the Postal Service will compile and return to each state only the information that

the state itself has submitted, thus preserving the states' control over who is (and is not) able to vote by mail. It further bears emphasizing that the verification process delineated in DMM 705.24.5 would not involve voter eligibility determinations in any way; it will not entail scrutiny into, or any attempt to evaluate, individual voters. Finally, as plainly stated in DMM 705.24.5.2, ''Postal Service personnel are not authorized to open mail sealed against inspection.'' In short, the rule adds a layer of security and accountability while leaving the administration of elections firmly in the hands of the states.

D. First Amendment and Privacy Act Concerns

Some commenters raised First Amendment concerns, noting that the Supreme Court has long recognized that voting is a protected form of political participation and that compelled disclosure of political participation can chill the exercise of First Amendment freedoms. Though some commenters correctly acknowledged that the Postal Service does not propose to disclose voting choices, numerous commenters nevertheless alleged that the rule would compel the creation and maintenance of records identifying citizens who engage in mail-in or absentee voting; speculated that such records may be subject to future disclosure, misuse, breach, or political targeting; and advised against collecting personally identifiable election-participation information absent a compelling need and robust safeguards.

Other commenters invoked the Privacy Act, and 5 U.S.C. 552a(e)(7) in particular, as a statutory bar on the maintenance of records ''describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity[.]''.

These First Amendment concerns are misplaced. First, the Postal Service reiterates that it will not collect or record party affiliation and will not inspect ballot contents. Postal Service personnel are not authorized to open mail sealed against inspection. Instead, through the Portal the Postal Service will maintain data of the sort that is routinely generated for mail from the exterior of the mailpiece, including addressing and barcode information.

The rule's enactment will not entail ''compelled disclosure of political participation.'' Supreme Court cases on ''compelled disclosure'' in the electoral context address compelled public disclosure of personally identifiable election participation information, such as a public records law making the signatures on a referendum petition publicly available upon request. *John Doe No. 1* v. *Reed,* 561 U.S. 186, 192 (2010). The rule, by contrast, neither directs nor contemplates the public disclosure of Mail-In and Absentee Participation Lists or the underlying Portal data.

The Postal Service recognizes the importance of ensuring that the Lists are protected from ''future disclosure, misuse, breach, or political targeting.'' The Notice of Proposed Rulemaking indicated that ''steps necessary for the creation of a new SORN in accordance with the Privacy Act'' would be initiated. 91 FR 32971. On July 17, 2026, the SORN was published in the **Federal Register**. The SORN provides details regarding retention periods, access, disclosure, notification, and contest procedures under 39 CFR 266.5. 91 FR 44880. The notice specifies the categories of records covered, a five-year retention period, encryption of online data transmissions, and badge- and log-on-controlled access limited to personnel whose duties require it. The Postal Service can therefore confirm that no data will be collected through the Portal until a system of record (SOR) is in effect, and that records will be disclosed and maintained consistently with any final SOR, which does not allow public disclosure of the Lists.

The proposed rule is also consistent with 5 U.S.C. 552a(e)(7), which applies only to records revealing ''how any individual exercises rights guaranteed by the First Amendment.'' Courts have interpreted this ''how'' to mean gathering and recording the ''content'' of expressive activity under the First Amendment. *E.g., Reuber* v. *United States,* 829 F.2d 133, 143 (D.C. Cir. 1987) (holding that a letter reprimanding an employee for privately published essays did not depict ''how'' he had exercised First Amendment rights under the Privacy Act because it did not discuss ''the content'' of his privately published essays and made ''only vague allusions to the manner in which he expressed his views'').

This section of the Privacy Act could only be invoked here if the Postal Service were gathering and maintaining records indicating the ''content'' of an individual's exercise of their First Amendment rights (*i.e.,* the content of an individual's ballot, and thus the candidate for which an individual voted). That is not the type of information being collected under the rule. The state-specific Mail-In and Absentee Participation Lists indicate whether a state planned to mail a blank ballot to any given individual. This information does not describe ''the content'' of expressive activity under the First Amendment, but simply indicates the specific means by which an individual may have chosen to receive or return their ballot.

Furthermore, Section 552a(e)(7)'s prohibitions are operative ''unless pertinent to and within the scope of an authorized law enforcement activity''—and as stated above, this rule is enacted to assist in the faithful execution and enforcement of federal law. *See Jabara* v. *Webster,* 691 F.2d 272, 280 (6th Cir. 1982) (Section 552a(e)(7) ''does not bar the maintenance of records describing how a person exercises First Amendment rights if there is a direct nexus to an authorized criminal, civil or administrative law enforcement activity''). The applicability of Section 552a(e)(7)'s law enforcement exception to DMM 705.24.4 is further confirmed by the DOJ Office of Legal Counsel's recent memorandum opinion, ''Authority to Obtain and Share Statewide Voter Roll Data.'' 50 Op. OLC __(May 12, 2026), Slip. Op. at 25–29 (explaining that Section 552a(e)(7)'s law enforcement exception permits retention of statewide voter-registration lists when a SORN is published).

E. Fourth Amendment Concerns

Some commenters argued that the proposed rule would violate the Fourth Amendment by allegedly:

- Allowing unreasonable search of voter information encoded on the outside of Federal Ballot Mail envelopes;
- Permitting unreasonable seizure of Federal Ballot Mail encoded with voter information; and
- Requiring voter information to be encoded on the outside of Federal Ballot Mail envelopes and allowing suspicionless searches (also known as ''administrative'' or ''special needs'' searches) of that information for general law-enforcement purposes that fall outside of the Postal Service's lawful mission of mail delivery.

The Postal Service notes that courts have long held that there is no reasonable expectation of privacy in information displayed on the exterior of a mailpiece because it is exposed to anyone's view, including postal employees who must rely upon it in the performance of their duties. *E.g., United States* v. *Choate,* 576 F.2d 165, 175–77 (9th Cir. 1978). Thus, the Postal Service's creation of ''mail covers''—images of the outside cover of envelopes or packages in its custody—for general

law enforcement purposes do not constitute a ''search'' under the Fourth Amendment. *See generally* 39 CFR 233.3. Likewise, the government's use of voter information displayed or encoded on Federal Ballot Mail envelopes would not constitute a Fourth Amendment ''search''—administrative or otherwise—because it invades no reasonable expectation of privacy.

F. Due Process Concerns

Some commenters argued that once a state provides for absentee voting, the state has enabled a qualified individual to exercise their fundamental right to vote in a way that was previously unavailable; and that, as a result, the state must afford appropriate due process protections, including notice and a hearing, before rejecting an absentee ballot. Commenters analogized this principle (which applies via the Fourteenth Amendment to the states) to the Fifth Amendment, which, in their view, requires the federal government to provide adequate due process before restricting voters' use of otherwise permissible voting methods.

The Postal Service reiterates that the rule adopted herein does not determine any individual's eligibility to vote and thus does not raise the specter of a due process violation. The verification procedures set forth in DMM 705.24.5 are instead designed to ensure that states sending Federal Ballot Mail have transmitted to the Federal Ballot Mail Portal the information required for each state-specific Mail-In and Absentee Participation List. Such information lies with the states, which already fully control who is, and who is not, included on the Lists; voters themselves cannot provide all of that information (*e.g.,* unique Intelligent Mail barcode (''IMb'') on the outbound and return envelope), and the Postal Service cannot correct or amend it. While the verification process may identify missing data or other errors between Outbound Federal Ballot mailings and the Portal data, the states themselves control the information that they transmit (as they do already, even in the absence of this rule), and any procedural protections attaching to such information must accordingly be provided by the states. Ultimately, with or without this rule, states are responsible for managing their own voter rolls, and deciding who is or is not eligible to vote by mail.

G. Equal Protection Concerns

Some commenters raised concerns regarding the guarantee of equal protection under the Fourteenth Amendment (and subsequently incorporated into the Fifth Amendment by *Bolling* v. *Sharpe,* 347 U.S. 497 (1954)). For example, at least one commenter asserted that the exemption for ballots covered by the Uniformed and Overseas Citizens Absentee Voting Act (''UOCAVA'') affords unequal legal protection (on the mistaken grounds that UOCAVA covers military personnel but not overseas civilians). Moreover, at least one commenter argued that by creating the possibility of noncompliance, the rule's envelope-design standards and verification process might restrict some voters' ability to vote by mail, thus withholding equal protection under the law.

However, another commenter reasoned that uniform national standards—far from raising equal-protection issues—resolve these constitutional concerns. Relying on *Jones* v. *U.S. Postal Service,* 488 F. Supp. 3d 103 (S.D.N.Y. 2020), the commenter explained that Fifth Amendment equal-protection claims were likely to succeed where there were no standards or uniformity for handling election mail; this inconsistency can result in intrastate and interstate disparities in citizens' voting power. The proposed rule, the commenter argued, eliminates such concerns by setting a single, nationwide standard for Federal Ballot Mail.

The Postal Service agrees with this commenter that the rule safeguards, rather than abrogates, equal protection. The rule is neutral on its face and uniform in application: DMM 705.24.3 applies objective requirements to all Outbound and Return Federal Ballot Mail envelopes without distinction, and the data entry and verification processes delineated by DMM 705.24.4 and 705.24.5, respectively, likewise apply to all states equally. Furthermore, as noted, the rule promotes multiple rational objectives through nationwide standards and implementation, including the enhancement of Federal Ballot Mail visibility in the mailstream, Postal Service operations, and the facilitation of law enforcement objectives. *Cf. United States* v. *Salerno,* 481 U.S. 739, 734 (1987) (holding that facial challenges to statutes ''must establish that no set of circumstances exists under which the Act would be valid''); *Reno* v. *Flores,* 507 U.S. 292, 301 (1993) (extending the *Salerno* standard to federal agency regulations). The rule's exemptions also rest on a legitimate, nondiscriminatory basis. Congress, for example, created in UOCAVA a separate federal statutory scheme with its own requirements, including different timing constraints and deadlines. *McDonald* v. *Board of Election Comm'rs,* 394 U.S. 802, 809 (1969) (allowing exceptions within an absentee ballot voting scheme provided ''some rational relationship to a legitimate state end''). Furthermore, as indicated, UOCAVA coverage does in fact extend to non-military U.S. citizens who reside outside the United States. 52 U.S.C. 20310(5)(B)–(C).

H. Statutory Grounding in Title 39

Multiple commenters argued that, as a general matter, the Postal Service lacks the statutory authority to implement the proposed rule. Along similar lines, some commenters alleged specifically that, because no provisions in title 39 explicitly contemplate mandatory standards regarding Federal Ballot Mail, title 39 impliedly bars the Postal Service from implementing such standards.

These statutory arguments are unavailing. As explained in the Notice of Proposed Rulemaking, 39 U.S.C. 401(2) authorizes the Postal Service ''to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title,'' and further grants the Postal Service ''all other powers incidental, necessary, or appropriate to the carrying on of its functions or the exercise of its specific powers.'' *Id.* § 401(10). Furthermore, Section 404 grants the Postal Service specific powers, including the power ''to provide for the collection, handling, transportation, delivery, forwarding, returning, and holding of mail, and for the disposition of undeliverable mail.'' *Id.* § 404(a)(1).

Setting preparation and data-reporting standards for a defined category of mail falls squarely within that statutory authority. Supreme Court precedent confirms the Postal Service's expansive rulemaking authority. As noted by one commenter, in *U.S. Postal Service* v. *Council of Greenburgh,* the Court explained that under 39 U.S.C. 401 ''the Postal Service is broadly empowered to adopt rules and regulations.'' 453 U.S. 114, 122 (1981). This commenter further argued that the Postal Service has long managed election mail as a distinct category under its authority. In *Rider* v. *United States,* the commenter explained, the Claims Court recognized that the Postal Service issues ''detailed regulations and management instructions concerning the various classes of mail and types of postal services in its Domestic Mail Manual'' pursuant to Section 404(a), and that its Postal Operations Manual establishes ''special operating procedures'' to ensure that election and campaign mailings ''are processed properly,

delivered with equitable care and attention and that proper records are maintained.'' 7 Cl. Ct. 770 (1985). Courts have recognized the Postal Service's broad regulatory authority in other contexts as well. *See Grover City* v. *U.S. Postal Serv.,* 391 F. Supp. 982, 986 (C.D. Cal.1975) (finding postal regulations setting mail receptacle standards to be valid exercises of § 404(a)(1) delivery power and § 401(2) rulemaking authority); *Rockville Reminder* v. *U.S. Postal Serv.,* 480 F.2d 4, 7 (2nd Cir. 1973) (upholding postal regulations prohibiting mailbox installations facilitating private delivery of advertising circulars under the Postal Service's broad rulemaking authority); *Egger* v. *U.S. Postal Serv.,* 436 F. Supp. 138, 142 (W.D. Va. 1977) (upholding the Postal Service's interpretation of its regulations governing mail addressed to people at school).

The Postal Service has the statutory authority to set forth mail preparation, acceptance, and entry standards that are necessary to achieve the functions assigned to it by law—functions that include investigation into the potential misuse of the mail and coordination with other federal law enforcement entities. *See* 39 U.S.C. 401(2); *cf.* 18 U.S.C. 3061(b) (authorizing the Postal Service to investigate crimes regarding ''the use of the mails'' and other appropriate crimes as determined by agreement with the Attorney General); 52 U.S.C. 10307, 20511. The rule sets forth tailored requirements regarding the use of the mail—the design of Federal Ballot Mail envelopes and the provision of mailpiece-level data concerning such ballot mailings—to help ensure the faithful execution of federal law; and the information yielded by these requirements would be available for use by law enforcement. Additionally, the rule would implement the Postal Service's longstanding best practices for ballot mail, thereby advancing execution of a key Postal Service function: processing and delivery of the Nation's mail. Contrary to commenters' arguments, achieving such purposes is within the scope of the Postal Service's authority to take ''necessary'' action to regulate the use of the mail and achieve its assigned functions.

There is also no basis to conclude that the Postal Service's broad statutory authority regarding the postal system encompasses all types of mail except ballot mail, and specifically Federal Ballot Mail. On the contrary, the Postal Service has acted pursuant to its existing authority to take many actions regarding ballot mail, reflective of the unique considerations raised by such mail, including by establishing special operational procedures and issuing best practice recommendations. While the Postal Service is now taking additional action to make some of these recommendations mandatory, and to add a requirement that states provide mailpiece-level detail about their mailings, such additional steps equally fall within the Postal Service's authority to execute on functions as assigned.

I. Grounding in Law Enforcement Statutes

Multiple commenters contested the state-specific Mail-In and Absentee Participation Lists' grounding in law enforcement objectives, on the theory that the Lists, and the purposes to which they will allegedly be put, exceed the Postal Service's authority to investigate crimes involving election fraud. In general, these comments assert that the criminal statutes cited by the Notice of Proposed Rulemaking either have nothing to do with voting or are related to voting but are not enforceable by the Postal Service. Specific arguments include:

- *The U.S. Code does not confer on the Postal Service authority to enforce election statutes.* Commenters asserted that 52 U.S.C. 10307 and 20511 do not expressly name the Postal Service, and as such cannot be taken to confer enforcement or investigative authority on the Postal Service with respect to voter intimidation and fraudulent registration or voting. Conversely, 39 U.S.C. 404(a)(6) confers on the Postal Service the power ''to investigate postal offenses and civil matters relating to the Postal Service,'' not election law per se.
- *The investigatory and enforcement powers conferred by statute on Postal Inspectors are limited.* Some commenters averred that 18 U.S.C. 3061(b) grants only limited law enforcement powers to Postal Inspectors, which are confined to ''the enforcement of laws regarding property in the custody of the Postal Service, property of the Postal Service, the use of the mails, and other postal offenses,'' and to any offenses subject to interagency agreement with the Attorney General. This grant of authority, some asserted, does not authorize the Postal Service to collect data on voters. Similarly, the regulations in 39 CFR 233.1(b) do not expressly grant Postal Inspectors authority to administer elections, determine voter eligibility, maintain voter registration databases, or conduct election fraud investigations unrelated to postal offenses.
- *The proposed rule lacks a factual predicate.* To initiate an investigation, the Postal Service requires either direct, visible evidence of a crime or reasonable grounds to suspect that a crime is or has been committed. Some commenters characterized voter fraud, including through use of the mail, as rare. Commenters contended that the proposed rule nevertheless assumes that every mail-in voter may cast a fraudulent vote and must be placed under surveillance.
- *Lack of a clear statement conferring investigative or enforcement authority.* Commenters argued that if Congress had intended to deputize the Postal Service as an adjunct of federal election law enforcement, it would have said so clearly.

Each of the above arguments is unpersuasive. The proposed rule establishes mailpiece preparation and data reporting standards that will significantly enhance the visibility of Federal Ballot Mail. The information generated by the implementation of those standards would be available for use by appropriately authorized law enforcement entities to help ensure the faithful execution of federal law. The determination of whether to investigate, refer, charge, or prosecute any matter relating to illegal voting, voter fraud or voter intimidation rests, and will continue to rest, with the entities to which Congress has assigned such functions. Moreover, as noted above, the rule does not dictate the administration of elections, the determination of voter eligibility, or the maintenance of voter registration databases—all of which is controlled by the states–nor does the rule authorize the Postal Service to conduct investigations unrelated to postal offenses.

Concerning the proposed rule's factual predicate (or alleged lack thereof), claims regarding the empirical incidence of voter fraud do not, as explained above, affect the Postal Service's authority to adopt these regulations. The Postal Service further emphasizes that, under the rule, it will not surveil mail-in or absentee voters. Under the rule's plain terms, information generated at acceptance is embedded in exterior mailpiece indicia and barcode scan data; Postal Service personnel are not authorized to open mail sealed against inspection; and no provision in DMM 705.24 authorizes review of any ballot's contents.

Concerning the implied clear statement rule discerned by some commenters, the Postal Service does not purport to discover ''transformative power'' in a ''long-extant'' statute. Rather, the envelope design, automation, barcoding and design review standards set forth by DMM

705.24.3 are similar to mail preparation requirements routinely applied across other mail categories. The rule, therefore, does not introduce new and unsettled ''major questions''—a point explained in greater depth below.

J. The Major Questions Doctrine

Some commenters asserted that the proposed rule would violate the ''major questions doctrine,'' which applies to agency actions purporting to ''discover in a long-extant statute an unheralded power representing a transformative expansion in its regulatory authority.'' *West Virginia* v. *EPA,* 597 U.S. 697, 724 (2022). Such comments theorized that as the right to vote is a fundamental political right, and as the Postal Service has no authority to adopt rules regulating voting in federal elections without express congressional authorization, the proposed rule would derive from its stated sources of statutory authority just such ''transformative'' powers.

As an initial matter, it bears repeating that this rule does not regulate the right or eligibility to vote, voter registration, or the manner by which states administer elections. States will retain full autonomy to decide whether (and to what extent) they utilize the U.S. Mail as part of their electoral systems and who can use ballot mail to cast a vote. The rule instead imposes modest data and mail preparation requirements on Federal Ballot Mail envelopes. The preparation requirements have for years been issued as best-practice guidance—and are substantively similar to the standards already employed to varying extents by some election officials. And the data standards require that states provide information regarding the exterior of Federal Ballot Mail envelopes that they will already have available as part of their ballot mailings. The verification procedures simply help to ensure these standards have been met prior to accepting an Outbound Federal Ballot mailing. Furthermore, the Postal Service is authorized to regulate certain mail preparation requirements in furtherance of federal law enforcement and to advance its ability to efficiently handle the mail. On its face, then, the rule does not represent any ''transformative expansion'' of regulatory authority, rendering the ''major questions'' doctrine inapplicable.

By way of further explanation, major questions arise when agencies claim to ''discover in a long-extant statute an unheralded power representing a transformative expansion in its regulatory authority.'' *West Virginia,* 597 U.S. at 724. Per *West Virginia,* ''the history and breadth of the authority that [the agency] has asserted'' distinguishes ''extraordinary cases'' from ordinary ones. Such cases, which ''provide a reason to hesitate before concluding that Congress meant to confer such authority,'' typically involve an agency reaching beyond its area of expertise. *Id.* at 721; *see also, e.g., Alabama Ass'n of Realtors* v. *HHS,* 594 U.S. 758, 764 (2021) (the Centers for Disease Control regulating landlord-tenant relations); *NFIB* v. *OSHA,* 595 U.S. 109, (2022) (OSHA regulating a public health risk rather than workplace hazards). By contrast, in *United States* v. *White,* 97 F.4th 532, 540 (7th Cir. 2024), the Seventh Circuit refused to apply the major questions doctrine in a case plainly lacking ''the hallmarks of the truly extraordinary cases,'' with no claim to ''unheralded power.'' In *Nebraska* v. *Su,* 121 F.4th 1 (9th Cir. 2024), the Ninth Circuit likewise held the major questions doctrine not to apply to a federal contractor minimum wage mandate which, following a history of presidents setting federal contractor rules, constituted neither a ''transformative'' nor an ''unheralded'' expansion of regulatory power. *Id.* at 14.

Similar to the facts in *White* and *Su,* envelope preparation and data transmission and verification requirements of the sort contemplated here fall well short of an ''unheralded transformation'' of regulatory authority, lack ''the hallmarks of the truly extraordinary cases,'' and do not derive ''unheralded power'' from a ''long-extant statute.'' Indeed, the Postal Service has for years conditioned eligibility for certain rate levels on specific requirements, including barcodes and Mailer IDs, and has done so under the same statutory authority that underlies this rule. For example, the Full-Service Intelligent Mail program, described in DMM 705.23, offers automation discounts for commercial mailers in exchange for end-to-end mail tracking, electronic documentation, and address corrections. Participation in this program is mandatory for automation pricing. *See* 78 FR 23,137 (Apr. 18, 2013) (requiring the use of ''full-service'' Intelligent Mail ''to qualify for automation prices for postcards (First-Class Mail® only), letters, and flats when mailed using the following services: First-Class Mail, Standard Mail and Periodicals; and for flats mailed at Bound Printed Matter prices''). If the Full-Service IMb regime is lawful under Sections 401 and 404, and it is, then the proposed rule cannot be said to effect an ''unheralded transformation'' of the regulatory prerogatives embedded in those statutes. Barcode, logo, automation-compatibility, design review, and electronic documentation conditions on defined mail categories constitute normal exercises of Postal Service authority; they have, moreover, in large part, long been included in the Postal Service's guidance to state Boards of Elections.

Other major-questions cases focus on the ''economic and political significance'' of the authority at issue. *Learning Res., Inc.* v. *Trump,* 607 U.S. 229, 246 (2026); *see also, e.g., Biden* v. *Nebraska,* 600 U.S. 477, 502 (2023). Here, the economic significance of the rule is slight as compared to prior major-questions cases. *See Learning Resources,* 607 U.S. at 246 (''could be worth $15 trillion''); *Nebraska,* 600 U.S. at 502 (''between $496 billion and $519 billion''). And although actual changes to eligibility of voters to vote by mail might fairly be described as having political significance in some sense, this rule makes no such changes—it instead leaves voter-eligibility unchanged, requiring only certain modest envelope-design and data reporting standards, most of which have long been recommended by the Postal Service (and are voluntarily complied with by some jurisdictions already). It follows that the rule's incorporation of these practices does not raise any ''major question'' in the relevant sense.

K. Ultra Vires Creation of ''Nonmailable Matter'' Categories

Some commenters noted that, in 39 U.S.C. 3001–3018, Congress specified categories of nonmailable materials with robust protections for all forms of mail not included. These commenters then argued that the rule effectively creates a new category of ''nonmailable matter,'' and thereby exceeds title 39's statutory scheme. On this basis, they contended that the rule and the verification process that it establishes is *ultra vires.*

The rule does not create a new category of ''nonmailable matter'' into which Federal Ballot Mail as a class may generally fall. Rather, it is designed to ensure that Federal Ballot Mail envelopes meet certain preparation standards consistent with operational best practices and to condition acceptance on the provision of certain mailpiece-level data regarding those ballot envelopes—both of which support the execution of federal law. The rule does not prohibit federal ballots from being mailed altogether. While it is true that outbound mail-in ballots may be rejected from the mailstream as a consequence of noncompliance with the rule's

requirements, conditions on the acceptance of mailable matter are distinct from a determination that the matter is nonmailable. Moreover, compliance is straightforward: states need only provide information that is inscribed on the outside of Federal Ballot Mail envelopes, which will necessarily be in their possession. And ample resources are available to assist states with ballot mail envelope design, should such assistance be required. Compliance is verified by checking a single data point (IMb) on Outbound Federal Ballot Mail prior to acceptance. Although Outbound Federal Ballot mailings that fail the verification process may be temporarily rejected (and thus not permitted to enter the mailstream), any errors may be corrected and the mailpieces will thereafter be accepted for mailing.

Rather than usurp Congress's authority to create new categories of ''nonmailable matter,'' then, the Postal Service will impose mailpiece design and reporting standards to promote a rational and legitimate objective. As discussed below, to support this proposal, the Postal Service has reasonably determined that the mailpiece design requirements will help ensure proper handling, efficient processing, and timely delivery of such ballots to and from voters. *See* 90 FR at 9843 (special conditions are appropriate for ''sensitive matter'' where such conditions ''will improve visibility and enhance handling methods''). Moreover, requiring the submission of a consolidated list of data concerning Federal Ballot Mail will assist law enforcement authorities in investigating crimes, including those involving the mails, as is consistent with the Postal Service's regulatory authorities. *See* 39 U.S.C. 401(b) (noting that the Postal Service can issue regulations to support functions assigned to it by law); 18 U.S.C. 3061(b) (authorizing Postal Service to investigate crimes ''regarding the use of the mails'' and other appropriate crimes as determined by agreement with the Attorney General).

The Postal Service has previously relied on its authority under 39 U.S.C. 401(2) to establish standards applicable to the acceptance and transmission of certain unique articles in furtherance of specific Postal Service operational interests where those articles raise special handling concerns, even where the articles are not dangerous. For example, cremated human and animal remains must be transported through specific types of USPS-provided boxes, and must be trackable via barcode. *See Cremated Remains Packaging Requirements,* 90 FR 9843 (Feb 19, 2025) (implementing rules concerning the sending of cremated remains in specific types of USPS-provided boxes because the Postal Service understands such remains are ''sensitive matter and believes this will improve visibility and enhance handling methods throughout processing and transportation''). Similarly, replica explosives—which, although not dangerous, also require special handling to prevent operational disruptions—rather than being prohibited from the mail altogether must be mailed in certain ways, including in-person presentation to a retail counter and shipment via Registered Mail. *Restricting the Mailing of Replica or Inert Explosives,* 75 FR 282 (Jan. 5, 2010) (noting that ''[t]his process will ensure that packages containing these items remain separate and easily identifiable during the mailing process'').

Although ballot mail does not present precisely the same operational issues as cremated remains or replica explosives, it is unquestionably sensitive mail that raises unique operational considerations, as discussed above, and the Postal Service's authority under Section 401(2) is sufficiently expansive to encompass mail-entry conditions that further the effective execution of federal law and advance operational best practices. 39 U.S.C. 401(2) (noting that the Postal Service can issue regulations to support functions assigned to it by law). And incidental to the ability to impose standards in furtherance of such legitimate objectives is the ability to restrict mailings that do not meet those conditions from being accepted. *Cf. id.* § 401(10) (Postal Service is granted ''incidental'' and ''necessary'' powers to effectuate its responsibilities).

L. Consistency With 39 U.S.C. 101(a), 403(c), 404(e), 412, and 3661

Commenters also argued that the proposed rule is inconsistent with various title 39 provisions, *i.e.,* 39 U.S.C. 101(a), 403(c), 404(e), and 412. Other commenters averred that, prior to implementing these provisions, the Postal Service must request an advisory opinion from the Postal Regulatory Commission (''PRC'') under 39 U.S.C. 3661(b).

The Postal Service disagrees with these assessments and addresses each of the above-cited title 39 provisions in turn.

Section 101(a) establishes the Postal Service's foundational legal mandate to bind the nation together by providing reliable, efficient, and regular mail services to all communities. This obligation coexists with federal laws determining what is mailable, and the Postal Service abides by several statutory and regulatory directives regarding items that are not mailable, such as hazardous substances or explosives, or (as here) mailable with conditions imposed on preparation and data reporting. The existence of these directives does not negate the foundational legal mandate, and neither would Federal Ballot Mail envelope design standards and electronic documentation requirements that align with preexisting guidance. Furthermore, the Postal Service will continue to coordinate with state election officials and other officials regarding the transmittal of election mail and will maintain its longstanding election mail practices concerning the processing and delivery of ballots that enter the mailstream, including completed ballots mailed by voters to election officials. Indeed, consistent implementation of longstanding best practices recommendations will enhance, rather than hinder, these efforts.

Section 403(c) mandates that, in providing services, ''the Postal Service shall not . . . make any undue or unreasonable discrimination among users of the mails, nor shall it grant any undue or unreasonable preferences to any such user.'' The PRC has noted that a violation of section 403(c) requires that (1) a user of the mail is receiving less favorable services than those provided to one or more other postal customers, (2) the user is similarly situated to those postal customers receiving more favorable service, and (3) there is no rational or legitimate basis for denying the user the more favorable service currently being provided to those similarly situated postal customers. PRC Order No. 718, *Advisory Opinion (AO) on Service Changes Associated with First-Class Mail and Periodicals,* July 20, 2021, Docket No. N2021–1 at 170.

The rule adopted herein sets forth neutral, uniform, and non-discriminatory mailpiece design and data reporting standards that apply uniformly to all Federal Ballot Mail; thus, no ''preferential mail service'' is granted to one class of mail-in voters over another. Nor does the Postal Service violate Section 403(c) by requiring that Federal Ballot Mail meet these uniform standards, since given the unique considerations raised by such mail, Federal Ballot Mail is not ''similarly situated'' to other types of mail. Indeed, the Postal Service already accords to election mail special operational treatment that is unavailable for other mail matter sent as First-Class Mail or Marketing Mail (the postal products typically used to send ballot

mail), and there is no basis to conclude that this special operational treatment constitutes undue discrimination against any users of the mail. Finally, Section 403(c) does not prohibit all distinctions among mail users, but only preferences that are ''undue'' or ''unreasonable.'' Given the reasonable and legitimate objectives of the new standards, they are neither ''undue'' nor ''unreasonable''—even assuming *arguendo* that users of Federal Ballot Mail are ''similarly situated'' to users of other mail classes not covered by those standards, and even if those standards were conceded to somehow provide ''less favorable'' terms (and they do not).

The Postal Service also notes an issue flagged by several commenters: namely, that not all states can implement the rule's requirements with the same facility. By way of example, one comment noted that states with universal mail-in voting can more readily implement the new electronic documentation requirements than can states that do not mail absentee ballots unless requested by the voter—since the states in the former category can submit their entire list of enrollees in one session through the ballot portal, while states in the latter category must submit names in a more piecemeal fashion and only for those individuals requesting to receive a ballot through the mail. The Postal Service acknowledges the existing variations in state mail-in voting practices, which may require different levels of process changes in order to comply with the rule; however, as noted, the rule itself sets forth neutral, uniform, and non-discriminatory mailpiece design and data reporting standards that apply equally to all Federal Ballot Mail. Compliance with these standards is straightforward and facilitated by existing resources (in some cases, free of charge). Furthermore, the nature and degree of states' prospective compliance efforts reflect the states' own policies, not the uniform standards adopted by the Postal Service. Such discrepancies, therefore, do not implicate Section 403(c).

Section 404(e) generally prohibits the Postal Service from providing any new ''nonpostal service.'' The term ''service'' is not defined in title 39; the statute directed the PRC to review the ''nonpostal services'' offered by the Postal Service as of January 1, 2006, to determine whether each such service may continue. *Id.* § 404(e)(1). In carrying out that responsibility, the PRC defined the term ''service'' by regulation as ''any ongoing, commercial activity offered to the public for the purpose of financial gain.'' PRC Order 154, *Review of Nonpostal Services Under the Postal Accountability and Enhancement Act,* Dec. 19, 2008, Docket No. MC2008–1 at 14. Because the creation and distribution of the Mail-in and Absentee Participation Lists are not ''commercial'' in nature, are not offered to the public, and are not offered ''for the purpose of financial gain,'' it would not qualify as a ''service'' for the purposes of Section 404(e).

In any event, the creation of such lists is ''postal'' in nature, as it would involve ''delivery of letters, printed matter, or mailable packages, including acceptance, collection, sorting, transportation, or other functions ancillary thereto.'' 39 U.S.C. 102(5); *see also id.* § 404(e)(1) (''the term 'nonpostal service' means any service that is not a postal service defined under section 102(5)''). As noted above, these provisions set forth preparation and data standards that are tailored to the sending of ballots, and hence to the use of the mail.

Section 412 provides in part that ''no officer or employee of the Postal Service shall make available to the public by any means or for any purpose any mailing or other list of names or addresses (past or present) of postal patrons or other persons.'' Some commenters theorized that unless state law shields postal-provided state-specific Mail-In and Absentee Participation Lists from disclosure, furnishing the state's chief election official with a list containing the names and addresses of those receiving a mail-in ballot likely violates this section. However, 39 U.S.C. 412(a) addresses lists of ''postal patrons'' or ''other persons'' compiled from postal data, and provides that the Postal Service shall not make such a postal list available to the public. The information on which the Mail-In and Absentee Participation Lists will be based is provided by the *states* themselves, and specifically the states' records of individuals to whom they (or their authorized election officials) plan to mail blank ballots. Because the lists involve information furnished by the states, 39 U.S.C. 412(a) is not applicable; and in any event, the Postal Service will not make the lists public.

Certain commenters nevertheless argued that the exception structure created by Section 412(a) (allowing disclosure of information ''as specifically provided by subsection (b) or other law'') in tandem with Section 412(b) (stating that ''[t]he Postal service shall provide to the Secretary of Commerce for use by the Bureau of the Census such address information, address-related information, and point of postal delivery information . . . as may be determined by the Secretary to be appropriate for any census or survey''), impliedly excludes the provision of Mail-In and Absentee Participation Lists to state officials. It therefore bears emphasizing that even if Section 412(a) were applicable to Mail-In and Absentee Participation Lists, it would not bar the provision of such lists to state elections officials.

First and foremost, the provisions of these lists to state election officials does not constitute such disclosure of protected information ''to the *public.*'' (Emphasis added.) Indeed, at least one court has interpreted disclosure to state law enforcement officials under 39 U.S.C. 412 as not being tantamount to an impermissible disclosure to the public. *See, e.g., People* v. *Pearson,* 169 Cal. App. 3d 319, 323 (1985) (holding that an individual ''had no reasonable expectation of privacy of his name and residential address given to the United States Postal Service when applying for a post office box''; noting that ''the information was not made available to the public'' under 39 U.S.C. 412 ''but rather to a law enforcement officer conducting an official investigation'').

Second, Section 412(a) allows disclosure of information ''as specifically provided by subsection (b) *or other law.*'' (Emphasis added.) Postal Service regulations accordingly make clear that disclosure of information under Section 412 to the Secretary of Commerce for census-related purposes is not exclusive, countenancing such disclosure pursuant to certain contracts and interagency agreements, by written request and with the prior consent of the individuals, or as ''otherwise expressly authorized by federal law'' *See* 39 CFR 266.3(b)(3). As noted, the rule's Mail-In and Absentee Participation List disclosure provisions are adopted pursuant to 39 U.S.C. 401 and 404 with the aim of supporting the faithful execution of federal law, and disclosure would occur in accordance with an established SOR.

Third, federal legislation serves as both a precedent and a template for the sharing of information by the Postal Service with state election officials, in the context of voting. Specifically, the National Voter Registration Act of 1993 (''NVRA'') requires each state to manage a voter list maintenance program, and to make reasonable efforts to remove ineligible voters from voting rolls. 52 U.S.C. 20507(a)(4). The NVRA includes a safe harbor provision, whereby a state can comply with its obligation to have a voter list maintenance program if ''change-of-address information supplied by the Postal Service through

its licensees is used to identify registrants whose addresses may have changed.'' 52 U.S.C. 20507(c)(1)(A). In 2018, the Supreme Court determined that it was ''undisputedly lawful'' for a state to utilize the Postal Service national change-of-address data for voter list maintenance purposes, as described in the NVRA. *See Husted* v. *A. Philip Randolph Inst.,* 584 U.S. 756, 765 (2018) (citing 52 U.S.C. 20507(c)(1) and referring to the NVRA safe harbor as ''the Postal Service option''). As a general matter, then, the Postal Service's sharing of information with government officials is not exclusively limited to providing information to the Secretary of Commerce under Section 412(b).

Section 3661(b) provides that, when the Postal Service ''determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis,'' it must request an advisory opinion from the PRC before implementing the change. Some commenters reasoned that a change touching Federal Ballot Mail is a nationwide change in postal services within the meaning of Section 3661—one requiring pre-filing conferences with affected stakeholders and a formal request filed with the PRC at least 90 days before implementation (39 CFR 3020.110–3020.112).

As an initial matter, 39 CFR 3020.110–3020.112 are regulations binding the PRC, not the Postal Service. It is therefore incorrect to suggest (as some commenters did) that the Postal Service's adoption of this proposed rule would violate its own regulations.

More importantly, the changes contemplated by the proposed rule do not trigger any obligations under Section 3661. As noted, the obligations attendant to Section 3661 arise in the event of ''a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis.'' Implementation of this rule does not constitute such a nationwide change in postal services. As the leading case on this issue explains, Section 3661 must be read within the context of the overall statutory scheme of title 39, which is designed to give the Postal Service ''broad authority in postal management'' to ensure that management is not ''unjustly hampered in its efforts to administer the Department in a businesslike way.'' *Buchanan* v. *U.S. Postal Serv.,* 508 F.2d 259, 262–63 (5th Cir. 1975). Section 3661(b) therefore comes into play only in limited circumstances, if (1) there is a change that has a ''meaningful impact on service,'' (2) the change is ''in the nature of postal service,'' and (3) the change affects service ''on a nationwide or substantially nationwide basis.'' *Id.* ''These three factors combine to demonstrate that Congress intended the safeguards of 3661 to apply only when changes of significance were contemplated.'' *Id.* at 263.

As to the first *Buchanan* factor, a proposed change triggers the Section 3661 advisory opinion requirement when that change is ''meaningful'' rather than ''minor'' from a quantitative perspective. *See Buchanan,* 508 F.2d at 262. Alterations that have a minimal effect on the general class of postal users therefore do not fall within the scope of Section 3661. *Id.* Here, the rule's requirements apply only to Federal Ballot Mail—a subset of election mail—and only in connection with federal general, special, or runoff elections (and not state elections or primary elections). To put this in context, in 2020 the Postal Service delivered roughly 400 million pieces of mail per day, and election mail in the 2020 general election accounted for only a small fraction of a percentage (roughly 0.1%) of that total mail volume. The standards being imposed on this exceedingly small subset of overall mail volume do not constitute a change of sufficient scale and scope to implicate Section 3661, but will instead have only a *de minimis* effect on the nature of postal services available to ordinary Postal Service users.

Moreover, whether a proposed action constitutes a change in the ''nature of postal services'' within the meaning of Section 3661(b) ''involves a qualitative examination of the manner in which postal services available to the users will be altered.'' *Buchanan,* 508 F.2d at 263. In that regard, the PRC has held that ''in determining whether an initiative involves a change in the nature of postal services '[i]t is the experience of the individual postal consumer, the recipient of the complex of services provided by the Postal Service and the intended beneficiary of the policies incorporated by § 3661, that must be assayed.''' *Pennsylvania* v. *DeJoy,* 490 F. Supp. 3d 833, 885 (E.D. Pa. 2020). Here, the changes contemplated by this rule do not directly affect the provision of postal services; rather, they encompass preparation and documentation requirements that are within the control of the states and, if adhered to, will not disturb the acceptance, processing, transmission or delivery of Federal Ballot Mail. The rule contemplates no changes to how the Postal Service processes and delivers election mail. In other words, as long as the rule's conditions are met, Outbound Federal Ballot Mail will enter the mailstream as usual, will transit as usual to its intended destination, and will in the usual manner be delivered: no discernible difference in the nature of postal services will arise. Indeed, as explained more fully below, the Postal Service will work closely with Boards of Elections to facilitate that very outcome. And, once the Outbound Federal Ballot Mail reaches a voter, the voter will experience no change. Voters may complete and return their ballot as they do now. It further bears noting that even if a state declined to submit the information required by the rule, the resulting acceptance refusal would not implicate Section 3661 any more than would a large-scalemailer's decision to opt out of the mail system: the nationwide availability of postal services would remain unchanged.

Finally, some commenters argued that it was unlawful for the President to issue an Executive Order directing action by the Postmaster General. To be sure, Executive Order 14399 was relevant to the Postal Service's consideration of this subject and began the deliberative process that is now resulting in this rule. While the Executive Order did not mandate a final rule, the Postal Service has determined that, to help achieve the goals articulated by the Order as necessary to faithfully execute federal law and also to advance the Postal Service's operational interests, it is appropriate to exercise its statutory authority to promulgate these provisions. Considerations of Postal Service independence are not relevant to this rulemaking.

M. 2021 Settlement With the NAACP

In a 2021 settlement with the NAACP, the Postal Service agreed to take certain actions regarding mail-in voting in future federal elections, including prioritizing monitoring and timely delivery of election mail through 2028. Some commenters argued that the enactment of new mail preparation and electronic documentation requirements, particularly immediately, would deprioritize the timely delivery of election mail and, thus, violate that settlement agreement. In doing so, some commenters pointed to a recent judgment by the U.S. District Court for the District of Columbia granting NAACP's motion to enforce the settlement agreement, and enjoining the proposed rule's implementation. *See NAACP* v. *U.S. Postal Serv.,* No. 1:20–cv–2295 (D.D.C.).

On July 17, 2026, the U.S. Court of Appeals for the D.C. Circuit stayed the

district court's injunction, concluding that ''even if adopted, that proposed rule likely would not violate . . . the parties' settlement agreement.'' *NAACP* v. *U.S. Postal Serv.,* No. 26–5257 (D.C. Cir. July 17, 2026). As the government has explained in that litigation, implementation of this proposed rule is not inconsistent with the terms of the settlement agreement: nothing in the rule adopted herein deprioritizes the timely delivery of election mail. To the contrary, implementation of these standards will, in fact, facilitate the Postal Service's efforts to deliver Federal Ballot Mail in a timely manner. Furthermore, the Postal Service will continue to work closely with stakeholders, and will deploy an array of special operational procedures (including so-called ''extraordinary measures'') to ensure the timely delivery of election mail, as it has done in prior election cycles.

N. NVRA, the Help America Vote Act and the Voting Rights Act

Some commenters argued that NVRA (intended primarily to facilitate the registration of voters) and the Help America Vote Act (''HAVA'') (establishing a funding program to support state administration of elections) neither grant the President authority to identify the additional measures outlined in Executive Order 14399, nor authorize the Postal Service to adopt the rule as proposed. Commenters further argued that implementation of the proposed rule, and in particular the refusal to accept Outbound Federal Ballot Mail mailings that do not comply with the acceptance standards embodied in DMM 705.24, would violate the Voting Rights Act. As background, Congress enacted the Voting Rights Act to protect citizens' constitutional right to vote and to move freely across state lines, providing that no U.S. citizen shall ''be denied the right to vote'' in federal elections ''because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election,'' so long as the citizen has ''complied with the requirements prescribed by the law of such State or political subdivision'' concerning absentee ballots. 52 U.S.C. 10502. The enforcement provisions of the Voting Rights Act, *id.* § 10307(a), further establish that ''[n]o person acting under color of law shall fail or refuse to permit any person to vote who is entitled to vote under any provision of chapters 103 to 107 of this title or is otherwise qualified to vote[.]'' In these commenters' view, the rule as proposed would violate these statutes by adding a new enrollment requirement as a necessary precondition to the delivery of absentee ballots. Other commenters argued that the Election Assistance Commission (''EAC''), not the Postal Service, is the federal entity tasked to act as a national clearinghouse and resource for the compilation of information with respect to administration of Federal elections; if the EAC cannot impose any requirement on any state or local unit of government, the Postal Service cannot do so through its proposed rule either.

As discussed above, under the rule, states retain full control over how to utilize the mail in their electoral systems, including by determining who is registered to vote and who is eligible to receive and send a mail-in ballot. The rule requires only that Federal Ballot Mail envelopes meet certain mail preparation requirements and that states provide mailpiece-level data regarding their Outbound and Return Federal Ballot mailings. As such, this rule simply regulates the use of the mail, and does not interfere with or supplant the schemes established under NVRA, HAVA, or the Voting Rights Act. The Postal Service's rule complements, rather than replaces, these statutory responsibilities by supporting the accurate distribution of ballots after states have determined who is eligible to receive them. Similarly, the Postal Service is not usurping the authority vested in the EAC. This rule concerns the mail, not election administration; voting systems and other election administration tasks remain squarely within EAC's scope. The Postal Service will continue (as before) to provide change of address information to state and local officials; and state and local officials will continue (as before) to maintain their official voter registration lists. Mail-In and Absentee Participation Lists will be based entirely on data in the possession of, and provided by, the states, and the Postal Service will not change the content of those lists. In this regard, it bears repeating that the Portal is not in any way a federal voting database; instead, it establishes a mechanism whereby states can provide data, which is fully within their possession and control, regarding Federal Ballot mailings.

O. The Paperwork Reduction Act

Some commenters faulted the proposed rule for its alleged failure to address the obligations under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* which requires that federal agencies obtain approval from OMB before imposing a new information collection requirement on persons, including state governments.

The Postal Service notes that it is outside the Paperwork Reduction Act's scope. *See Kuzma* v. *U.S. Postal Serv.,* 798 F.2d 29, 32 (2d Cir. 1986); *Shane* v. *Buck,* 658 F. Supp. 908, 915 (D. Utah 1985), *aff'd,* 817 F.2d 87 (10th Cir. 1987).

P. Administrative Procedure Act Requirements

Some commenters took issue with the length of the notice and comment period, with some alleging that the time allotted for comments was insufficient under the APA, and others remarking that for a rule of such scope and consequence, a 60-day comment period would be more fitting and appropriate.

Although the Postal Service is part of the executive branch, it is not subject to many of the laws and guidance that govern the rulemaking processes used by other executive branch entities—including the APA (except in proceedings concerning mailability, which as explained above and in the Notice of Proposed Rulemaking, the instant proceeding is not). 39 U.S.C. 410(a), 3001(m). The Postal Service also notes that the Notice of Proposed Rulemaking prompted more than 200,000 comments covering a wide range of topics and opinions. There is thus no indication that the public had inadequate time to share its views, or that 30 additional days would have resulted in material additional comments. The Postal Service has considered and taken seriously all significant comments.

IV. Operation of the Final Rule

The proposed rule, and the final rule on which it is based, was designed to be flexible enough to accommodate the variation in state election laws and election administration practices. However, some commenters interpreted this flexibility as vague, expressing frustration about the lack of concrete compliance steps or confusion over the responsibilities of Authorized Ballot Mailers and Federal Ballot Mail Portal Users. Commenters also misconstrued the proposed rule's provisions as covering the most expansive scope of ballot mail possible while also operating in the most restrictive manner possible. This led to a substantial volume of comments that were premised on inaccurate factual assumptions, with the underlying basis for the expressed opposition being based, either in full or in part, on these inaccurate assumptions. These inaccuracies led to many exaggerated claims about the

impact of the proposed rule as well as the Postal Service's role under the rule.

The Postal Service does not expressly recount each inaccuracy here, in an effort to avoid further confusion. Instead, to respond to the multitude of factual misunderstandings represented in the comments, and in an effort to supply additional details, the Postal Service offers the following explanation of how the final rule is intended to be implemented.

A. Overview

To begin, the Postal Service is continuing to accept and deliver ballot mail, including Federal Ballot Mail, from election officials and voters. The proposed rule does not end or prevent mail-in or absentee voting, contrary to the mistaken claims raised in comments. As explained above, the Postal Service is continuing to carry out its core statutory mission in a uniform, neutral, and nondiscriminatory manner. Nothing in this rule need prevent that outcome, as states will retain full control over who is (or is not) permitted to vote by mail in their jurisdiction.

The rule introduces new mailpiece preparation requirements and data reporting standards for Federal Ballot Mail that must be satisfied prior to presenting Outbound Federal Ballot Mail for acceptance into the mailstream. Thus, the final rule regulates Federal Ballot Mail, consistent with the Postal Service's core statutory function, not the franchise. Eligibility for mail-in and absentee voting will continue to be governed by state law; state and local election officials will still determine which individuals are eligible under these laws; and state and local election officials will determine whether completed ballots are eligible to be counted. To repeat, the Postal Service will not play any role in determining voter eligibility, maintaining voter rolls, or counting ballots. The Postal Service will not open ballot mail, including Federal Ballot Mail; will not know the contents of a ballot; will not know how an individual voted; and will not know an individual's political party affiliation.

However, as many commenters acknowledged, and consistent with the stated authority above, the Postal Service will generally not accept Outbound Federal Ballot mailings unless compliance with the rule's new standards has been verified, as further detailed below and in the final rule.

B. Optional 90-Day Pre-Mailing Notice

Section 705.24.2 of the rule creates an optional process through which a state's chief election official (including those representing DC and U.S. territories) may alert the Postal Service of the state's intent to allow mail-in or absentee ballots to be transmitted by the Postal Service. This notice may be given 90 days prior to a federal election. This provision does not require a response from the state official, and also does not require preparation of a list of individuals to whom a ballot will be mailed or coordination with local officials (although the state official may choose to do so).

Some commenters misunderstood the purpose of this optional notice. For instance, one comment from a former election official stated that the Postal Service is already well aware of whether a state intends to use its services. The purpose of this provision, however, is to facilitate pre-election planning, as some commenters accurately recognized. When the Postal Service knows that a state plans to send ballots for a federal election using the mail, it can conduct outreach on mail preparation, provide resources related to IMbs, and offer guidance on how to access and use the Federal Ballot Mail Portal. While the process to enroll in the Portal is straightforward, beginning this process sooner—as the 90-day notice would allow—will be logistically beneficial.

Alternatively, the chief state election official can provide no notice at all. This does not preclude the state from using the Postal Service to transmit mail-in and absentee ballots for federal elections. Ballots for federal elections may still be sent through the mail so long as the chief state election official, and any other Federal Ballot Mail Portal User, creates a Portal account, satisfies the rule's mail preparation requirements, enters the required information into the Portal, and successfully completes verification prior to their Outbound Federal Ballot Mail being accepting for mailing.

The chief state election official may also provide notice that they do not intend to transmit ballots using the mail or that they do not intend to use the Portal. This also provides the Postal Service with valuable information to plan its resources and may inform internal training.

It should also be emphasized that these notices are not binding. For example, if the chief state election official initially informs the Postal Service that they do not intend to use the Portal, they may later change their mind and send ballots using the mail by following the steps outlined above.

C. Envelope Design

The rule makes several of the Postal Service's longstanding mailpiece design preparation recommendations required elements for Federal Ballot Mail. As many commenters recognized, these elements—the Official Election Mail logo, automation-compatible envelope design, uniquely serialized IMbs on outbound and return envelopes, and mailpiece design review—are not novel. Each of these design elements is already recommended in the Postal Service's Official Election Mail Guide (''Kit 600'') and included as a best practice in DMM 703.8.0. Some jurisdictions have, on their own initiative, already opted to implement these recommendations to varying degrees. However, nothing in the rule prevents or discourages election officials from including envelope design elements required by state law, such as printed affidavits. Nor does anything in the rule prevent states from complying with accessibility laws or including unique envelope design elements intended to accommodate voters covered by these laws. The rule will not create a single, uniform ballot envelope design across all states; variation will remain. Rather, as one commenter explained, what the rule adds is uniformity: it makes these proven measures a consistent baseline for every jurisdiction that mails federal ballots, closing the patchwork that today inhibits mailpiece visibility and can make it more difficult to process and deliver ballot mail.

The rule's design requirements help to ensure timely processing and delivery of Federal Ballot Mail. As explained in the proposed rule and as echoed by many commenters, envelopes built for automation move through processing with less manual intervention and fewer chances for error. A consistent, recognizable election mail logo helps postal employees distinguish ballot mail from other mailpieces and facilitates proper handling, in accordance with existing Postal Service policy. And unique IMb data helps facilitate the tracking of individual pieces of Federal Ballot Mail to and from individual voters as the barcodes are scanned on the Postal Service's mail processing equipment.

Some commenters, including election officials and election-related organizations, appeared confused about how to generate IMbs. Unique IMbs can be generated for any type of address, including P.O. Boxes and nontraditional addresses. Generating and printing unique IMbs does not require specialized equipment or expensive software. It can be done by election officials of any level of technical sophistication, including those jurisdictions that manually print and stuff their own ballot envelopes, using

free tools and common office equipment.

The Postal Service offers a number of tools and resources to make generating unique IMbs simple, quick, and cost-effective. For example, the Postal Service's Intelligent Mail for Small Business Tool (''IMsb Tool'') is a free (voluntary) online tool specifically designed for small-volume mailers that do not use Business Reply Mail, allowing such mailers to generate unique IMbs for printing on address labels or envelopes. The IMsb Tool is a web-based program that does not require any software or downloads. It allows small mailers to create mailings and documentation without making the investment of engaging software providers. Customers can upload their mailing list into the Tool to create and print address labels, envelopes, inserts or card stock and also generate the associated postage statements. The printing can be done from a regular printer. Some in the election community have printed the IMbs themselves using this tool for several years. More information about getting started in the IMsb Tool is available on PostalPro: *https://postalpro.usps.com/node/2266.*

The Postal Service also anticipates making modifications to the IMsb Tool to further enhance its functionality for Federal Ballot Mail. For instance, the Tool will be able to create lists for Portal submissions that contain a file with the name, address, and unique outbound and return IMb of individuals on the election official's mailing list. This file can be uploaded directly to the Portal by Federal Ballot Mail Portal Users. Another change for Federal Ballot Mail in the IMsb Tool will allow election officials to generate a unique IMb even where the address cannot be verified using Delivery Point Verification (''DPV''). Although DPV helps to identify issues that may hinder delivery, this modification will reduce the chance of an administrative or technical issue that could prevent an election official from generating a unique IMb.

Alternatively, if an election official prefers to work with a vendor, as many do, the Postal Service provides a list of certified vendors and Mail Service Providers (''MSPs'') at *https://postalpro.usps.com/certifiedmsps/.* It is a basic function of MSPs to print mailings with unique IMbs. To the extent they arise, printing issues, including jams, are surmountable and do not prevent proper implementation of the rule.

The Postal Service's Managers of Customer Relations (''MCRs'') are also available to provide guidance and support on mailpiece design as election officials work to comply with the rule. MCRs serve as dedicated points of contact for each election jurisdiction, including territories. They regularly educate election officials on the benefits of using unique IMbs and can direct election officials to available postal resources to help them get started. Election officials can contact their local MCR directly or by following this link: *https://electionmail.usps.com/s/contact-local-mcr.* Election Officials can also contact the Mailing & Shipping Solutions Center (''MSSC'') for support regarding IMbs by email at *MSSC@usps.gov* or by phone at 1–877–672–0007 (Monday–Friday, 7:00 a.m. to 7:00 p.m. CT).

D. Mailpiece Design Analyst Review

Once election officials or their vendors have designed the Outbound and Return Federal Ballot Mail envelope to include the required elements, as set forth in DMM 705.24.3, the mailpiece must be submitted to the Postal Service for review by one of its MDAs. The envelope design must be reviewed each election cycle. If a state uses a single design, each political subdivision thereof does not need to separately submit the envelope for review. Mailpieces do not need to be reviewed prior to each separate mailing.

The mailpiece design review referenced in 705.24.3 is the existing MDA review process that many in the election community already utilize. MDAs are specially trained postal employees who can answer questions about mailpiece design, including IMbs and automation compatibility. Consulting with Postal Service MDAs will help ensure election officials have a well-designed Federal Ballot Mail envelope that is compatible with Postal Service guidelines and regulations, including the provisions of this rule. Although MDAs are already trained to assess the design elements included in this rule, the Postal Service will provide supplemental training to MDAs on Federal Ballot Mail and will offer additional resources as necessary to ensure customers receive consistent, accurate advice.

The rule does not change the process for submitting a mailpiece for review, receiving feedback, or contesting an MDA's advice. Customers can receive assistance from an MDA by submitting a design review request to *MDA@usps.gov,* through the Postal Service's Election Mail website at *https://electionmail.usps.com/s/election-mail-review,* or by calling 877–672–0007 (select option 3 for mailpiece design) (Monday–Friday, 7:00 a.m. to 7:00 p.m. CT).

MDA review is generally a quick process. MDAs typically aim to provide feedback to mailers within 2 business days after receiving the mailer's request and necessary information and samples.

More information about the MDA review process is available in Kit 600 or at *https://postalpro.usps.com/node/773.*

E. Federal Ballot Mail Portal

Under 705.24.4, Federal Ballot Mail Portal Users, including state and local election officials and other authorized users, such as MSPs, must submit certain data into the Federal Ballot Mail Portal prior to presenting an Outbound Federal Ballot mailing for acceptance. Chief state election officials are not required to enter this data themselves or to consolidate data for all political subdivisions within their state before data can be entered into the Portal. The chief state election official of each state does, however, authorize access for other Federal Ballot Mail Portal Users within their state. The rule also allows other individuals to enter information into the Portal if authorized, such as staff members, MSPs, or other vendors, thereby minimizing any potential administrative burden on election officials.

The Postal Service recognizes that many states have decentralized election administration. It is important that the state, through the chief state election official, maintain ultimate control over access to the Portal because they will have more visibility into their own election structures than will the Postal Service.

Voters themselves will not enroll with the Postal Service, and are not responsible for verifying Portal information or correcting information provided by Federal Ballot Mail Portal Users. In part, this is because voters do not design ballot mail envelopes and, consequently, do not have the relevant data elements for the Portal. Instead, that responsibility lies exclusively with election officials and their authorized MSPs.

Once Federal Ballot Mail Portal Users have set up a Portal account, they will be prompted to certify that their Outbound and Return Federal Ballot Mail envelopes have been submitted for MDA review and that they have received feedback. Federal Ballot Mail Portal Users will not be able to upload any data into the Portal until the certification is complete. This will ensure compliance with DMM 705.24.3.1 and 705.24.3.2 and reduces the information that is verified prior to acceptance of an Outbound Federal

Ballot mailing. Business Mail Entry Unit (''BMEU'') technicians and Retail clerks will not perform a separate review of this information.

After completing the certification, Federal Ballot Mail Portal Users must provide: the name and address of the voter as found on Outbound Federal Ballot Mail envelope; the issuing state; and the IMbs on the Outbound and Return Federal Ballot Mail envelopes. This information must be uploaded to the Portal prior to presenting Outbound Federal Ballot Mail for acceptance. These data help to ensure that the rule's preparation standards have been satisfied, can provide valuable insight to election officials and law enforcement, and facilitate the verification process. This type of information is regularly collected by the Postal Service, including on mailing manifests. No other voter information, such as birthdate, social security number, or other voter registration details, will be uploaded to the Portal. As described further below, the Postal Service is developing this Portal with appropriate cybersecurity and privacy safeguards to protect Portal data, consistent with applicable law.

The required information can be uploaded into the Portal using an Excel template specifically formatted for Portal submission. Uploading and generating the necessary information is similar to submitting a manifest for bulk mailings, which larger election offices and their MSPs routinely complete. For smaller jurisdictions, the (free and optional) IMsb Tool can be used to generate a file that can be uploaded directly into the Portal. This will help minimize any data entry burden. The Postal Service does not anticipate that providing Portal data should require any change to statewide systems or databases. States must necessarily already maintain lists or databases with the relevant name and address information, otherwise it would never have been possible to mail those ballots in the first place. These systems are intended to remain separate, and do not need to be interconnected with the Portal. One commenter mentioned that states may wish to update their databases to include IMb data. States are free to undertake such actions, but it is not required by the rule.

Under the proposed rule, there is a flexible timeline for uploading data into the Portal. Initial mailing lists should be entered into the Portal at least 30 days before the election, if possible, or by the date on which ballots must begin being mailed under state law. This 30-day timeline, retained without modification in the final rule, is not a rigid deadline for completing Portal data entry. Although Executive Order 14399 contemplated a proposal in which states would submit such lists ''no fewer than 60 days before the election,'' the flexible 30-day timeline accommodates variations in state law.

The Postal Service does not expect these initial lists to be complete or final. States may continue to add, amend, or remove data from the Portal to account for new voters, new mail-in or absentee ballot requests, replacement ballots, addressing administrative errors, and other changes consistent with their state's law. These changes can be made as a new separate entry or by updating prior entries. This flexibility is intended to facilitate—not constrain—voters' ability to access mail-in or absentee voting as permitted by their own state's voting law, none of which are altered by this rule.

Federal Ballot Mail Portal Users can update the information submitted through the Portal as frequently as needed, consistent with state law. This process is designed to be flexible to account for variation in state law. For example, as one commenter explained, California Elections Code Section 3000.5(a) dictates when county election officials are to mail ballots to registered voters. Section 3005.5(a) provides, in part: ''for each election, the elections official shall, no later than 29 days before the day of the election, begin mailing the materials specified in Section 3010 to every registered voter. The elections official shall have five days to mail a ballot to each person who is registered to vote on the 29th day before the day of the election and five days to mail a ballot to each person who is subsequently registered to vote.'' Under California law, a voter may also register as late as 15 days before an election and will subsequently be sent a ballot via mail. Even after the 15th day before an election, voters may request a replacement mail ballot upon request to their county election official. This state statutory scheme is consistent with the rule. California election officials could submit initial mailing lists into the Portal 30 days (or sooner) before the election and present Outbound Federal Mailings for acceptance ''no later than 29 days before the day of the election,'' consistent with state law. California election officials may continue to add Portal entries for Outbound Federal Ballot Mail destined for voters who register after that time and until the 15th day before the election, and even after the 15th day before the election may continue to make supplemental entries for any replacement requests.

The ability to add and amend lists also allows Authorized Ballot Mailers to enter Outbound Federal Ballot Mail in batches, consistent with the current practice for many in the election community. Federal Ballot Mail Portal Users may continue to supplement the Portal data as permitted by state law, potentially up until Election Day. The only constraint imposed by the rule in this regard is that the information for a particular mailing must be uploaded into the Portal prior to the Outbound Federal Ballot mailing being presented to the Postal Service for acceptance. Thus, the Portal and verification process accommodate election officials who (for example) may do one large mailing and multiple smaller mailings. It also accommodates election officials who prepare many ballots for mailing at once but enter them into the mailstream in multiple installments.

Portal data will be updated as soon as it is submitted by the Federal Ballot Mail Portal User, and there should be minimal to no delay between Portal upload and a mailer's ability to present the mailing for acceptance. Portal data will also be available for verification purposes on a nationwide basis. If an Outbound Federal Ballot mailing is presented for acceptance outside of the issuing state, Postal Service employees would still have access to the necessary Portal data to perform verification under DMM 705.24.5.

Within the Portal, the Postal Service plans to confirm that the required data fields are completed (*i.e.,* they may not be left blank) prior to Outbound Federal Ballot mailings being presented for acceptance. This includes verifying the unique IMb on Return Federal Ballot Mail has been uploaded into the Portal. Aside from confirming that the required data has been uploaded, however, the Postal Service will not otherwise verify, correct, or amend any data entered into the Portal. It will not determine whether an individual's name is accurate; so, for example, married women changing their names or potential mismatches for misspellings will not prevent a ballot from reaching a voter under the rule. Likewise, the Postal Service will not assess the accuracy of the address entered, such as to determine whether there is a Change of Address or whether the address is otherwise invalid. Moreover, the address uploaded into the Portal should be the address used on the Outbound Federal Ballot Mail envelope. Nontraditional addresses, such as tribal addresses, college dormitories, and long-term care facilities, can and should be entered into the Portal if that is the address on the Outbound Federal Ballot envelope. Voters who may move often,

like students, the homeless, the elderly, renters, or people whose mailing addresses do not match identically with government records, should not experience delivery issues under the rule so long as their state or local election official has their current mailing address.

The Postal Service will not be comparing any data entered into the Portal against state voter rolls as part of the verification process or otherwise. This means that state election officials will maintain full control over managing their own voter rolls and determining voter eligibility without any interference or involvement from the Postal Service.

All data or changes submitted by Federal Ballot Mail Portal Users will be accepted. The possibility that the Portal may, therefore, be overinclusive does not undermine the purposes of the rule as the State Mail-In and Absentee Participation List, which compiles all Portal data for a state and is not intended to serve as a replacement for official voter rolls.

Finally, shortly after the effective date of the final rule, the Postal Service will make additional guidance documents available, including a User Guide for the Portal and Technical Specifications for the Portal. These resources will explain how to create a Portal account, how to assign and approve Federal Ballot Mail Portal Users, the file format for Portal uploads, and how to resolve errors and make new submissions; these documents will be available in accessible formats. The Postal Service has an established process for communicating new or updated technical requirements that it will deploy to inform election officials, MSPs, and others in the mailing community about the Portal and these resources. This process includes familiar communications channels, including Industry Alerts and Mailers Technical Advisory Committee User Group notifications, which help to ensure that the information reaches the appropriate audience. MCRs are also available to assist individual customers by email and phone. The Postal Service will also directly engage with election officials, MSPs, and other stakeholders to answer questions and provide guidance related to implementation of the rule.

F. Outbound Federal Ballot Mail Entry

When preparing Outbound Federal Ballot mailings, Authorized Ballot Mailers must segregate Outbound Federal Ballot Mail from other types of ballot mail, such as primary ballots, UOCAVA ballots, or ballots for state or local elections only. Comingling non-federal ballot mail with Outbound Federal Ballot Mail may impact the verification process and could prevent or delay proper acceptance of mailings. For ballots that have both federal and state issues on the ballot, the mailing will be treated as Outbound Federal Ballot Mail and will be subject to the rule. At entry, mailers should inform the BMEU technician or Retail clerk if a ballot mailing contains non-federal ballots. Timing differences (between primaries and general elections or between federal and state elections) and external indicia may also help alert postal employees to the presence of non-Federal Ballot Mail.

The Postal Service is also working on establishing Federal Election Mail and Non-Federal Election Mail Service Type Identifiers (''STIDs''). Specifically, the Postal Service is planning to convert the current Election Mail STIDs to Federal Election Mail STIDs. New STIDs will be developed for non-Federal elections. This approach will assist jurisdictions that may have already finalized the printing process for their 2026 general election envelopes relying on the existing STID table, and will support their ability to comply with the final rule. Having unique STIDs for Federal and non-Federal elections will help to further distinguish Federal Ballot Mail from other ballot mail. Prior to finalizing and releasing the new STIDs, the Postal Service will publish a notice in the **Federal Register**.

As stated in the proposed rule, Outbound Federal Ballot mailings must be entered at a Post Office retail counter, including manual post offices, or a BMEU. A locator tool for Postal Service locations is available here: *https://tools.usps.com/locations/.* These mailings may not be entered into blue collection boxes, collection boxes in retail lobbies, or through other means. While the rule makes this restriction mandatory, it is also consistent with the Postal Service's general guidance for outbound ballot mailings. Commercial mailings must meet applicable DMM requirements. Mailings paid at single-piece First Class Mail rates are not required to meet commercial mailing standards.

Verification under 705.24.5 will be performed at a BMEU or Post Office retail counter when an Outbound Federal Ballot mailing is presented for acceptance. Conducting verification prior to acceptance is intended to obviate confusion and provide a clear, immediate identification of potential issues. Either a BMEU technician, if the mailing is presented at a BMEU, or Retail clerk, if the mailing is presented at a Post Office or other Postal Service retail location, will perform the verification. Both BMEU technicians and Retail clerks will receive training on this process.

The verification process is straightforward. The Outbound Federal Ballot mailings will be verified using the IMb on the outside of the Outbound Federal Ballot Mail envelope. Relying on existing scanning technology and devices, the Postal Service will confirm the presence of scanned barcodes in the Federal Ballot Mail Portal. Portal data will be available for verification purposes on a nationwide basis. Therefore, if a state uses an MSP located in a state different than the issuing state of the ballot, the Postal Service will still be able to conduct verification.

This process can be completed promptly. Scanning a barcode generally takes less than a minute per mailpiece. Depending on how many barcodes are scanned, the verification process should take no more than a few hours for larger mailings, and potentially only a few minutes for smaller mailings. Authorized Ballot Mailers should remain at the BMEU or postal retail location during the verification process.

If the Outbound Federal Ballot mailing meets the verification standards, it will be accepted by the Postal Service. No further action is needed by election officials or voters under the rule.

Authorized Ballot Mailers will be informed of the escalation procedures should they decide to challenge a rejection; relevant Postal Service employees will also receive training about these procedures. The ability to cure rests not with the voter, as the franchise itself is not impacted, but with the officials responsible for preparing the envelope and entering Portal data. This approach is consistent with how election mail works now, where election officials and mailers are responsible for preparing the ballot mail, addressing the mailpieces properly, ensuring that they are going to the proper individual, and correcting any error that may occur or prevent delivery to the intended recipient. Thus, the Postal Service will continue to resolve issues consistent with our current approach, rather than creating a new ''appeal'' process for voters, as many commenters urged, that would impose a direct burden on voters and increase the risk of confusion and concern.

Once Outbound Federal Ballot Mail is accepted by the Postal Service, it will enter and move through the mailstream as it has in prior elections. It will not be intercepted, returned, or delayed due to the rule.

The verification process does not entail scrutiny into, or any attempt to evaluate, individual voters. The Postal Service is not verifying addresses, names, voter eligibility, or citizenship status as part of this verification process. As noted above, Portal data will be regularly refreshed to minimize the risk that the verification process incorrectly flags, delays, or disrupts lawful federal ballot materials.

Verification under DMM 705.24.5 is done only for Outbound Federal Ballot mailings. If a voter chooses to return their completed ballot by mail, they should use the Federal Return Ballot Mail envelope provided by their state; and they may continue to mail from a residential mailbox, a blue collection box, or any retail counter. Once the Federal Return Ballot Mail enters the mailstream, it will be processed and delivered consistently with current operational practices. This includes generating scan data from the unique IMb on the outer return envelope when the mailpiece is processed on the Postal Service's automated equipment subject to certain limitations, including extraordinary measures that may remove ballots from normal operational processes to expedite delivery.

The Postal Service also wishes to clarify two provisions of the proposed rule, which are adopted without change in the final rule. First, the Postal Service would like to clarify the meaning of Section 705.24.5.2, which provides in part that ''[t]he Postal Service's acceptance of Outbound Federal Ballot Mail does not constitute verified compliance.'' This provision was included in recognition of the fact that, despite the Postal Service's best efforts, some Outbound Federal Mail may enter the mailstream that does not meet the preparation or data standards set forth in the rule. For that reason, DMM 705.24.5.2 is intended to acknowledge that acceptance (and ultimately delivery) of an outbound federal ballot does not, in and of itself, evidence compliance with the rule's provisions.

Second, commenters expressed concern over 705.24.5.3.d, which states that ''[t]he Postal Service assumes no responsibility for any outbound ballot mailing presented until it is accepted into the mail. The Postal Service is not responsible for service delays when the Ballot Portal User or Authorized Ballot Mailer does not meet the applicable preparation or entry standards.'' The Postal Service notes that comparable statements appear throughout the DMM, and that the provision reflects the longstanding principle that the Postal Service is not responsible for a mailing until the mailing is in its custody—that is, until it has been accepted. For example, DMM 608.11.3 (Postmarks and Postal Possession) describes the point at which the ''Postal Service accept[s] custody of a mailpiece,'' and the Plant-Verified Drop Shipment provisions of DMM 705 provide that such shipments ''are freight until deposited and accepted as mail at the destination facility.'' The specific language in 705.24.5.3.d is similar to a provision discussing the effects on service for Metered Mail Drop Shipments, which also must satisfy specific preparation conditions to be accepted for mailing. DMM 705.19.1. That provision states: ''The USPS assumes no responsibility for the material presented until it is accepted into the mail. The USPS is not responsible for service delays when the mailer does not meet the applicable preparation or entry requirements.'' This language is included in the rule to ensure that mailers know that they must remain in control of an Outbound Federal Ballot mailing until it has been accepted by the Postal Service.

G. State-Specific Mail-In and Absentee Participation List

On or about Election Day, the Postal Service will generate a state-specific Mail-In and Absentee Participation List, which compiles all Federal Ballot Mail Portal entries submitted for the originating state. This list will be securely transmitted to the chief election official of each state. The Postal Service will not disclose the Lists to the public. The List is in effect a manifest, and is primarily intended to assist election officials and law enforcement to understand who may have been mailed a ballot, in order to identify potentially anomalous incidents that may merit further investigation. Providing the list on or after Election Day is consistent with this purpose.

To be clear, the state-specific Lists are not intended to substitute for or supplant state voter rolls. It simply offers another data point at the chief state election official's disposal based on their own Portal data. The chief state election official is free to choose whether and how to use the state-specific list. Those decisions are not dictated by the Postal Service or this rule. States have sole responsibility for ensuring the accuracy of their voter rolls and counting ballots as permitted under state law.

The Portal data is the sole data source used to generate the Lists. These data are provided directly by election officials (and other Federal Ballot Mail Portal Users) based on the mailings they actually made or planned to make. The List will not be based on external sources of information, such as federal databases made available by the Department of Homeland Security or the Social Security Administration. Nor will the Postal Service compare Portal data to any other internal or external source (*e.g.,* National Change of Address data, federal data lists), filter the information, or otherwise alter the Portal data on its own when compiling the state-specific List. The Lists will also not contain any scan data. As one commenter correctly stated, the rule ''require[s] USPS to provide the state with the List that contained the same information that the state provided to USPS.''

In light of the above, some commenters questioned the purpose of the Lists. Other commenters recognized that the value of the List lies in the creation of reconcilable data that offer a neutral administrative check that strengthens confidence in elections. These commenters argued that credible post-election audits can rise or fall on the quality of the underlying data. The state-specific List would meaningfully sharpen that data by providing significantly enhanced visibility regarding the sending of mail-in ballots, as it will provide federal law enforcement with a list of individuals to whom states planned to mail a ballot (and who may potentially use the mail to vote), along with the associated barcode data, which the Postal Service understands will help to facilitate enforcement of federal law. Currently, law enforcement lacks such information regarding the use of the mail. The List is not intended to substitute for official election records or state mandated reconciliation procedures. In assessing the List for areas of potential further investigation, it should also be noted that some variation may exist between the List and the (separate) scan data for a variety of reasons, for example not all voters who receive a mail-in ballot will return it by mail, and as noted above the Portal data may be over-inclusive. The benefits of the rule are still achieved notwithstanding these variations.

V. Impact of the Final Rule

Consistent with the operation of the rule set forth above, the Postal Service also clarifies the impact of the rule on voters and election officials, particularly as weighed against the rule's purpose and benefits. As provided by the comments, this section discusses commenters' claims regarding the benefits and burdens of the rule, and how the Postal Service is striking an appropriate balance in the final rule.

A. Benefits of the Rule

Those commenters who supported the rule believed that the benefits to the rule are aligned with the rule's intended purpose and that the rule's policy goals are properly weighed against the potential burdens, harms, and costs. They urged the Postal Service to swiftly adopt the proposed rule, so that all federal elections could benefit from its stated improvements, including mailpiece visibility and the enforcement of federal law.

As an initial matter, these comments acknowledged that mail ballots play an important role for many voters, but also had concerns related to voter fraud. These commenters noted that even the possibility that elections are taking place in an unsecure manner due to lack of necessary visibility can undermine public confidence in the electoral process, even if no fraud is ultimately discovered. These commenters asserted that given the prevalence of mail-in voting, it would be both appropriate and beneficial for the government entity tasked with delivering ballots to and from the voter and the election office to put safeguards in place. Many of these commenters argued that by making the mailstream more reliable and more transparent on a nationwide basis, the rule would provide states with a means to combat potential voter fraud in ways they could not do acting alone. Commenters note that this would strengthen public confidence in the election system without altering any state election laws, voter registration, or eligibility requirements; or changing how ballots are issued, collected, or counted. As one comment explained: public confidence in elections is best sustained by procedures that can be verified, documented, and consistently applied.

Moreover, these commenters recognized that the rule offers efficiency and security benefits for voters and election officials, and promotes secure elections that the public can be confident in. Commenters note that a set of minimum envelope-design standards would help election officials, the Postal Service, and the public better account for Federal Ballot Mail moving through the mailstream. As several commenters explained, a ballot that can be tracked is far harder to misplace, stall, or counterfeit. Improved tracking may also help identify discrepancies between ballots mailed and ballots received, some commenters added, making it easier to detect and deter potential fraud or irregularities while protecting the integrity of mail-in voting. Even parties opposing the rule recognized that unique IMbs can provide unmatched visibility into the mailpiece's progress in the mailstream. Commenters also reiterated the importance of the Official Election Mail logo as a means for voters to recognize election mail as important and distinct from other mailings and to help Postal Service employees identify official election mail among the millions of mailpieces processed daily. Commenters further explained that advance review of ballot envelope designs would reduce operational errors, delays, and delivery issues that have sometimes affected voters and delayed delivery of their ballots. As examples, commenters pointed out that non-automation compatible ballot mail is more likely to encounter avoidable processing complications or delays, and other mailpiece design defects could prevent barcodes from being read or increase the need for manual handling. Commenters concluded that requiring design review before ballot envelopes are printed and mailed is a low-cost, high-value step that can prevent serious problems during the compressed period before an election.

Furthermore, these commenters state that the rule's other preparation and data entry requirements, particularly those involving the Portal, would support stronger coordination between state election officials and the Postal Service. For example, the rule would improve pre-election planning by allowing states to notify the Postal Service before using the postal system for ballot delivery. States would still retain full control over who receives a ballot, and the Postal Service would have better information to plan resources. Many election officials who submitted comments, including those who opposed the rule, expressed appreciation for the Postal Service's ongoing efforts to support election officials. The rule, some commenters noted, provides another avenue to strengthen those relationships. Many commenters concluded that by improving coordination between election officials and the Postal Service, the proposed rule has the potential to reduce undeliverable election mail, strengthen ballot accountability, and reinforce public confidence that election mail is being sent to the correct recipients.

These commenters further contend that applying reasonable verification procedures to federal election ballots is consistent with the Postal Service's longstanding mission of delivering mail accurately, securely, and reliably. Commenters noted that verification, as contemplated in the rule, does not alter the states' authority to determine voter eligibility or administer elections. Rather, it provides an additional administrative safeguard to help ensure that ballots approved by election officials are delivered accurately to the intended recipient. Commenters opposing and supporting the rule noted the extensive efforts election officials undertake to maintain accurate voter rolls. Those in favor of the proposed rule argue that rather than duplicating, undermining, or usurping these efforts, the rule strengthens ballot distribution procedures as a logical complement to states' election administration responsibilities.

Ultimately, these commenters reasoned that while the rule would place some administrative burdens on states, as they take advantage of the new Portal registration, barcode generation, and list submission provisions, these burdens are plainly justified by the rule's security and accountability benefits. Overall, in their view, the rule's standards would improve accountability without displacing the role of states in deciding who is eligible to vote or how elections are administered. The operational improvements that the rule mandates would benefit voters of every political affiliation because they promote accuracy, efficiency, and transparency in the administration of federal elections. These commenters explained that public confidence in elections is strengthened when every stage of ballot distribution is transparent. They also opined that the rule would help facilitate the appropriate direction of resources to law enforcement efforts.

B. Burdens and Costs of the Rule

Separate from arguments, discussed above, about the legal authority for the rule, numerous commenters opposing the rule also criticized it for purportedly failing to account for the potential burdens and other alleged harms it would impose on voters and election officials, not addressing associated reliance interests, and not adequately demonstrating a connection between the proposed rule's provisions and its stated goal. These commenters asserted that a rule of this nature should be based on detailed study, should be gradually rolled out, and should move forward only after election officials and the Postal Service are fully prepared for implementation. In particular, these commenters argued that a rule of this nature should not be issued roughly three months before an election. These commenters contended that the Postal Service should not finalize this rule without a reasoned explanation, a full implementation analysis, and an

assessment of foreseeable civil rights impacts. Commenters strongly urged the Postal Service not to finalize it.

Voters

Those opposed to the rule expressed concern about the possibility of disenfranchisement. They contended that voters may be omitted from the Portal with no recourse, that an administrative or technical error may result in an otherwise lawful ballot being rejected by the Postal Service, or that voters may not receive a ballot at all if their state government chooses not to provide data in the Portal. Any of these scenarios, commenters argued, could result in voters having their mail-in or absentee ballots withheld or delayed, without any recourse or viable alternative to cast a ballot. Commenters asserted that some voters may be especially impacted should their ability to vote by mail be altered in any way, including those who are disabled, are elderly, have limited English proficiency, live in rural-dwelling, or are financially distressed. According to commenters, voters would bear the practical consequence of any delivery delay, even if the delay was caused by an administrative process outside the voter's control. Commenters asserted that the rule would discourage individuals from voting by mail. Other commenters argued that any policy that could result in the delay, rejection, segregation, or differential treatment of mail ballots raises concerns regarding voter access, election administration, and public confidence in the democratic process.

Commenters also discussed the risks of confusion that the rule would purportedly create, particularly because voters may not know if their state has complied with or will be able to comply with the rule. These commenters claimed that the potential for voter confusion due to the rule is a harm in and of itself.

Others expressed concerns for their privacy and did not want voter information included in a Portal run by the federal government or their identity linked to uniquely serialized IMbs on Outbound and Return Federal Ballot Mail envelopes.

Election Officials

Among the most frequently raised concerns from commenters opposing the rule was the purported burden imposed on election officials, specifically if the rule were implemented immediately. Commenters, particularly election officials, secretaries of state, governmental officials, and voting organizations, stated that it would be difficult if not impossible to implement the rule in time for the 2026 general election. Election officials asserted that their preparations for the 2026 election are already underway and that they lack the time, funding, and staff to implement the proposed rule. Some commenters asserted that they have already purchased envelopes for the 2026 election cycle, and that generating unique barcodes for both outbound and return ballot mailings in some cases would require significant changes to their ballot envelope design, as well as procurement of those redesigned envelopes on an expedited timeline, which they assert would not be possible. Other commenters explained that in some cases, legislative action, Attorney General guidance, or state board approval are needed before such changes could be made. Some commenters posited that smaller and more rural counties with limited technology would be disproportionately affected, while others thought complying with the rule would be more onerous for election officials in states that have universal mail-in voting compared to states that do not mail absentee ballots unless requested by the voter.

Commenters also argued that the rule would impose new and recurring costs and administrative burdens for future elections cycles that do not currently exist. In this regard, commenters note that election systems are designed around state law, existing technology systems, vendor contracts, staffing structures, election calendars, and operational procedures that have been developed over time, and introducing new reporting, certification, and verification processes for Federal Ballot Mail would, in their view, require significant modifications to existing workflows and systems. Having previously relied on current procedures in structuring their budgets, staffing, and election timelines, commenters note that states would have to absorb any new costs, which those plans never contemplated.

Complying with the mail preparation and data-reporting standards, commenters asserted, would require them to divert resources away from processing voter registration applications and mail-in or absentee ballot applications, and in some instances the staffing necessary to implement the proposed rule may not be available at all. Election officials also asserted that there will be additional costs for direct voter contact, and other voter education efforts required to explain the rule to voters and to respond to related inquiries, including an increase in support calls.

Reliance Interests

Other commenters argued that, when a federal entity issues new standards, it must assess whether there were reliance interests, determine whether these interests were significant, and weigh any such interests against competing policy concerns, and alleged that the Postal Service has failed to do so. Commenters argued that the rule would create a ''one size fits all'' federal policy that would displace established state and local practices driven by the needs of different localities and grounded in reliance on the Postal Service's dependable transmission of mail-in and absentee ballots. As noted above, commenters further focused on reliance interests related to preparations for the 2026 election cycle.

Relationship of the Rule to Its Intended Purpose

Commenters argued that the proposed rule was not sufficiently tied to its stated purpose—namely to help ensure election integrity, fraud prevention, and facilitation of federal law enforcement. In their view, the proposed rule provides no empirical evidence or other explanation to articulate why existing election mail procedures are deficient, what operational problem would be solved by the Portal, or how IMb data would help mitigate or investigate election crimes. Numerous commenters also argued that, the proposed rule would not provide any material new information to law enforcement.

Some commenters who opposed 705.24.4 and 705.24.5 were supportive of the mailpiece envelope design provisions of 705.24.3. However, those commenters noted that many of the envelope design best practices the rule would mandate are already available and used voluntarily. Commenters argued that converting these recommendations into federal requirements adds cost and operational risk for election officials without counterbalancing benefits.

Evaluating Less Restrictive Alternatives

Several commenters also argued that the Postal Service should evaluate less restrictive alternatives. For example commenters suggested: voluntary pilot programs, phased implementation after the 2026 election cycle or a capacity-adjusted implementation timeline, aggregate or post-mailing reconciliation, data minimization, hashed or non-voter-identifying records, safe harbors for minor or correctable defects, mandatory acceptance during Portal outages,

making the data entry standards optional, and emergency escalation procedures for replacement ballots, late-added voters, court-ordered ballots, and small-volume local mailings. Other commenters argued that rejection of Outbound Federal Ballot Mail for failure to satisfy preparation and data entry standards is a disproportionate consequence compared to the monetary penalties imposed elsewhere in the DMM for failing to meet other preparation or eligibility standards after an administrative review. *See* DMM 607.

C. Balancing Interests

After careful consideration of these various viewpoints, and the comments discussing these issues, the Postal Service is moving to finalize the proposed rule, subject to certain modifications explained in ''Revisions Adopted in the Final Rule.''

The Postal Service has thoroughly explained the rationale for imposing mail preparation and data reporting requirements as set forth in the proposed rule, which are necessary to help promote the faithful execution of federal law and advance the Postal Service's ability to efficiently handle Federal Ballot Mail. While the Postal Service's existing processes are designed to support the timely delivery and smooth processing of ballot mail, it has long recognized that across-the-board compliance with its longstanding recommendations would further improve efficient handling, processing, and delivery. This would benefit the Postal Service, election officials, and voters alike. Moreover, while the Postal Service currently does obtain scan data for some ballot mail that could be useful for law-enforcement purposes, mandating compliance with the data reporting and mail-preparation requirements for all Federal Ballot Mail would significantly improve the quality of that data. This visibility will, in turn, put law enforcement in a better position to identify any potential issues regarding compliance with federal law that may merit further investigation.

Weighing these benefits and the operational needs of the Postal Service, the rule is intended to minimize the burden and impact on voters and election officials, while still achieving the rule's purposes. Under this rule, states will retain complete autonomy to determine voter eligibility to use the mail to vote, as they do today. If their state complies with the rule's relatively modest mail preparation and data entry standards, voters should not experience any difference from the status quo. The Postal Service anticipates that all states will make a good faith effort to comply with the rule, consistent with the belief expressed by some commenters, thereby enabling eligible voters to continue to use the mail to vote. Overall, the rule imposes requirements that are rationally and carefully tailored to the underlying purposes of the rule. The Postal Service would also reiterate that the rule does not mandate that states administer elections in a ''one size fits all'' manner; on the contrary, state election laws and practices will continue to vary in accordance with state law, as states will retain control over the manner of their elections, unaltered by the rule. The rule requires merely that states that choose to use the U.S. mail as part of their elections adhere to certain standard mailpiece design and data reporting standards when sending Federal Ballot Mail.

The Postal Service also notes that some commenters narrowly focused their concerns on the purportedly substantial costs and practical challenges that election officials would presently face in attempting to comply with the rule for the November 2026 general election. The Postal Service recognizes that the rule would require states to adjust their processes and adapt to the changes imposed by the rule, potentially incurring new costs. While the Postal Service has weighed these considerations, including the possibility that some jurisdictions would need to order new ballot envelopes and devote resources to complying with the new envelope-design standards and reporting requirements, those considerations have to be balanced against the benefits of the rule, and in particular the fact that these standards are necessary to ensure the faithful execution of federal law. Given that mail-in ballots subject to this rule are generally mailed in September or thereafter, an immediate effective date ensures the maximum possible time for election officials to adjust their ballot mail envelopes to meet the new preparation standards if necessary, and to prepare to submit data to the Portal once it becomes active. This promotes states' and political subdivisions' ability to successfully implement the rule prior to the 2026 general election with good faith efforts and the available postal resources, notwithstanding the comments that described this task as ''impossible.'' And despite any logistical or financial difficulties states may face complying with the rule, including some claims that immediate implementation would prove impossible, the visibility and law-enforcement benefits of the rule, including for this election cycle, are such that there is no compelling reason for any delay. In recognition of the potential burdens on election officials and the timeline involved, the Postal Service will make available considerable educational and other support resources discussed above to assist election officials with implementation and help facilitate timely compliance with the rule.

The Postal Service has also considered alternatives to the proposed rule, including both more and less restrictive options. The Postal Service received comments proposing a number of alternatives including: using registered mail to transmit ballots; performing verification of additional forms of data (including name, address, or Return Federal Ballot Mail envelope IMb); expanding the rule to cover primaries or all voters; making all of the rule's provisions optional; eliminating verification and rejection procedures; and not requiring a unique IMb on return ballot envelopes.

As explained above, the Postal Service believes the proposed rule, as modified in the final rule, is appropriate in scale and scope. A more restrictive approach is unnecessary to achieve the goals of the rule and realize the related benefits. At the same time, the sensitivity of Outbound Federal Ballot Mail, the importance of voter confidence and election security, and the ability to support law enforcement purposes that are necessary to ensure the faithful execution of federal law require the inclusion of the verification and rejection procedures as set forth in 704.24.5 in order to fulfill the purposes of the rule. A less restrictive approach would not achieve all of the rule's benefits. For example, scans from unique IMbs provide a level of visibility into individual mailpieces that is not possible using non-serialized IMbs. The Postal Service agrees with commenters that this visibility is dependent on the mailpieces being scanned, and believes that the potential for improved visibility made possible by the use of unique IMbs on both Outbound and Return Federal Ballot Mail better serves the intended goals of the rule than if a unique IMb were only on Outbound Federal Ballot Mail. Moreover, if the rule were not applied in a consistent, nationwide fashion (*e.g.,* if its provisions only applied to some ballot mail, were optional, or if there were a phased roll-out), it may prevent the full benefits of the rule from being realized, prove unadministrable, and could potentially cause confusion and delays.

The final rule creates an appropriate balance of the purported burdens

imposed by the rule against its intended benefits. As one commenter explained, election integrity and voter access are complementary goals. Any regulatory changes should strengthen public confidence while avoiding unnecessary obstacles to the timely and reliable delivery of election mail. This rule properly balances those considerations.

VI. Other Considerations

A. Postal Service Readiness

Numerous commenters expressed concern over the Postal Service's ability to successfully implement this rule. They expressed concern over whether the Postal Service had the necessary financial resources and staffing capacity and conjectured that proposed rule would saddle the Postal Service with election administration functions; require additional clerks, mailpiece design personnel, information technology support staff, and other human resources; and impose new obligations on retail offices and field operations.

Other commenters sought clarification about the training that postal employees would need to perform the new processes set forth in the rule. Other commenters, including some postal employees, questioned whether postal employees could satisfy their obligations under the Hatch Act and to the public under the rule.

The Postal Service is prepared to implement the rule, consistent with its legal obligations and available resources. The Postal Service already possesses the necessary staffing capacity at BMEUs and retail locations as well as mail acceptance infrastructure necessary to administer the rule: wholly new institutional capacity does not need to be built from scratch. The Postal Service currently operates nationwide digital systems through the Business Customer Gateway and PostalOne!, and business mailers must already submit mailing documentation electronically. The Postal Service also maintains centralized support channels, including the MDA help desk. Furthermore, as stated in the Notice of Proposed Rulemaking, the Postal Service has available or will soon publish resources to assist election officials with compliance, including technical instructions on barcode creation, service type identifiers, acceptance processes, file preparation, documentation submission, and entry of data into the proposed portal. The addition of a new compliance review for a small subset of overall mail volume is not expected to require additional staff or be a significant burden on employees. Since the rule builds on processes already in place for election mail, its implementation should not prove inordinately costly. The Postal Service is able to balance the cost of implementing the rule, including developing the Portal, with the costs required to fulfill its other core operational responsibilities.

As explained above, there are only a few categories of employees who will be directly responsible for verifying compliance with the rule under 705.24.5, namely BMEU technicians, Retail clerks, and discrete support functions like employees in the PCSC. For employees in direct operational roles, the new pre-acceptance verification measures are similar to, and are no more onerous than, other mailing manifest reviews. With respect to other provisions in the rule, the Postal Service also recognizes that MDAs will see an increase in mailpiece design review requests under the rule. The Postal Service is committed to ensuring this process is completed in a timely manner, consistent with current customer expectations.

The Postal Service agrees that proper training to ensure nationwide consistency is important. The Postal Service is developing specific training for employees who will be directly responsible for conducting verification under the rule. Retail clerks and BMEU technicians will be trained on how to identify Federal Outbound Ballot Mail and what the scanning verification process requires. The training will be rolled out and conducted consistently with the Postal Service's usual processes. Additionally, MDAs will receive training on the rule's design requirements and recordkeeping requirements.

It is important to remember that the vast majority of employees will not experience a change in their responsibilities as a result of the rule. For example, letter carriers and employees in delivery and processing functions will not have any new responsibilities. These employees will continue to process and deliver ballot mail, including Federal Ballot Mail, and all other election mail, consistent with existing Postal Service processes, procedures, and guidance. Letter carriers and employees in processing and delivery functions will not validate, withhold, delay, or remove ballots in the mailstream.

The rule's requirements should not impact how the Postal Service processes and delivers Federal Ballot Mail. Longstanding processing and delivery practices for completed ballots that enter the mainstream will remain unchanged. As noted, designing automation compatible mailpieces, inclusion of the Official Election Mail logo, serialized IMbs on both the outbound and return ballots, and MDA mailpiece review have long been key components of the Postal Service's best practices guidance for ballot mail. Ensuring compliance with these longstanding recommendations, together with verification processes for IMbs on Outbound Federal Ballot Mail, lie within the Postal Service's zone of competence, and can therefore be incorporated into the Postal Service's normal course of operations.

The Postal Service would also note that the rule does not implicate the Hatch Act, as it neither directs nor authorizes any partisan political activity as defined by that Act by Postal Service employees.

B. Portal Security

The Postal Service received a number of comments concerned that creating a centralized data repository with voter information would make elections less secure. These comments argued that creating a centralized Portal establishes a high-value target for state-sponsored cyberattacks, other data breaches, and election disruption, and that the recent rise of AI-enhanced hacking technology increases these risks. For these commenters, the value of the Portal is minimal because it is, they argue, largely duplicative of existing state systems, and, in their view, does not justify the risk. Commenters contend that decentralized election systems improve election security.

Some commenters were concerned about the Postal Service's ability to maintain and protect data in complex, public-facing systems, with a few commenters suggesting technology, services, and other resources that the Postal Service could use to create the Portal. Commenters noted that system outages, technical malfunction or cyberattacks impacting the Portal could impact, or potentially halt, Outbound Federal Ballot mailings across multiple states simultaneously. Others emphasized that neither the Portal nor any related technical specifications are currently available; as a result, these commenters questioned whether election offices (especially those in small or under-resourced jurisdictions) would have the time and technical capacity to build the required data files immediately.

The Postal Service has extensive experience in developing, maintaining, and safeguarding public-facing data systems. The Postal Service faces ongoing cyberthreats and challenges

that could directly impact customers, partners, and employees, and it is well prepared to defend against these threats. The Postal Service's Corporate Information Security Office (CISO) protects its critical stakeholders by safeguarding the postal network, monitoring threats, and responding to incidents. As with comparable organizations in the government and private-sector, cybersecurity is a top priority for the Postal Service.

Against this backdrop, the Postal Service maintains a vast commercial public-facing website and has a number of existing systems for mailers to enter data to satisfy other mail preparation standards. It also has experience in quickly developing and deploying public-facing websites, like the website created to facilitate ordering and distribution of COVID–19 test kits. These are high-volume systems that maintain sensitive data. The Postal Service has specific guidelines and protocols in place for protecting and handling the sensitive and critical data contained within these systems. In short, contrary to commenters' claims and concerns, the Postal Service has meaningful experience developing and operating a system like the Portal.

The Portal will contain multi-layered security controls, including encrypted data transmission and storage, strict access management with multi-factor authentication, and role-based permissions. The system will be protected by enterprise-grade network defenses, real-time monitoring, and comprehensive audit logging, ensuring that sensitive data is accessible only to authorized officials and is retained securely.

As discussed above in ''Operation of the Final Rule,'' there are free, optional tools available that can assist election officials and Federal Ballot Mail Portal Users in generating the data files necessary to satisfy the rule's data reporting requirements and ensure that the necessary information for Outbound Federal Ballot mailings is available to satisfy verification and be accepted into the mailstream. Jurisdictions using a vendor may already have such data files prepared as part of other mailing documentation. In either case, the burdens are modest and can be timely satisfied.

C. Other State Law Concerns

Commenters, including election officials, raised concerns about the ability of election officials to satisfy the requirements of the rule while also complying with various state laws. For example, some comments argued that the obligation to provide Portal data for inclusion on a state-specific List could require election officials to choose between complying with state privacy laws or the rule. Other commenters questioned election officials' ability to satisfy the rule's requirements while also complying with state statutory timing requirements for requesting, processing, and issuing ballots. And others argued that the rule would impact state and local elections where consolidated ballots are used.

The decision of how to arrange ballots is a matter for the states. Ballots that contain both federal and state or local elections are covered by the rule. States can easily avoid any effects on their state elections by either complying with the rule's requirements or by separating their federal ballots to exclude any non-federal elections. Either is permissible under the rule and would eliminate any impact on exclusively state or local elections.

The rule is also not facially incompatible with the various timing provisions in state election law. The envelope design review, data entry, and verification processes set forth in the rule should be relatively quick to complete and should not significantly alter the timeline for election officials. The rule's requirements will permit an election official to prepare and send Outbound Federal Ballot Mail near election day, as they do now. And, once Outbound Federal Ballot Mail is accepted into the postal network, the Postal Service has a strong track record of promptly delivering ballots to and from voters.

The rule also does not require that sensitive voter information be made public, like birthdates or social security numbers that may be protected from disclosure by state law. For one thing, the Portal and the Lists will not contain this kind of sensitive information; they include information that appears on the outside of the ballot mail envelopes. For another, the Lists and the underlying Portal data will not be made publicly available. There are existing statutory and regulatory protections against the disclosure of customer addresses and other sensitive information. For example, while 39 U.S.C. 410 provides that the Postal Service is subject to the Freedom of Information Act and the Privacy Act, it limits the scope of access to certain kinds of postal records. In particular, Section 410(c)(1) provides that neither law requires the Postal Service to release ''the name or address, past or present, of any postal patron.'' Similarly, postal regulations provide that disclosures of address information may be made to state and local governments and law enforcement agencies, but generally prohibit disclosure of an individual person's mailing address to a non-government individual except in limited, enumerated circumstances. 39 CFR 265.14(d)(2)-(5), (9). Furthermore, as discussed above and reiterated below, many of these privacy concerns may be resolved by the information contained in the SOR for the Portal, which was published in the **Federal Register** on July 17, 2026.

D. Tribal Issues

The Postal Service received a small number of comments arguing that the proposed rule did not meaningfully address how the rule's requirements would affect tribal communities. Commenters were concerned about the ability of election officials to generate unique IMbs for nontraditional mailing addresses used by many Native American households, and about the impact of the rule more broadly given the unique mail delivery challenges that can impact these communities. Other commenters advocated for tribal consultation prior issuance of a final rule. In particular, one commenter argued that the rule should not be finalized until the Postal Service conducted formal consultation with federally recognized tribes pursuant to Executive Order 13175.

As the Postal Service has explained, the rule does not require any change to existing addressing practices. It only requires that the address uploaded into the Portal be the address used on the Outbound Federal Ballot Mail envelope. Election officials may continue to address ballots to nontraditional addresses and may generate unique IMbs for these addresses to comply with the rule. As discussed above, election officials may be able to use the free IMsb tool to generate a unique IMb even if these addresses cannot be validated through DPV.

With respect to consultation, the Postal Service will continue to work with tribal stakeholders as part of its broader outreach, education, and implementation efforts. However, Executive Order 13175 does not require the Postal Service to engage in such consultations. Only agencies covered by the Paperwork Reduction Act are subject to that Executive Order and, as noted above, the Postal Service is outside the Paperwork Reduction Act's scope. *Shane,* 658 F. Supp. at 915; *accord Kuzma,* 798 F.2d at 32. Therefore, consultation under Executive Order 13175 is not required prior to finalizing the rule.

E. Requests for More Information

The Postal Service received several comments requesting detailed analysis about the potential impact of the proposed rule and recommending that the results of any such analysis be published before issuing a final rule. For example, requests were made for a state-by-state analysis of the rule's impact; impact assessments for Tribal communities and UOCAVA voters (despite the express exclusion of UOCAVA ballots from the rule's scope); detailed information about the development of this rule and the Portal; an evaluation of any differential administrative burdens based on the size or resources of election jurisdictions; an assessment of the anticipated ballot-rejection rate under DMM 705.24.5; and a formal disability accessibility impact assessment before finalizing any changes to ballot mail procedures.

The Postal Service declines to conduct, publish, or otherwise disclose any additional analysis or information concerning the rule or Portal. The Postal Service has received sufficient information through public comments to assess the impact of the proposed rule and issue this final rule. Each state and political subdivision thereof may choose different means to satisfy the rule's mail preparation and data entry requirements based on their own capabilities and resources. As a result, the impact on states may vary but these decisions are not dictated by the Postal Service. Similarly, the Postal Service anticipates that the rejection rate of Outbound Federal Ballot Mail will be low, as states need only comply with the final rule's relatively modest mail preparation and data entry standards.

F. System of Records Notice

The Postal Service received numerous comments urging it to publish a new SORN for the Federal Ballot Mail Portal in accordance with the Privacy Act. Commenters sought information about retention periods for Portal data, access to that data, and limits on disclosure, among other things. While these comments are outside the scope of this rulemaking, the Postal Service separately took steps necessary for the creation of a SORN, as stated in the Notice of Proposed Rulemaking. On July 17, 2026, the SORN was published in the **Federal Register**. 91 FR 44880. As explained in the SORN, a SOR will need to be in place to implement this final rule, because no data will be collected through the Portal or disclosed until a SOR is in place. The SORN provides details regarding retention periods, access, disclosure, and the other matters raised by commenters. Comments will be accepted on the SORN for 30 days. Interested parties were invited to submit comments.

VII. Suggested Revisions to the Proposed Rule

A. UOCAVA

In the Notice of Proposed Rulemaking, the Postal Service specifically invited comments on the exemption in the proposed rule for UOCAVA voters. Many commenters supported this exemption. Other commenters, while supporting the exemption, believed that the rule's express exclusion of UOCAVA ballots was insufficient to exclude or protect UOCAVA voters. These commenters asked for more assurances and safeguards to ensure UOCAVA ballots would not be impacted by the rule, as errors could occur that would accidentally apply the rule's standards to UOCAVA ballots.

Some commenters opposed the exemption for UOCAVA ballots. These commenters argued that ''[a]pplying the E.O. 14399 framework''—such as enhanced tracking and participation lists—to UOCAVA ballots would strengthen integrity without undermining access, while aligning with existing Postal Service special handling for election mail to and from military and overseas voters. Excluding them, in the opinion of some commenters, leaves a significant portion of ballot mail for federal elections outside the new security measures, and including UOCAVA ballots would create a more comprehensive, uniform system that better serves all eligible voters while deterring unlawful use of the mail.

The Postal Service finds that the proposed rule provides sufficient safeguards for UOCAVA voters as drafted and declines to make additional changes. Further safeguards and assurances are unnecessary because these voters will experience no change as a result of proper implementation of the rule given its exemption of UOCAVA ballots. At the same time, the exemption does not create an anomaly or otherwise undermine the stated purpose of the rule. Rather, it reflects the unique logistical circumstances that overseas and military voters and their family members face, consistent with the statutory scheme enacted by Congress.

Separately, other comments sought clarification on how the Postal Service would distinguish between ballots sent pursuant to UOCAVA and other mail-in or absentee ballots. Existing postal regulations require that ballots sent to and from UOCAVA voters include unique identifiers on the exterior of the envelope that are not present on the ballot envelopes for non-UOCAVA voters. Specifically, DMM 703.8.8.5 requires that envelopes for mailing and receiving absentee ballots under UOCAVA must contain the following words: ''No Postage Necessary in the U.S. Mail—DMM 703.8.0.'' Additionally, balloting envelopes for UOCAVA voters contain the statement: ''U.S. Postage Paid 39 U.S.C. 3406.'' These indicia enable the Postal Service to distinguish between UOCAVA ballots and ballots that fall within the scope of the rule. As explained above, UOCAVA ballots should be segregated from Outbound Federal Ballot Mail when presented for mailing. This will help ensure that both UOCAVA ballots and Outbound Federal Ballot Mail covered by the rule are properly accepted under applicable rules. Therefore, revisions to the proposed rule are unnecessary to ensure that UOCAVA ballots are distinguishable from Federal Ballot Mail.

B. Primaries

The Postal Service received several comments about primary elections specifically. Describing primaries as gateways to federal general elections, and further noting that in noncompetitive districts, primaries may effectively determine the outcomes of federal races, commenters argued that the rule's exclusion of primary elections creates inconsistencies in tracking, verification, and security standards. Commenters contended that the Notice of Proposed Rulemaking inadequately explained why fraud prevention and law enforcement rationales for ballots for general, special, and runoff federal elections would not apply equally to primaries. These commenters opined that voters and election officials would benefit from uniform Postal Service requirements throughout the election cycle.

The Postal Service reaffirms that, consistent with the framework for the proposed rule set forth in Executive Order 14399, the rule will not apply to primaries. Primary elections involve the selection of political party nominees through procedures chosen by the parties themselves, not the election of federal officials; as such, they fall outside the rule's scope and reach.

C. Address Confidentiality Protection and Other Voter Confidentiality Programs

As some commenters pointed out, survivors of domestic and sexual violence and/or stalking may experience significant privacy concerns related to the voter registration process. The fear of being located may deter such victims from voting in person, and even from registering to vote. Furthermore, as commenters noted, survivors of domestic violence, sexual violence, and/or stalking often relocate multiple times and/or postpone updating public records until adequate safety measures are in place. For these reasons, commenters concluded, many survivors rely crucially on the ability to vote by mail.

According to commenters, to assist such survivors, forty-seven states have instituted Address Confidentiality Protection programs (''ACPs'')—confidential mail forwarding services available to survivors of domestic violence, stalking, sexual violence, child abduction and/or human trafficking who have recently relocated to a location unknown to their abuser or stalker. To ensure participant safety, commenters explained, ACPs typically shield participants from appearing in public voter files, usually by substituting alternative addresses or keeping records entirely offline. Often, ACP registration is entered manually in a locked file and not entered into the state's typical voter registration system. The ballot is then mailed to the state's substitute address, which, by design, differs from the voter's confidential actual address. In some instances, even an individual's name is protected under ACPs. Some commenters also noted that other states have additional privacy protections in place for participants.

Some commenters voiced concern that including information about these voters in the Portal and the contemplated exchange of this information through the state-specific Mail-In and Absentee Participation Lists would compromise ACP and other confidentiality programs and may call into question compliance with certain state requirements. One commenter noted a lack of guidance as to whether states would be required to upload survivors' actual physical addresses to the Portal, or whether the Postal Service (or other entities within the federal government) would question mailing ballots to a potentially large number of voters registered to a single alternative mailing address. Other commenters criticized the proposed rule for allegedly increasing risks to survivor safety. One commenter cited recent large-scale privacy breaches affecting government agencies and suggested that Mail-In and Absentee Participation Lists in the Postal Service's custody (including, presumably, the private information of voters protected under ACPs) could fall prey to such a breach.

The Postal Service clarifies that the rule requires that the name and address used on the outside of a ballot envelope be submitted to the Portal; it would not require that confidential information known only to the state be provided. The information in the Portal would also not be publicly disclosed, and the Postal Service has taken appropriate cybersecurity measures with respect to the Portal cybersecurity as discussed above. For these reasons, the proposed rule is compatible with state ACP programs.

D. Alternative Operational Approaches

A small number of commenters recommended that the rule be accompanied by ambitious operational changes, including a dedicated postal-run ''state ballot box'' into which only ballots would be placed, the establishment of a separate processing and delivery system for ballots, and fundamental Mailer ID redesign (a key component of IMbs).

The Postal Service declines to adopt these proposals. Such large-scale (and costly) operational changes are not necessary to accomplish the rule's objectives.

VIII. Revisions Adopted in the Final Rule

Very few comments included recommended changes to the rule itself. The Postal Service received several suggestions that would result in a more expansive final rule ; however, these suggestions fall outside the scope of this rulemaking and the Postal Service's authority. For instance, a few commenters encouraged the Postal Service to add provisions into the rule to verify a voter's citizenship status as a condition of mail acceptance. Other commenters advocated for exclusively in-person voting, and still others proposed only accepting ballots that are received by Election Day. The Postal Service also received comments recommending a narrower final rule that would retain the proposed rule's provisions concerning ballot envelope design for Federal Ballot Mail, in 705.24.3, and eliminate the rule's other substantive provisions, namely 705.24.4 and 705.24.5. Within the scope of this rulemaking, the Postal Service is making several changes in response to the concerns discussed above.

First, the Postal Service makes clear that the verification process set forth in 705.24.5 (*i.e.,* mail sent by authorized ballot mailers) does not apply to Return Federal Ballot Mail. Many comments demonstrated a factual misunderstanding about the inapplicability of these verification procedures to return ballots. Given the widespread confusion, the Postal Service believes that clarifying the final rule will reduce voter confusion and help ensure consistent implementation of the rule. However, as noted above, for individuals transmitting Return Federal Ballot mail to be in compliance with this rule, Return Federal Ballot Mail must be mailed in an envelope that meets the requirements of 705.24.3.2. As under existing law, voters may use their residential mailbox, any retail counter, or other authorized means to transmit their compliant Return Federal Ballot Mail.

In the event a voter loses or misplaces the Return Federal Ballot Mail envelope provided by the Authorized Ballot Mailer, or if the Authorized Ballot Mailer fails to provide the voter with a compliant Return Federal Ballot Mail envelope, the voter should request a replacement envelope from the Authorized Ballot Mailer that conforms to 705.24.3.2. The Postal Service may also provide such other means as reasonably determined by the Postal Service for transmitting Return Federal Ballot Mail consistent with the requirements of this rule. This will provide visibility and scan data for these ballot envelopes when processed on the Postal Service's automated equipment.

Second, there was confusion over how the MDA review requirements would be verified and enforced, and the circumstances under which the MDA review requirements could lead to an Outbound Federal Ballot mailing being rejected. As set forth above, certification of MDA review will not be verified when an Outbound Federal Ballot mailing is presented for acceptance. Instead, prior to uploading data into the Portal, Federal Ballot Mail Portal Users will be prompted to certify that their ballot envelope design has been submitted for review by an MDA and that the MDA has provided feedback. If they do not provide such certification, Federal Ballot Mail Portal Users will be unable to upload data into the Portal. To reduce confusion and clarify the responsibilities of Federal Ballot Mail Portal Users, the Postal Service is amending the language in 705.24.3.1, 705.24.3.2, and 705.24.4.2.f, and striking 705.24.5.3.b from the final rule.

Third, the Postal Service is amending the language in 705.24.3.1.c and 705.23.3.2.c to make clear that Authorized Ballot Mailers are responsible for creating IMbs. The Postal Service is also amending the language in 705.24.4.2.b.3 and 705.24.4.2.b.4 to clarify that the unique IMb submitted into the Portal is the IMb printed on the Outbound and Return Federal Ballot Mail envelopes. These clarifications are intended to reduce confusion and provide clarity for Federal Ballot Mail Portal users; they do not substantively change the rule's data reporting requirements.

Fourth, the Postal Service is amending the language in 705.24.5.2 to clarify that only commercial mailings are subject to commercial mailing standards and regulations. There was confusion over whether non-commercial mailings must be entered at BMEUs or otherwise meet commercial mailing standards. The Postal Service has simplified the language in 705.24.5.2 to help avoid confusion.

Finally, the Postal Service is changing the term ''Ballot Portal User'' to ''Federal Ballot Mail Portal User'' to clarify the relationship between Federal Ballot Mail, the rule's data standards, and the Federal Ballot Mail Portal. The Postal Service's hope is that this reduces confusion about the application of rule's data-entry requirements to other ballot mail as well as confusion about data entry that needs to be performed at the state-level.

IX. Explanation of Final Rule

After evaluating the comments, the Postal Service is adopting the new DMM Section 705.24. The final text of DMM Section 705.24 incorporates the revisions noted above. Accordingly, the Postal Service adopts the described changes to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations.* We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, the Postal Service amends *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations* as follows (*see* 39 CFR 111.1):

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

■ 2. Revise *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

700 Special Standards

* * * * *

705 Advanced Preparation and Special Postage Payment Systems

* * * * *

[Insert after 705.23 the following:]

24.0 Ballot Mail for Federal Elections

24.1 Definitions

For the purposes of Section 705.24, the following definitions apply:

a. *Authorized ballot mailer* means an election official of a state or a political subdivision thereof who is responsible for sending mail-in or absentee ballots to eligible voters of that state or political subdivision; or an individual or entity, such as a mail service provider, that an election official has authorized to send mail-in or absentee ballots by mail on the election official's behalf.

b. *Federal Ballot Mail Portal User* means the chief election official of each state and any individual or entity, such as a mail service provider or an election official of that state or a political subdivision thereof, authorized by the chief election official to provide information through the Postal Service Federal Ballot Mail Portal as described in 24.4.2.b.

c. *Mail-in or absentee ballot* means a physical ballot, other than a ballot provided at a designated polling place, that may be used to cast a vote in a federal election. For the purposes of Section 705.24, a mail-in or absentee ballot does not include a ballot mailed under 703.8.8 or 703.8.9.

d. *Outbound Federal Ballot Mail* means any mailpiece containing a mail-in or absentee ballot for a federal election sent from an authorized ballot mailer to an individual voter.

e. *Return Federal Ballot Mail* means any mailpiece containing a mail-in or absentee ballot for a federal election sent from an individual voter to an election office, or an authorized recipient of ballot mail, of a state or a political subdivision thereof.

f. *Federal election* means any general, special, or runoff election for the office of President or Vice President; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress. This definition does not include primary elections.

g. *State* includes all 50 states, as well as the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

h. *Intelligent Mail barcode (IMb)* has the meaning provided in 204.1.2.1.

i. *Official Election Mail logo* is a unique registered trademark designed exclusively for inclusion in the design of Official Election Mail. The conditions of use are provided in Publication 631, *Official Election Mail—Graphic Guidelines and Logos.*

24.2 Optional 90-Day Pre-Mailing Notice

A state's chief election official may notify the Postal Service, no fewer than 90 days prior to a federal election, of its intent to allow for mail-in or absentee ballots in the federal election to be transmitted by the Postal Service. This notification should indicate whether the state intends to submit to the Postal Service the information described in 24.4.2.b to the Postal Service Federal Ballot Mail Portal as set forth in 24.4.2.d.

A state's failure to provide the optional 90-day notice to the Postal Service under 24.2 will not prevent enrollment under 24.4.

24.3 Federal Ballot Mail

24.3.1 Outbound Federal Ballot Mail Envelope Standards

Outbound Federal Ballot Mail must be mailed in an envelope that:

a. Includes the official Election Mail logo;

b. Is automation compatible; and

c. Bears the voter's unique IMb, as created by the Authorized Ballot Mailer, with the Delivery Point ZIP Code embedded and a Federal Ballot Mail Service Type Identifier (STID).

Outbound Federal Ballot Mail envelopes must be submitted to the Postal Service for mailpiece design review and feedback.

24.3.2 Return Federal Ballot Mail Envelope Standards

Return Federal Ballot Mail must be mailed in an envelope that:

a. Includes the official Election Mail logo;

b. Is automation compatible; and

c. Bears the voter's unique IMb, as created by the Authorized Ballot Mailer, with the Delivery Point ZIP Code embedded and a Federal Ballot Mail STID.

Return Federal Ballot Mail envelopes must be submitted to the Postal Service for mailpiece design review and feedback.

24.3.3 Authorized Ballot Mailer Responsibility

Authorized ballot mailers are responsible for barcode creation under 24.3.1 and 24.3.2 as well as envelope design and printing for all ballot mail.

24.3.4 Additional Recommendations

For additional information on the Postal Service's recommendations for all ballot mail, see DMM 703.8.4.

24.4 State-Specific Mail-In and Absentee Participation Lists

24.4.1 Postal Service Federal Ballot Mail Portal User Registration

To access the Postal Service Federal Ballot Mail Portal, each Federal Ballot Mail Portal User must have a registered account. Registration must be completed no later than two business days before an Outbound Federal Ballot mailing. The chief election official of each state is responsible for authorizing the Federal Ballot Mail Portal Users for their state including political subdivisions thereof.

24.4.2 Enrollment

a. Any state that intends to receive mail-in or absentee ballots from individual voters through the Postal Service must ensure that such individuals have been enrolled with the Postal Service for inclusion on the state's Mail-In and Absentee Participation List.

b. In order for an individual to be enrolled with the Postal Service for inclusion on a state's Mail-In and Absentee Participation List, a Federal Ballot Mail Portal User in that state must provide the following information through the Postal Service Federal Ballot Mail Portal:

1. Name of individual receiving a mail-in or absentee ballot;
2. Address of individual receiving a mail-in or absentee ballot;
3. Unique IMb applied on the Outbound Federal Ballot Mail envelope pursuant to 24.3.1;
4. Unique IMb applied on the Return Federal Ballot Mail envelope pursuant to 24.3.2; and
5. Originating election office state.

c. An individual will be deemed enrolled with the Postal Service for inclusion on a state's Mail-In and Absentee Participation List as of the date that the information in 24.4.2.b is provided.

d. Federal Ballot Mail Portal Users must provide the information in 24.4.2.b at least 30 days before the date of the federal election, to the extent practicable, or by the date on which mail-in or absentee ballots may begin to be mailed under state law. Federal Ballot Mail Portal Users may make supplemental submissions to enroll additional individuals or modify prior submissions until the last day that ballots may be mailed out to individuals under state law. A separate submission is required in connection with each Outbound Federal Ballot mailing, regardless of the number of mailpieces in the mailing.

e. The information provided in 24.4.2.b must meet the Postal Service's technical specifications for the Federal Ballot Mail Portal.

f. Before providing the information in 24.4.2.b, Federal Ballot Mail Portal Users must certify in the Federal Ballot Mail Portal that any mail-in or absentee ballots their state's authorized ballot mailers provide to the Postal Service for mailing have been submitted for review and that they have received feedback consistent with 24.3.1 and 24.3.2 Federal Ballot Mail Portal Users will not be able to enter the information in 24.4.2.b into the Federal Ballot Mail Portal if the certification is incomplete.

24.4.3 Provision of State-Specific Lists

On or about the date of the federal election, the Postal Service will provide a state-specific Mail-In and Absentee Participant List to each state's chief election official that contains the name and address of each individual in that state who was enrolled through the process set forth in 24.4.2, along with the unique IMb associated with the Outbound and Return Federal Ballot Mail sent to each such individual.

24.5 Outbound Federal Ballot Mail Verification

24.5.1 Procedure

Using the information provided in 24.4.2, the Postal Service will review mailings identified as Outbound Federal Ballot Mail prior to acceptance to evaluate whether the mailing meets the standards in 24.3.1 and is being sent to individuals who have been enrolled with the Postal Service for inclusion on the state's Mail-In and Absentee Participation List, consistent with the technical specifications for the Federal Ballot Mail Portal.

24.5.2 Authorized Verification

Mailings identified as Outbound Federal Ballot Mail are verified by Postal Service employees when presented for acceptance. Outbound Federal Ballot Mail must be entered at a facility that performs business mail acceptance functions or at a Postal Service retail counter. Commercial mailings must comply with applicable requirements. Postal Service personnel are not authorized to open mail sealed against inspection, except under circumstances described in ASM 274. The Postal Service's acceptance of Outbound Federal Ballot Mail does not constitute verified compliance.

24.5.3 Noncompliance

a. Mailings that do not comply with 24.5.1 and 24.5.2 will not be accepted and will be returned to the authorized ballot mailer. The authorized ballot mailer or Federal Ballot Mail Portal User must address the error(s) before resubmitting the mailing.

b. An authorized ballot mailer may request further review by the Postal Service if Outbound Federal Ballot Mail is not accepted.

c. The Postal Service assumes no responsibility for any outbound ballot mailing presented until it is accepted into the mail. The Postal Service is not responsible for service delays when the Federal Ballot Mail Portal User or authorized ballot mailer does not meet the applicable preparation or entry standards.

d. Authorized ballot mailers must comply with all applicable postal laws and regulations governing mailability and preparation for mailing, as well as nonpostal laws and regulations on the possession, treatment, transmission, or transfer of particular matter.

24.5.4 Return Federal Ballot Mail

705.24.5 does not apply to Return Federal Ballot Mail.

24.6 Non-Interference With State or Federal Election Laws

This rule relates only to the use of the U.S. Mail. The Postal Service does not purport to alter the eligibility of any individual to vote under state or federal law. The Postal Service does not have any legal responsibility for management of state voter rolls or administration of federal elections within each state. States are fully responsible for the

contents of each State's Mail-In and Absentee Participation List.

* * * * *

Colleen Hibbert-Kapler,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2026–17238 Filed 8–21–26; 9:00 pm]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2024–0281; FRL–12742–02–OCSPP]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances (24–5.5e)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for certain chemical substances that were the subject of premanufacture notices (PMNs) and are also subject to an Order issued by EPA pursuant to TSCA. The SNURs require persons to notify EPA at least 90 days before commencing the manufacture (defined by statute to include import) or processing of any of these chemical substances for an activity that is designated as a significant new use in the SNUR. The required notification initiates EPA's evaluation of the conditions of that use for that chemical substance. In addition, the manufacture or processing for the significant new use may not commence until EPA has conducted a review of the required notification; made an appropriate determination regarding that notification; and taken such actions as required by that determination.

DATES: This rule is effective on October 26, 2026. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (EST) on September 9, 2026.

ADDRESSES: The docket for this action, identified under docket identification (ID) number EPA–HQ–OPPT–2024–0281, is available online at *https://www.regulations.gov* or in person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket) in the Environmental Protection Agency Docket Center (EPA/DC). Please review the visitor instructions and additional information about the docket available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information: Andrew Sullivan, New Chemicals Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–0605; email address: *sullivan.andrew@epa.gov.*

For general information on SNURs: Iliriana Mushkolaj, New Chemicals Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–6877; email address: *mushkolaj.iliriana@epa.gov.*

For general information on TSCA: The TSCA Assistance Information Service Hotline, Goodwill of the Finger Lakes, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (800) 471–7127 or (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What is the Agency's authority for taking this action?

TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the factors in TSCA section 5(a)(2).

B. What action is the Agency taking?

EPA is finalizing SNURs under TSCA section 5(a)(2) for the chemical substances identified in this document. These chemical substances were the subject of PMNs and are also subject to an Order issued by EPA pursuant to TSCA section 5(e)(1)(A), as required by the determinations made under TSCA section 5(a)(3)(B). The SNURs identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying TSCA Orders, consistent with TSCA section 5(f)(4). The SNURs require persons who intend to manufacture or process any of these chemical substances for an activity that is designated as a significant new use in the SNURs to notify EPA at least 90 days before commencing that activity.

Previously, EPA proposed SNURs for these chemical substances in the **Federal Register** of November 3, 2025 (90 FR 49148 (FRL–12742–01–OCSPP)). The docket includes information considered by the Agency in developing the proposed and final rules, including public comments and EPA's responses to the comments received as discussed in Unit II.D.

C. Does this action apply to me?

1. General Applicability

This action applies to you if you manufacture, process, or use the chemical substances identified in this document. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

2. Applicability to Importers and Exporters

This action may also apply to certain entities through pre-existing import certification and export notification requirements under TSCA (*https://www.epa.gov/tsca-import-export-requirements*).

Chemical importers are subject to TSCA section 13 (15 U.S.C. 2612), the requirements in 19 CFR 12.118 through 12.127, 19 CFR 127.28, and 40 CFR part 707, subpart B. Importers of chemical substances in bulk form, as part of a mixture, or as part of an article (if required by rule) must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA, including regulations issued under TSCA sections 5, 6, 7 and Title IV.

Pursuant to 40 CFR 721.20, any persons who export or intend to export a chemical substance identified in this document are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) and must comply with the export notification requirements in 40 CFR part 707, subpart D.

D. What are the incremental economic impacts of this action?

EPA has evaluated the potential costs of establishing SNUN reporting requirements for potential manufacturers and processors of the chemical substances identified in this document. This analysis, which is available in the docket, is briefly summarized here.

1. Estimated Costs for SNUN Submissions

A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by

submitting a SNUN. If a SNUN is submitted, costs are an estimated $45,000 per SNUN submission for large business submitters and $14,500 for small business submitters. These estimates include the cost to prepare and submit the SNUN (including registration for EPA's Central Data Exchange (CDX)), and the payment of a user fee. Businesses that submit a SNUN would be subject to either a $37,000 user fee required by 40 CFR 700.45(c)(2)(ii) and (d), or, if they are a small business as defined at 13 CFR 121.201, a reduced user fee of $6,480 (40 CFR 700.45(c)(1)(ii) and (d)). These estimates reflect the costs and fees as they are known at the time of this rulemaking.

2. Estimated Costs for Export Notifications

EPA has also evaluated the potential costs associated with the pre-existing export notification requirements under TSCA section 12(b) and the implementing regulations at 40 CFR part 707, subpart D. For persons exporting a substance that is the subject of a SNUR, a one-time notice to EPA must be provided for the first export or intended export to a particular country. The total costs of export notification will vary by chemical, depending on the number of required notifications (*i.e.,* the number of countries to which the chemical is exported). While EPA is unable to make any estimate of the likely number of export notifications for the chemical substances covered by these SNURs, as stated in the accompanying economic analysis, the estimated cost of the export notification requirement on a per unit basis is approximately $106.

II. Background

A. General Information About SNURs

Unit II. of the proposed rule provides general information about SNURs, and additional information about EPA's new chemical program is available at *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca.*

B. Applicability of the Significant New Use Designation

To establish a significant new use, EPA must determine that the use is not ongoing. As discussed in Unit II.E. of the proposed rule, EPA concluded that the proposed significant new uses were not ongoing. If EPA subsequently determines that such a use was ongoing as of the date of publication of the proposed rule and did not cease prior to issuance of the final rule, EPA will not designate that use as a significant new use in the final rule. EPA has no information to suggest that any of the significant new uses identified in this rule meet this criterion.

As discussed in the **Federal Register** of April 24, 1990 (55 FR 17376 (FRL–3658–5)), EPA believes that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the proposed rule rather than as of the effective date of the final rule. The objective of EPA's approach is to ensure that a person cannot impede finalization of a SNUR by initiating a significant new use after publication of the proposed rule but before the effective date of the final rule. Uses arising after the publication of the proposed rule are distinguished from uses that are identified in the final rule as having been ongoing on the date of publication of the proposed rule. The former would be new uses, the latter ongoing uses, except that uses that are identified as ongoing as of the publication of the proposed rule would not be considered ongoing uses if they have ceased by the date of issuance of a final rule.

In the unlikely event that before a final rule becomes effective a person begins commercial manufacturing (including importing) or processing of the chemical substances for a use that is designated as a significant new use in that final rule, such a person would have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons would have to first comply with all applicable SNUR notification requirements and wait until all TSCA prerequisites for the commencement of manufacture or processing have been satisfied.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the internet at *https://www.epa.gov/*tsca-inventory.

C. Important Information About SNUN Submissions

1. SNUN Submissions

SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and 721.25. E–PMN software is available electronically at *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca.*

2. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require development of any particular new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: If a person is required to submit information for a chemical substance pursuant to a rule, order or consent agreement under TSCA section 4, then TSCA section 5(b)(1)(A) requires such information to be submitted to EPA at the time of submission of the SNUN.

In the absence of a rule, TSCA order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. To assist with EPA's analysis of the SNUN, submitters are encouraged, but not required, to provide the potentially useful information as identified for the chemical substance in Unit III.C. of the proposed rule.

EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h). For more information on alternative test methods and strategies to reduce vertebrate animal testing, visit *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/alternative-test-methods-and-strategies-reduce.*

The potentially useful information described in Unit III. of the proposed rule may not be the only means of providing information to evaluate the chemical substance associated with the significant new uses. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA sections 5(e) or 5(f). EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information about human exposure and environmental release that may result from the significant new use of the chemical substances.

D. Public Comments on Proposed Rule and EPA Responses

EPA received public comments on the proposed SNURs and prepared a Response to Comment document that provides the Agency responses. The comments and the Response to Comment document are available in the docket. As described in the Response to Comment document, EPA is finalizing these SNURs with the following changes:

- For P–18–281 and P–21–77 (40 CFR 721.12147), EPA is adding the exposure level threshold of 0.01 mg/m^3 8-hour time-weighted average (TWA) to the regulatory text. In the proposed rule, EPA inadvertently omitted the regulatory text for the term referencing the exposure monitoring threshold level of 0.01 mg/m^3 8-hour TWA. In addition, EPA is changing the term ''no dust air releases of the PMN substance'' to releases to air must be prevented ''unless exhaust from enclosed equipment is treated with combined capture and control technology that achieves a ≥99.8% capture and control efficiency.'' EPA agrees with the commentor that releases to air must be prevented unless exhaust from enclosed equipment is treated with combined capture and control technology that achieves a ≥99.8% capture and control efficiency.

Additionally, EPA identified the need to revise the following proposed SNURs (listed by PMN Number and proposed 40 CFR citation):

- For P–18–281 and P–21–077 (40 CFR 721.12147), EPA discovered that the respiratory protection requirement 721.62(a)(6) was erroneously omitted in the proposed rule. Therefore, EPA added the requirement 721.62(a)(6).
- For P–20–73 (40 CFR 721.12148), EPA discovered that a requirement, no use in a consumer product, was erroneously omitted in the proposed rule that is included in the consent order for P–20–73. Therefore, EPA added no use in a consumer product (*i.e.,* 721.80(o)).
- For P–22–2 (40 CFR 721.12149), EPA discovered an ongoing use for this chemical substance and added the following requirement: when the chemical substance is handled as a liquid, a respirator with an APF 50 is allowed.
- For P–23–30 (40 CFR 721.12160), EPA discovered that a hazard communication requirement that the substance is toxic to aquatic life was erroneously omitted in the proposed rule that is included in the consent order for P–23–30. Therefore, EPA added toxic to aquatic life to the required hazard communication (*i.e.,* 727.72(g)(3)(iii)).
- For P–24–71 through P–24–74 (40 CFR 721.12179–40 CFR 721.12182), EPA discovered that a hazard communication requirement that the substances for P–24–71 through P–24–74 are toxic to aquatic life was erroneously omitted in the proposed rule that is included in the consent order for P–24–71 through P–24–74. Therefore, EPA added toxic to aquatic life to the required hazard communication (*i.e.,* 727.72(g)(3)(iii)).

EPA is not finalizing the SNUR proposed at 40 CFR 721.12154 for P–22–0126 because the Agency has received new information on this substance requiring further review. This proposed SNUR will be addressed in a separate action.

EPA did not propose a SNUR for P–22–0187 at 40 CFR 721.12158 because the Agency received new information on this substance requiring further review. The Agency will propose a SNUR in a separate action.

III. Chemical Substances Subject to these SNURs

A. What is the designated cutoff date for ongoing uses?

EPA designates the date of publication of the proposed rule as the cutoff date for determining whether the new use is ongoing, *i.e.,* November 3, 2025 (90 FR 49148 (FRL–12742–01–OCSPP)). This designation is explained in more detail in Unit II.B.

B. What information was provided for each chemical substance?

In Unit III.C. of the proposed rule, EPA provided the following information for each chemical substance subject to these SNURs:

- PMN number (the CFR citation assigned in the regulatory text section of this document).
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service Registry Number (CASRN) or Accession Number (if assigned, for confidential chemical identities).
- Basis for the SNUR (*e.g.,* effective date of and basis for the TSCA Order).
- Potentially useful information.

The regulatory text section of this document specifies the chemical substances and activities designated as significant new uses. Certain new uses, including production volume limits and other uses designated, may be claimed as CBI, as discussed in more detail in Unit II.C. of the proposed rule.

In addition, as discussed in Unit III.B. of the proposed rule, these SNURs include PMN substances that are subject to orders issued under TSCA section 5(e)(1)(A), as required by the determinations made under TSCA section 5(a)(3)(B). Those TSCA Orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. As such, the SNURs identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying TSCA Orders, consistent with TSCA section 5(f)(4).

IV. Statutory and Executive Order Reviews

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

A. Executive Order 12866: Regulatory Planning and Review

This action establishes SNURs for new chemical substances that were the subject of PMNs. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866 (58 FR 51735, October 4, 1993).

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 (90 FR 9065, February 6, 2025) does not apply because a significant new use rule for a new chemical under TSCA section 5 is exempt from review under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

According to the PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

The information collection requirements related to SNURs have already been approved by OMB pursuant to PRA under OMB control

number 2070–0038 (EPA ICR No. 1188). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per submission. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a ''significant new use.'' Because these uses are ''new,'' based on all information currently available to EPA, EPA has concluded that no small or large entities presently engage in such activities.

A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was 7 in Federal fiscal year (FY) 2020, 9 in FY2021, 9 in FY2022, 23 in FY2023, and 7 in FY2024, and only a fraction of these submissions were from small businesses.

In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from $37,000 to $6,480. This lower fee reduces the total reporting and recordkeeping cost of submitting a SNUN to about $14,500 per SNUN submission for qualifying small firms. Therefore, the potential economic impacts of complying with these proposed SNURs are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that was published in the **Federal Register** of June 2, 1997 (62 FR 29684 (FRL–5597–1)), the Agency presented its general determination that SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more (in 1995 dollars) in any one year as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by SNURs, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by these SNURs. In addition, the estimated costs of this action to the private sector do not exceed $183 million or more in any one year (the 1995 dollars are adjusted to 2023 dollars for inflation using the GDP implicit price deflator). The estimated costs for this action are discussed in Unit I.D.

F. Executive Order 13132: Federalism

This action will not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it is not expected to have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the requirements of Executive Order 13132 do not apply to this action.

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

This action will not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it is not expected to have substantial direct effects on Indian Tribes, significantly or uniquely affect the communities of Indian Tribal governments and does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175 do not apply to this action.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it does not concern an environmental health or safety risk. Since this action does not concern a human health risk, EPA's 2026 Policy on Children's Health also does not apply. Although the establishment of these SNURs do not address an existing children's environmental health concern because the chemical uses involved are not ongoing uses, SNURs require that persons notify EPA at least 90 days before commencing manufacture (defined by statute to include import) or processing of the identified chemical substances for an activity that is designated as a significant new use by the SNUR. This notification allows EPA to assess the intended uses to identify potential risks and take appropriate actions before the activities commence.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

J. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve any technical standards subject to NTTAA section 12(d) (15 U.S.C. 272 note).

K. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: August 19, 2026.

Mary Elissa Reaves,

Director, Office of Pollution Prevention and Toxics.

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

PART 721—SIGNIFICANT NEW USES OF CHEMICAL SUBSTANCES

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Add §§ 721.12147 through 721.12183 to subpart E to read as follows:

* * * * *

Sec.

721.12147 Cyclic sulfate (generic).
721.12148 2,5-Furandione, reaction products with alkylamine, 1-octanol and

polyethylene glycol alkoxy-ether, acetates (salts) (generic).
721.12149 Metal oxide chloride (generic).
721.12150 Ethanol, 2-amino-, compds. with polyethylene glycol hydrogen sulfate C10-16-alkyl ether.
721.12151 Edge oxidized graphene.
721.12152 Propaneamine, 3-(alkyloxy)-, structural variants (generic).
721.12153 Propanenitrile, 3-(alkyloxy)-, structural variance (generic).
721.12154 [Reserved]
721.12155 Alkyl dialkylamine (generic).
721.12156 Tetraalkylammonium chloride (generic).
721.12157 1,3,5-Cycloheptatriene.
721.12158 [Reserved]
721.12159 Amines, polyalkylenepoly, (disubstitutedcarboxy) derivs., alkali metal salts (generic).
721.12160 Phenol, polyalkylcarbo bis-, polymer with 2-carbomonocyclichaloheteromonocycle, bis[(alkenylcarbomonocyclic)alkyl] ether (generic).
721.12161 Siloxanes and silicones, di-alkyl, hydroxy-terminated, polymers with substituted alkane and substituted silane (generic).
721.12162 Alkyl acid, 2-hydroxy-, methyl substituted alkyl ester (generic).
721.12163 Oils, Pisum sativum, polymers with 1,6-diisocyanatohexane, 1,5-diisocyanatopentane, glycerol and maltodextrin.
721.12164 Rosin, maleated, polymer with benzoic acid, glycerol, propylene glycol and 3a,4,7,7a-tetrahydro-1,3-isobenzofurandione.
721.12165 Glycine, reaction products with oxidized maltodextrin.
721.12166 Maltodextrin, 6-[3-(dimethyl-2-propen-1-ylammonio)propyl] ether, chloride.
721.12167 Dextran, 3-(dimethyl-2-propen-1-ylammonio)propyl ether, chloride.
721.12168 Maltodextrin, oxidized, reaction products with ethylenediamine.
721.12169 Maleic modified rosin polyol ester cyclic acid (generic).
721.12170 Phenol, polyalkylcarbomonocycle bis-, polymer with 2-carbomonocyclichaloheteromonocycle, bis[(alkenylcarbomonocyclic)alkyl] ether (generic).
721.12171 Alken-1-ol, 1-acetate (generic).
721.12172 1-Alkanethiol, 3-(trialkoxysilyl)-hydrolysis products with silica, oxidized (generic).
721.12173 Alkenoyl chloride, 3-methyl- (generic).
721.12174 Bismuth, 1,1′,1″,1‴-(1,2-ethanediyldinitrilo)tetrakis[2-propanol] 2-(2-ethoxyethoxy)ethanol neodecanoate polypropylene glycol complexes.
721.12175 Alkane, bis(chlorosilane) (generic).
721.12176 Mixed metal oxide (generic).
721.12177 Alkenoic acid, 3-methyl-, 1,1-dimethyl-2-propen-1-yl ester; alkenoic acid, 3-methyl-, 1,1-dimethyl-2-propen-1-yl ester (generic).
721.12178 Fluorophospholane, substituted, alkyl (generic).
721.12179 Sulfonyl carbamate of ethoxylated fatty alcohol (generic).
721.12180 Sulfonyl carbamate of ethoxylated alkyl alcohol (generic).
721.12181 Secondary alcohol ethoxylate of sulfonyl carbamate (generic).
721.12182 Secondary alcohol ethoxylate of sulfonyl carbamate (generic).
721.12183 Sulfonium, polyphenyl(substituted phenyl) alkylbenzenesulfonate (generic).

* * * * *

§ 721.12147 Cyclic sulfate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as cyclic sulfate (PMNs P–18–281 and P–21–77; Accession No. 301816) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured or incorporated into an article as defined in § 720.3(c).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 1,000 or at least 50 when using less than the confidential annual production volume listed in the Order (measured on a year-to-year basis) of the substance at a use site and when receiving the substance at 1% or less in formulation, prior to the receipt of exposure monitoring results. Once exposure monitoring results are available, respirators must provide a NIOSH APF in accordance with Appendix 4 in the modified Order for P–18–281 (which lists required respiratory protection/action corresponding to different exposures), and exposure monitoring results must be equal to or less than 0.01 mg/m^3 as an 8-hour time-weighted average. Persons who wish to conduct monitoring in accordance with Appendix 4 in the modified Order for P–18–0281 as an alternative to § 721.63 respirator requirements may request to do so under § 721.30.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin corrosion, serious eye damage, skin sensitization, genetic toxicity, carcinogenicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to use the substance other than for the confidential uses allowed by the Orders for P–18–281 and P–21–77. It is a significant new use to process the substance above 5% in formulation. It is a significant new use to have releases to air of the substance unless exhaust from enclosed equipment is treated with combined capture and control technology that achieves a ≥99.8% capture and control efficiency.

(iv) *Disposal.* It is a significant new use to dispose of the substance or waste streams containing the substance other than by using the confidential method(s) described in the submission for P–21–77, or by landfill, deep well injection, or using a hazardous waste incinerator with ≥99.999% efficiency.

(v) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=152.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12148 2,5-Furandione, reaction products with alkylamine, 1-octanol and polyethylene glycol alkoxy-ether, acetates (salts) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as 2,5-furandione, reaction products with alkylamine, 1-octanol and polyethylene glycol alkoxy-ether, acetates (salts) (PMN P–20–73) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (c). When

determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin corrosion, serious eye damage, respiratory sensitization, skin sensitization, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=160.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12149 Metal oxide chloride (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as metal oxide chloride (PMN P–22–2; Accession No. 303436) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or destroyed.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 1,000 when the chemical substance is handled as a solid, and an APF of at least 50 when the chemical substance is handled as a liquid.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1), and (5). For purposes of § 721.72(g)(1), this substance may cause: skin corrosion, serious eye damage, carcinogenicity, specific target organ toxicity, and reproductive toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) and (t). It is a significant new use to manufacture or process the substance other than in a sealed, inert atmosphere environment of a sealed drybox wherever feasible. For activities performed outside of the drybox that may generate dust or any exhaust to air, all streams must be treated with caustic water control technology with a minimum of 90% destruction efficiency.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12150 Ethanol, 2-amino-, compds. with polyethylene glycol hydrogen sulfate C10-16-alkyl ether.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as ethanol, 2-amino-, compds. with polyethylene glycol hydrogen sulfate C10-16-alkyl ether (PMN P–22–53; CASRN 157627–92–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), and (3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin irritation, eye irritation, skin sensitization, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=14.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12151 Edge oxidized graphene (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as edge oxidized carbon matrix (PMN P–22–114) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance when entrained in a cured coating or when incorporated into an article.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4) through (6) and (c). When determining which persons are

reasonably likely to be exposed as required for § 721.63(a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 10,000.

(A) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA section 5(e) Order for this substance. The NCEL is 0.00733 mg/m^3 as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will be required to follow NCELs provisions comparable to those contained in the corresponding TSCA section 5(e) Order.

(B) [Reserved]

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) and (t).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (d), (f) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12152 Propaneamine, 3-(alkyloxy)-, structural variants (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as propaneamine, 3-(alkyloxy)-, structural variants (PMN P–22–123) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin corrosion, serious eye damage, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=6.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12153 Propanenitrile, 3-(alkyloxy)-, structural variance (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as propanenitrile, 3-(alkyloxy)-, structural variance (PMN P–22–124) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin irritation, eye irritation, skin sensitization, genetic toxicity, reproductive toxicity, specific target organ toxicity, and carcinogenicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(h). It is a significant new use to manufacture the substance with the residual confidential feedstock listed in the Order present at greater than 1% by weight.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=45.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12154 [Reserved]

§ 721.12155 Alkyl dialkylamine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkyl dialkylamine (PMN P–22–137; Accession No. 302911) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in

§ 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin corrosion, serious eye damage, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(t). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance. It is a significant new use to manufacture, process, or use the substance at any facility not equipped with pollution controls with a destruction efficiency of 99.98% or greater. It is a significant new use to use the substance other than as a chemical intermediate for a quaternary ammonium salt.

(iv) *Disposal.* Requirements as specified in § 721.85 (a)(1) and (3), (b)(1) and (3), and (c)(1), and (3).

(v) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12156 Tetraalkylammonium chloride (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as tetraalkylammonium chloride (PMN P–22–138; Accession No. 302922) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g) (1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin irritation, eye irritation, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance. It is a significant new use to manufacture, process, or use the substance at any facility not equipped with pollution controls with a destruction efficiency of 99.98% or greater. It is a significant new use to use the substance other than as an intermediate for making hydroxide salt.

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1) and (3), (b)(1) and (3), (c)(1) and (3).

(v) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12157 1,3,5-Cycloheptatriene.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1,3,5-cycloheptatriene (PMN P–22–185; CASRN 544–25–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g) (1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, eye irritation, skin irritation, skin sensitization, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g). It is a significant new use to manufacture, process, or use the substance in any manner unless using engineering control measures that ensure that loading and unloading of transport containers does not result in inhalation exposures to the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12158 [Reserved]

§ 721.12159 Amines, polyalkylenepoly, (disubstitutedcarboxy) derivs., alkali metal salts (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified

generically as amines, polyalkylenepoly, (disubstitutedcarboxy) derivs., alkali metal salts (PMN P–23–15; Accession No. 303469) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g) (1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin corrosion, serious eye damage, skin sensitization, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=23.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12160 Phenol, polyalkylcarbo bis-, polymer with 2-carbomonocyclichaloheteromonocycle, bis[(alkenylcarbomonocyclic)alkyl] ether (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as phenol, polyalkylcarbo bis-, polymer with 2-carbomonocyclichaloheteromonocycle, bis[(alkenylcarbomonocyclic)alkyl] ether (PMN P–23–30) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been dried to the extent that no release of the substance can be detected.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g) (1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin irritation, eye irritation, respiratory sensitization, skin sensitization, genetic toxicity, carcinogenicity, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k), (w)(1), (2), (4), and (x)(1), (2), and (4). It is a significant new use to process or use the substance in any manner that results in inhalation exposure to the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12161 Siloxanes and silicones, di-alkyl, hydroxy-terminated, polymers with substituted alkane and substituted silane (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as siloxanes and silicones, di-alkyl, hydroxy-terminated, polymers with substituted alkane and substituted silane (PMN P–23–46) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin corrosion, serious eye damage, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o), (v)(1), (2), and (4), (w)(1), (2), and (4), and (x)(1), (2), and (4).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12162 Alkyl acid, 2-hydroxy-, methyl substituted alkyl ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified

generically as alkyl acid, 2-hydroxy-, methyl substituted alkyl ester (PMN P–23–65) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), and (3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 1,000.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g) (1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation, serious eye damage, reproductive toxicity, specific target organ toxicity, and carcinogenicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=220.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12163 Oils, Pisum sativum, polymers with 1,6-diisocyanatohexane, 1,5-diisocyanatopentane, glycerol and maltodextrin.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as oils, pisum sativum, polymers with 1,6-diisocyanatohexane, 1,5-diisocyanatopentane, glycerol and maltodextrin (PMN P–23–69; CASRN 3063505–38–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1), and (5). For purposes of § 721.72(g)(1), this substance may cause: specific target organ toxicity (lung effect if the product becomes airborne). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1) and (2). It is a significant new use to manufacture or process the substance in a manner that generates a vapor, mist, aerosol, or dust. It is a significant new use to process the substance for use in a consumer product that can be spray applied.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (f) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12164 Rosin, maleated, polymer with benzoic acid, glycerol, propylene glycol and 3a,4,7,7a-tetrahydro-1,3-isobenzofurandione.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as rosin, maleated, polymer with benzoic acid, glycerol, propylene glycol and 3a,4,7,7a-tetrahydro-1,3-isobenzofurandione (PMN P–23–79; CASRN 2766660–60–8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g) (1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: eye irritation, skin sensitization, and respiratory sensitization. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12165 Glycine, reaction products with oxidized maltodextrin.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as glycine, reaction products with oxidized maltodextrin (PMN P–23–88; CASRN 2837980–16–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: carcinogenicity and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12166 Maltodextrin, 6-[3-(dimethyl-2-propen-1-ylammonio)propyl] ether, chloride.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as maltodextrin, 6-[3-(dimethyl-2-propen-1-ylammonio)propyl] ether, chloride (PMN P–23–89; CASRN 2839190–60–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g) (1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: respiratory sensitization, skin sensitization, genetic toxicity, carcinogenicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=14.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12167 Dextran, 3-(dimethyl-2-propen-1-ylammonio)propyl ether, chloride.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as dextran, 3-(dimethyl-2-propen-1-ylammonio)propyl ether, chloride (PMN P–23–90; CASRN 2878360–71–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g) (1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: respiratory sensitization, skin sensitization, genetic toxicity, carcinogenicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=2.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12168 Maltodextrin, oxidized, reaction products with ethylenediamine.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as maltodextrin, oxidized, reaction products with ethylenediamine (PMN P–23–91; CASRN 2824987–68–8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g) (1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: carcinogenicity and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance.

(iii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4), where N=2.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (f) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The

provisions of § 721.185 apply to this section.

§ 721.12169 Maleic modified rosin polyol ester cyclic acid (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as maleic modified rosin polyol ester cyclic acid (PMN P–23–92) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50, or 1,000 when the substance is spray applied.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g) (1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: eye irritation, skin sensitization, and respiratory sensitization. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12170 Phenol, polyalkylcarbomonocycle bis-, polymer with 2-carbomonocyclichaloheteromonocycle, bis[(alkenylcarbomonocyclic)alkyl] ether (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as phenol, polyalkylcarbomonocycle bis-, polymer with 2-carbomonocyclichaloheteromonocycle, bis[(alkenylcarbomonocyclic)alkyl] ether (PMN P–23–123) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance upon being dried to the extent that no release of the substance can be detected.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and(3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin irritation, eye irritation, skin sensitization, genetic toxicity, reproductive toxicity, carcinogenicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o), (w)(1), (2), (4), (x)(1) and (2) and (4). It is a significant new use to process or use the substance in any manner that results in inhalation exposure to the substance.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12171 Alken-1-ol, 1-acetate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alken-1-ol, 1-acetate (PMN P–23–135; Accession No. 302591) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 10.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g) (1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation, eye irritation, skin sensitization, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12172 1-Alkanethiol, 3-(trialkoxysilyl)- hydrolysis products with silica, oxidized (generic).

(a) *Chemical substance and significant new uses subject to*

reporting.(1) The chemical substance identified generically as 1-alkanethiol, 3-(trialkoxysilyl)- hydrolysis products with silica, oxidized (PMN P–23–152; Accession No. 302819) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (f) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12173 Alkenoyl chloride, 3-methyl- (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkenoyl chloride, 3-methyl- (PMN P–23–160; Accession No. 302660) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin corrosion, skin sensitization, respiratory sensitization, serious eye damage, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer use.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12174 Bismuth, 1,1′,1″,1‴-(1,2-ethanediyldinitrilo)tetrakis[2-propanol] 2-(2-ethoxyethoxy)ethanol neodecanoate polypropylene glycol complexes.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as bismuth, 1,1′,1″,1‴-(1,2-ethanediyldinitrilo)tetrakis[2-propanol] 2-(2-ethoxyethoxy)ethanol neodecanoate polypropylene glycol complexes (PMN P–23–164; CASRN 2374117–53–8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 10.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1), and (5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation, eye irritation, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to use the substance unless the concentration of the substance does not exceed the confidential percentage by weight in the final (end use) formulation listed in the Order.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12175 Alkane, bis(chlorosilane) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkane, bis(chlorosilane) (PMN P–23–169; Accession No. 303447) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin corrosion, serious eye damage, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the

criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure to the substance.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12176 Mixed metal oxide (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as mixed metal oxide (PMN P–23–174; Accession No. 302831) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been incorporated into an article as defined at 40 CFR 720.3(c) or after they have been embedded in or cured in a matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 1,000 before conducting the exposure monitoring described in the Order and then an APF based on the results of exposure monitoring as described in the Order. It is a significant new use to manufacture the chemical substance without the monitoring program required in the Order.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g) (1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: carcinogenicity, genetic toxicity, skin sensitization, respiratory sensitization, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (k). It is a significant new use to process the substance other than with the confidential substance described in the Order at a composition less than the confidential percentage listed in the Order. It is a significant new use to process the substance other than as described in the Order unless using process/engineering controls that achieve exposures no greater than those achieved using the controls described in the Order.

(iv) *Disposal.* It is a significant new use to dispose of the substance, or waste streams containing the substance, domestically other than by RCRA Subtitle D Landfill requirements or RCRA Subtitle C Hazardous Waste Landfill requirements for wastes from equipment cleaning and deionization of defective cells generated during processing and use, or by RCRA Subtitle C Hazardous Waste Landfill requirements for all other wastes.

(v) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12177 Alkenoic acid, 3-methyl-, 1,1-dimethyl-2-propen-1-yl ester; alkenoic acid, 3-methyl-, 1,1-dimethyl-2-propen-1-yl ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as alkenoic acid, 3-methyl-, 1,1-dimethyl-2-propen-1-yl ester; alkenoic acid, 3-methyl-, 1,1-dimethyl-2-propen-1-yl ester (PMN P–23–188) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g) (1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), these substances may cause: acute toxicity, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(a) through (c), and (o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (b)(1), and (c)(1).

(v) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12178 Fluorophospholane, substituted, alkyl (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as fluorophospholane, substituted, alkyl (PMN P–23–190) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been entrained in an article as defined at 40 CFR 720.3(c).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in

§ 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), and (g)(1) and (5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin corrosion, serious eye damage, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(a) through (c), and (o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (b)(1), and (c)(1).

(v) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12179 Sulfonyl carbamate of ethoxylated fatty alcohol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as sulfonyl carbamate of ethoxylated fatty alcohol (PMN P–24–71) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation, eye irritation, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o) and (y)(1) and (2). It is a significant new use to manufacture or process the substance in a manner that generates a vapor, mist, aerosol, or dust.

(iv) *Disposal.* It is a significant new use to dispose of the substance other than by hazardous waste incineration in compliance with the Resource Conservation and Recovery Act (RCRA).

(v) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12180 Sulfonyl carbamate of ethoxylated alkyl alcohol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as sulfonyl carbamate of ethoxylated alkyl alcohol (PMN P–24–72) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation, eye irritation, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o) and (y)(1) and (2). It is a significant new use to manufacture or process the substance in a manner that generates a vapor, mist, aerosol, or dust.

(iv) *Disposal.* It is a significant new use to dispose of the substance other than by hazardous waste incineration in compliance with RCRA.

(v) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12181 Secondary alcohol ethoxylate of sulfonyl carbamate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as secondary alcohol ethoxylate of sulfonyl carbamate (PMN P–24–73 is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after it has been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general

and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation, eye irritation, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o) and (y)(1) and (2). It is a significant new use to manufacture or process the substance in a manner that generates a vapor, mist, aerosol, or dust.

(iv) *Disposal.* It is a significant new use to dispose of this substance other than by hazardous waste incineration in compliance with RCRA.

(v) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12182 Secondary alcohol ethoxylate of sulfonyl carbamate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as secondary alcohol ethoxylate of sulfonyl carbamate (PMN P–24–74) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after it has been completely reacted or cured.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (3) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g) (1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation, eye irritation, reproductive toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o) and (y)(1) and (2). It is a significant new use to manufacture or process the substance in a manner that generates a vapor, mist, aerosol, or dust.

(iv) *Disposal.* It is a significant new use to dispose of this substance other than by hazardous waste incineration in compliance with RCRA.

(v) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.12183 Sulfonium, polyphenyl (substituted phenyl) alkylbenzenesulfonate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as sulfonium, polyphenyl (substituted phenyl) alkylbenzenesulfonate (PMN P–24–122) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or adhered onto a semiconductor wafer surface or similar manufactured article used in the production of semiconductor technologies.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i) and (iii), (a)(3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1), (g)(2)(i) through (iii), (g)(2)(v), (g)(3)(i) and (ii), and (g)(5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: acute toxicity, skin irritation, serious eye damage, skin sensitization, genetic toxicity, and specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (k). It is a significant new use to exceed an annual importation volume of 6 kilograms for any use. It is a significant new use to import the substance other than in solution, unless in sealed containers weighing 5 kilograms or less. It is a significant new use to process the substance in any way that generates dust, mist, or aerosol in a non-enclosed process. It is a significant new use to manufacture the substance longer than 18 months.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

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NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1110

RIN 3135–AA37; 3136–AA48; 3137–AA30

Rescinding Portions of the National Foundation on the Arts and Humanities Title VI Regulations To Conform More Closely With the Statutory Text and To Implement Executive Order 14281

AGENCY: National Endowment for the Arts, National Endowment for the Humanities, Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Final rule.

SUMMARY: This rule amends the National Foundation on the Arts and the Humanities' (the Foundation) regulations implementing Title VI of the Civil Rights Act of 1964 (Title VI) to eliminate disparate-impact liability. These amendments align the conduct prohibited by the Foundation's regulations with Title VI text, avoid constitutional concerns, reduce compliance costs, and serve the public interest. In addition, these revisions are consistent with Executive Order 14281.

DATES: These regulations are effective August 26, 2026.

FOR FURTHER INFORMATION CONTACT: Daniel Fishman, Deputy General Counsel, National Endowment for the Arts, 400 7th St. SW, Washington, DC 20506, Telephone: 202–682–5418.

SUPPLEMENTARY INFORMATION:

I. Background

The Foundation operates under the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*), and consists of the National Endowment for the Arts (NEA), the National Endowment for the Humanities (NEH), the Institute of Museum and Library Services (IMLS), and the Federal Council on the Arts and the Humanities (FCAH). The NEA, NEH, IMLS, and FCAH are collectively referred to as the ''Foundation's constituent agencies'' or the ''constituent agencies.''

II. Executive Summary

This rule rescinds portions of the Foundation's regulations promulgated pursuant to Title VI, 42 U.S.C. 2000d–1, to more closely align its regulations with the language that Congress enacted in Title VI prohibiting intentionally discriminatory conduct, *see* 42 U.S.C. 2000d. There are serious statutory and constitutional concerns with the legality of provisions in the Foundation's Title VI regulations that go beyond intentional discrimination by prohibiting conduct that has an unintentional disparate impact. This rule accordingly rescinds those portions of the regulations, which are in considerable tension with both the statute and the Constitution and do not sufficiently serve the public interest. First, this rule rescinds the full text of 45 CFR 1110.3(b)(2), which currently prohibits the utilization of ''criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin.'' Second, this rule removes the two uses of the phrase ''or effect'' from 45 CFR 1110.3(b)(3). Third, this rule rescinds the full text of 45 CFR 1110.3(b)(6). Fourth, this rule rescinds the full text of 45 CFR 1110.3(c)(3), which addresses employment practices of Federal funding recipients. Fifth, this rule rescinds the full text of the illustrative applications and examples under 45 CFR 1110.5(e), (f), and (g), in order to conform the illustrative applications to the foregoing revisions.

The rule's revisions also conform to Executive Order 14281, *Restoring Equality of Opportunity and Meritocracy,* 90 FR 17537 (Apr. 23, 2025). That Order states that ''[i]t is the policy of the United States to eliminate the use of disparate-impact liability in all contexts to the maximum degree possible to avoid violating the Constitution, Federal civil rights laws, and basic American ideals.'' *Id.* at 17537.

The practical impact of this rule's modifications will be to clarify for the constituent agencies' recipients of Federal funding that the revised Title VI regulations do not prohibit conduct or activities that have a disparate impact and prohibit only intentional discrimination, and thus that the Foundation's constituent agencies will not pursue Title VI disparate-impact liability against their funding recipients.

III. Discussion

A. Statutory History of Title VI

Title VI of the Civil Rights Act of 1964, as amended, provides: ''No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.'' 42 U.S.C. 2000d. Title VI also directs Federal departments and agencies that extend Federal financial assistance to ''effectuate the provisions of'' Title VI ''by issuing rules, regulations, or orders of general applicability.'' 42 U.S.C. 2000d–1. The section of Title VI that sets forth the prohibited conduct, 42 U.S.C. 2000d, specifically prohibits intentional discrimination and makes no reference to unintentional disparate effects or impact. *See Alexander* v. *Sandoval,* 532 U.S. 275, 280 (2001) (''[I]t is . . . beyond dispute—and no party disagrees—that [Title VI] prohibits only intentional discrimination.''). The statute does not provide any Federal department or agency with authority to prohibit unintentional disparate impact. And despite ample opportunities, Congress has enacted no subsequent amendments to Title VI to impose disparate-impact liability.

B. Regulatory History of Title VI

Pursuant to Executive Order 12250, ''[t]he Attorney General shall coordinate the implementation and enforcement by Executive agencies of . . . Title VI.'' 45 FR 72995, 72995 (Nov. 2, 1980). Accordingly, the Department of Justice (DOJ) acts as the lead Federal agency responsible for defining the nature and scope of Title VI's prohibition of discrimination on the basis of race, color, and national origin in programs or activities receiving Federal financial assistance. The Order directs DOJ to, among other things, ''develop standards and procedures for taking enforcement actions and for conducting investigations and compliance reviews.'' *Id.* Further, as part of this responsibility, the Order provides that other Federal agencies' regulations implementing Title VI are also subject to the Attorney General's approval. *Id.* at 72996.

The initial set of model regulations for Title VI were issued by the then-Department of Health, Education, and Welfare on December 4, 1964, which included only one reference to the ''effect of'' conduct in the ''discrimination prohibited'' provision of the rule. *See* 29 FR 16298, 16299 (Dec. 4, 1964) (codified at 45 CFR 80.3(b)(2)). In 1973, the Foundation promulgated its regulations under Title VI. 38 FR 17991 (July 5, 1973). In 1997, the Foundation issued a technical amendment to incorporate IMLS into the regulation, after IMLS was established as a subdivision of the Foundation under the Museum and Library Services Act of 1996. 62 FR 66826 (Dec. 22, 1997). In 2003, the Foundation added language regarding ''program or activity'' to reflect the amendment of Title VI by the Civil Rights Restoration Act of 1987. 68 FR 51384 (Aug. 26, 2003). Thus, apart from the technical update of adding IMLS,

and the required updating of the phrase ''program or activity'' pursuant to the Civil Rights Restoration Act, the Foundation has not substantively updated its Title VI regulations since 1973—over 50 years ago.

C. Relevant Supreme Court Decisions

The Supreme Court has made clear that Title VI, 42 U.S.C. 2000d, does not prohibit facially neutral policies that result in disparate outcomes when there is no discriminatory intent. Rather, it prohibits only intentional discrimination.

In 1978, the Supreme Court concluded that Congress intended Title VI to prohibit ''only those racial classifications that would violate the Equal Protection Clause'' if committed by a government actor. *Regents of the Univ. of Cal.* v. *Bakke,* 438 U.S. 265, 287 (1978) (Powell, J., announcing the judgment of the Court); *id.* at 325, 328, 352–53 (Brennan, White, Marshall, and Blackmun, JJ., concurring in part and dissenting in part); *see also Students for Fair Admissions, Inc.* v. *President & Fellows of Harvard Coll.,* 600 U.S. 181, 198 n.2 (2023) (*SFFA*). Shortly before *Bakke*'s Title VI holding, the Supreme Court held that the Equal Protection Clause prohibits only intentional discrimination and that ''a law or other official act'' that has a ''racially disproportionate impact'' alone does not violate that Clause. *Washington* v. *Davis,* 426 U.S. 229, 239 (1976); *see also Vill. of Arlington Heights* v. *Metro. Hous. Dev. Corp.,* 429 U.S. 252, 265 (1977) (''Proof of racially discriminatory intent or purpose is required to show a violation of the Equal Protection Clause.''). Taken together, these Supreme Court cases establish that Title VI's statutory prohibition, like the Equal Protection Clause, extends only to intentional discrimination.

In 2001, the Supreme Court, in *Alexander* v. *Sandoval,* reaffirmed that settled understanding. 532 U.S. at 280 (''[I]t is . . . beyond dispute . . . that [Title VI] prohibits only intentional discrimination.''). In *Sandoval,* the Supreme Court held that private plaintiffs lacked a private right of action to enforce DOJ's ''disparate-impact regulations.'' *Id.* at 285–87. Though the Supreme Court had previously found a private cause of action to enforce Title VI's bar on intentional discrimination, *id.* at 279–80, that conclusion did not extend to enforcing DOJ's ''disparate-impact regulations,'' *id.* at 285. As the Supreme Court explained, it is ''clear'' that ''the disparate-impact regulations do not simply apply'' the statutory prohibition, as the regulations ''forbid conduct that [Title VI] permits,'' so it is equally ''clear that the private right of action to enforce [Title VI] does not include a private right to enforce these regulations.'' *Id.* Although the Supreme Court in *Sandoval* ''assume[d],'' without deciding, that DOJ's disparate-impact regulations were valid, the Court explained that the regulations are in ''considerable tension'' with the Supreme Court's Title VI precedents. Similarly, the regulations do not ''authoritatively'' construe Title VI because the regulations ''forbid conduct''—namely, policies that unintentionally result in a disparate impact—that Title VI ''permits.'' *Id.* at 281–82, 284–85; *see also id.* at 286 n.6 (''[Title VI] permits the very behavior that the regulations forbid.'').

In 2023, the Court emphasized that ''the equal protection clause requires equality of treatment before the law for all persons without regard to race or color.'' *SFFA,* 600 U.S. at 205 (cleaned up). In reviewing the admissions policies of certain higher education institutions, the Court explained that the Constitution requires ''eliminating all'' racial discrimination. *Id.* at 206. To that end, it held that ''[a]ny exception to the Constitution's demand for equal protection must survive a daunting two-step examination known in our cases as 'strict scrutiny,' '' which requires that racial classifications '' 'further compelling government interests' '' and be '' 'narrowly tailored'—meaning 'necessary'—to achieve [such] interest[s].'' *Id.* at 206–07. Moreover, the Court explained that its ''precedents have identified only two compelling interests that permit resort to race-based government action,'' only one of which is relevant in general government administration: ''remediating specific, identified instances of past discrimination that violated the Constitution or a statute.'' *Id.* at 207. Finally, in 2024, the Supreme Court overruled *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.,* 467 U.S. 837 (1984). *See Loper Bright Enters.* v. *Raimondo,* 603 U.S. 369, 409–12 (2024). In reaching that result, the Supreme Court made clear that ''statutes . . . have a single, best meaning'' that is '' 'fixed at the time of enactment.' '' *Id.* at 400 (quoting *Wis. Cent. Ltd.* v. *United States,* 585 U.S. 274, 284 (2018)). Thus, Title VI's bar on discrimination can have only one meaning. And under Supreme Court precedent, the single, best meaning of Title VI is that it ''prohibits only intentional discrimination'' and ''permits'' facially neutral policies that result in disparate outcomes when there is no discriminatory intent. *Sandoval,* 532 U.S. at 280, 286 n.6.

D. Executive Order 14281

On April 23, 2025, President Trump issued Executive Order 14281. This Order restated the ''bedrock principle of the United States . . . that all citizens are treated equally under the law.'' 90 FR at 17537. The Order explained that this ''principle guarantees equality of opportunity, not equal outcomes,'' and ''promises that people are treated as individuals, not components of a particular race or group.'' *Id.*

The Order also explained that disparate-impact liability ''endangers this foundational principle.'' *Id.* Disparate-impact liability, the Order reasoned, ''all but requires individuals and businesses to consider race and engage in racial balancing to avoid potentially crippling legal liability.'' *Id.* As the Order explained, disparate-impact liability ''not only undermines our national values but also runs contrary to equal protection under the law and, therefore, violates our Constitution.'' *Id.*

The Order relayed that because of disparate-impact liability's problems, ''[i]t is the policy of the United States to eliminate the use of disparate-impact liability in all contexts to the maximum degree possible to avoid violating the Constitution, Federal civil rights laws, and basic American ideals.'' *Id.* The Order directed the Attorney General to, among other things, ''initiate appropriate action to repeal or amend the implementing regulations for Title VI of the Civil Rights Act of 1964 for all agencies to the extent they contemplate disparate-impact liability.'' *Id.* On December 10, 2025, DOJ amended its Title VI regulations to eliminate disparate-impact liability. 90 FR 57141 (Dec. 10, 2025). The Foundation agrees with DOJ's rationale provided in its final rule, and accordingly, this rule also revises the Foundation's Title VI regulations to effectuate the Order's policy and purpose.

In any event, the Foundation would have independently initiated steps toward modifying its Title VI regulation in alignment with Executive Order 14281. Even if the Order did not exist, in other words, the Foundation would have taken steps to adopt the policy to eliminate the use of disparate-impact liability under Title VI. The Order states, and the Foundation firmly agrees, that a ''bedrock principle of the United States is that all citizens are treated equally under the law,'' a principle that ''encourages meritocracy and a colorblind society,'' not race-, color-, or national-origin-based favoritism. 90 FR

at 17537. And adherence to this principle, including in the issuance of grants, ''is essential to creating opportunity, encouraging achievement, and sustaining the American Dream.'' *Id.*

Imposing disparate-impact liability endangers these policy objectives. Disparate-impact liability also raises serious constitutional concerns, is in considerable tension with the single, best meaning of Title VI, creates confusion, increases the costs of compliance, and does not serve the public interest. After considering the relevant issues and factors and weighing the relevant considerations, the Foundation concludes that these reasons together support eliminating disparate-impact liability from the Foundation's Title VI regulations.

E. Need for Rulemaking

The Foundation's regulations at 45 CFR part 1110, entitled ''Nondiscrimination in Federally Assisted Programs,'' contain several provisions that prohibit conduct or activities causing unintentional disparate impact, without a statutory or constitutional basis for doing so. And in some instances, the regulations encourage or even require unlawful discrimination labeled as ''reasonable action.'' Section 1110.3(b)(2) is the current regulation's general disparate-impact prohibition, which states that a ''recipient . . . may not . . . utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin.'' 45 CFR 1110.3(b)(2). Beyond that general prohibition, section 1110.3(b)(3) addresses a Federal funding recipient's selection of the site or location of facilities and includes two references to ''effect'' that extend the scope of prohibited conduct to include conduct with unintentional disparate impact. *Id.* 1110.3(b)(3). Section 1110.3(b)(6) concerns the use of ''reasonable action,'' and provides that funding recipients may (and sometimes must) use race, color, or national origin to overcome unintentional disparate ''consequences,'' but does not expressly specify that the funding recipient must narrowly tailor such use to serve a compelling governmental interest, as is required to satisfy strict scrutiny. *Id.* 1110.3(b)(6). Finally, section 1110.3(c)(3) addresses prohibited discriminatory employment practices and extends beyond intentional discrimination to prohibiting conduct that ''tends'' to have a discriminatory effect. *Id.* 42.104(c)(2).

There are serious statutory and constitutional concerns with the Foundation's Title VI disparate-impact regulations. There are also serious policy concerns because the current regulations create confusion, undermine public confidence in the Nation's civil rights laws and the rule of law, and produce burdensome litigation and compliance costs.

1. Serious Legal Concerns

There are serious statutory concerns as to whether Title VI authorizes the disparate-impact provisions of the current regulations. As the Supreme Court has made clear, Title VI prohibits ''only intentional discrimination'' and ''permits'' facially neutral policies that result in disparate outcomes when there is no discriminatory intent. *Sandoval,* 532 U.S. at 280, 286 n.6. That is the ''single, best meaning'' of Title VI. *Loper Bright,* 603 U.S. at 400. As summarized above, *Sandoval* calls into serious doubt the legality of the Foundation's ''disparate-impact regulations.'' 532 U.S. at 281–82, 284–85 (noting that DOJ's regulations, which the Foundation's regulations mirror, are in ''considerable tension'' with the Supreme Court's Title VI precedents); *see also id.* at 286 n.6 (''[Title VI] permits the very behavior that the regulations forbid.''). Although *Sandoval* resolved only the question of private enforceability, subsequent cases such as *Loper Bright* have made clear that the Foundation cannot extend Title VI beyond its single, best meaning. *See* 603 U.S. at 412–13 (holding that ''courts must . . . ensur[e] that [an] agency acts within'' its statutory authority). And even in the absence of Supreme Court precedent, the Foundation would have concluded that the best reading of Title VI is that it prohibits only intentional discrimination. *Id.*

Title VI authorizes agencies to promulgate regulations ''to effectuate'' the statute's prohibition of intentional discrimination. 42 U.S.C. 2000d–1. The current regulations' extension of prohibited conduct to include conduct with an unintentional disparate impact reaches a vastly broader range of conduct than the statute itself. This range is too broad to be considered a simple prophylactic measure aimed at preventing intentional discrimination. *See Sandoval,* 532 U.S. at 286 n.6 (''[Title VI] permits the very behavior that the regulations forbid.''). Thus, the disparate-impact regulations do not ''effectuate'' Title VI. 42 U.S.C. 2000d–1.

There are also serious concerns about whether the Foundation's Title VI regulations pass constitutional muster under the Equal Protection Clause. As the Supreme Court recently held in *SFFA,* ''the Equal Protection Clause . . . applies without regard to any differences of race, of color, or of nationality—it is universal in its application'' and the ''guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color.'' 600 U.S. at 206 (internal quotation marks omitted) (first quoting *Yick Wo* v. *Hopkins,* 118 U.S. 356, 369 (1886), and then quoting *Bakke,* 438 U.S. at 289–90 (Powell, J.)). Despite the promises of the Equal Protection Clause, a funding recipient's risk of disparate-impact liability under the Foundation's regulations is triggered by unintentional disparate outcomes, which the recipient may not even have known about without investigation. To evaluate and avoid this risk, the funding recipient must incur investigatory costs, such as conducting an impact analysis, and is coerced to proactively consider race, color, and national origin, and potentially use such analysis to change the unintended disparate outcomes. In short, disparate-impact liability encourages and, in some cases, requires covered entities to engage in the intentional use of race and racial balancing to eliminate those disparate outcomes by treating certain racial groups differently from others—the exact conduct the Equal Protection Clause forbids. *See id.* This serious constitutional concern further confirms that the best reading of Title VI is that it prohibits only intentional discrimination and does not authorize Federal agencies to impose disparate-impact liability. *See Edward J. DeBartolo Corp.* v. *Fla. Gulf Coast Bldg. & Constr. Trades Council,* 485 U.S. 568, 575 (1988) (''[W]here an otherwise acceptable construction of a statute would raise serious constitutional problems, the Court will construe the statute to avoid such problems unless such construction is plainly contrary to the intent of Congress.'' (citing *NLRB* v. *Catholic Bishop of Chi.,* 440 U.S. 490, 499–501, 504 (1979))).

This use of race, color, or national origin violates the Equal Protection Clause unless it survives review under the ''daunting'' strict-scrutiny standard. *SFFA,* 600 U.S. at 206; *see also Free Speech Coal., Inc.* v. *Paxton,* 145 S. Ct. 2291, 2310 (2025) (''Strict scrutiny—which requires a restriction to be the least restrictive means of achieving a compelling governmental interest—is 'the most demanding test known to constitutional law.''' (quoting *City of Boerne* v. *Flores,* 521 U.S. 507, 534 (1997))). The use of race, color, or

national origin necessitated by the disparate-impact provisions runs into serious issues with the requirement of narrow tailoring to achieve a compelling interest. *SFFA,* 600 U.S. at 206–07.

Similarly, the Foundation's ''reasonable action'' provision authorizes and sometimes requires the intentional use of race without requiring that this intentional use be narrowly tailored to serve a recognized compelling interest. Instead, it encourages intentional racial balancing ''to remove or overcome the consequences of'' unintended racial disparities. 45 CFR 1110.3(b)(6). Thus, for substantially the same reasons as above, the Foundation's ''reasonable action'' provision raises serious constitutional concerns.

For the reasons summarized above, there are serious statutory and constitutional concerns with the Foundation's disparate-impact regulations. But even if the regulations were legal, eliminating the potential constitutional concerns addressed above would independently justify amending the regulations. *Cf. U.S. Tel. Ass'n* v. *FCC,* 188 F.3d 521, 528 (D.C. Cir. 1999) (concluding it was not ''arbitrary and capricious'' to adopt a certain policy to ''avoid[ ] raising a non-trivial constitutional question''). And even if the regulations did not raise serious constitutional concerns, eliminating the costs and confusion caused by the mismatch between the statute and the disparate-impact regulations would independently justify repealing the disparate impact regulations.

2. Serious Policy Concerns

There are also serious policy concerns with the Title VI regulations' imposition of disparate-impact liability. While policy concerns with disparate-impact liability exist independent of Executive Order 14281, that Order sets forth many valid policy concerns with disparate-impact liability. As noted in section 1 of the Order, ''on a practical level, disparate-impact liability has hindered businesses from making hiring and other employment decisions based on merit and skill, their needs, or the needs of their customers because of the specter that such a process might lead to disparate outcomes, and thus disparate-impact lawsuits. This has made it difficult, and in some cases impossible, for employers to use bona fide job-oriented evaluations when recruiting, which prevents job seekers from being paired with jobs to which their skills are most suited—in other words, it deprives them of opportunities for success.'' 90 FR at 17537. Moreover, the legal concerns identified above have caused uncertainty and confusion for Federal funding recipients as to whether and when they need to comply with the disparate-impact regulations and when they can or must consider race, color, and national origin. As explained above, *Sandoval* casts substantial doubt on the validity of the disparate-impact regulations that many Federal departments and agencies have promulgated pursuant to Title VI. 532 U.S. at 280–82.

Additionally, in practice and as explained above, disparate-impact liability leads covered entities to engage in racial balancing even as Title VI forbids intentional racial discrimination. This tension tends to create confusion, undermine public confidence in the Nation's civil rights laws, and undermine public confidence in the rule of law itself, as the law seems to both forbid and require the same conduct.

These problems are amplified by the arbitrary nature of the racial and ethnic categories typically used to measure disparate effects, which, by virtue of their arbitrariness, typically lack a meaningful connection to a compelling interest. *See, e.g., SFFA,* 600 U.S. at 216–17 (explaining that the ''[racial] categories'' at issue were ''themselves imprecise in many ways'' and ''the use of these opaque racial categories undermine[d], instead of promote[d], [their] goals''). This lack of clarity undermines the law's ability to encourage nondiscrimination. These policy concerns independently justify repealing disparate-impact regulations to eliminate confusion, remove the incentive for covered entities to engage in racial balancing, and maintain clarity and public confidence in the Nation's civil rights laws.

The Foundation's constituent agencies have considered the view that examining disparate effects can sometimes be useful in uncovering or deterring subtle intentional discrimination or intentional indifference to unnecessary and arbitrary barriers. But any alleged benefits are outweighed by the other issues and factors described above that the constituent agencies have considered. And in any event, the concern is mitigated by the fact that eliminating disparate-impact liability does not preclude the use of data on disparate outcomes to help prove intentional discrimination. Each of the Foundation's constituent agencies and private litigants may rely on such data as a potential indicator of intentional discrimination. This use of a statistical disparity to help establish, as an evidentiary matter, liability for intentional discrimination materially differs from using such a disparity to impose liability for an unintentional disparate impact.

The Foundation's constituent agencies considered adopting a version of this regulation that limits disparate-impact liability to claims involving certain categories of grantees, including grantees with a prior finding of noncompliance in operating an agency-funded program. The Foundation's constituent agencies decline to adopt that approach. Verifying such claims would be administratively untenable because it would require access to records the Foundation's constituent agencies do not retain for a sufficiently long period due to compliance with mandatory record retention regulations (or else require unreasonably long and costly document-retention policies), or would require the Foundation's constituent agencies to obtain records from other agencies to which they do not have regular access. The modification would also add another layer of administrative decision-making, creating additional work and delay between deserving claimants and the disposition of Title VI claims. In any event, that additional layer would not cure the absence of statutory authorization permitting Federal agencies to impose disparate impact liability.

Additionally, the constituent agencies have considered the potential reliance interests of funding recipients and others on the disparate-impact regulations. However, the *Sandoval* decision cast serious doubt on the continuing viability of these regulations more than 25 years ago. Since *Sandoval,* enforcement of Title VI disparate-impact regulations has been minimal and sporadic. Also, Executive Order 14281 directed all Federal agencies to ''deprioritize enforcement of all statutes and regulations to the extent they include disparate-impact liability.'' 90 FR at 17538. Accordingly, the constituent agencies' position is that any reliance interests should be minimal and do not outweigh legal and other policy concerns. Further, each constituent agency's concerns, whether considered cumulatively or separately, outweigh any reliance interests.

The Foundation's constituent agencies note that *Sandoval* has also led to a divergence between Title VI enforcement by private plaintiffs and enforcement by Federal departments and agencies. After *Sandoval,* private plaintiffs can enforce only Title VI's statutory prohibition on intentional discrimination, while Federal departments and agencies have

continued to pursue disparate-impact liability. Repealing the disparate-impact regulations eliminates this incongruent enforcement.

Overall, after considering the relevant issues and factors and weighing the relevant considerations, the Foundation's constituent agencies have determined that, regardless of the legality of the Foundation's disparate-impact regulations, the above summarized policy concerns, whether viewed separately or cumulatively, independently justify the repeal of its disparate-impact regulations.

IV. Regulatory Amendments

This rule's regulatory changes address the concerns regarding the statutory authority that the Supreme Court questioned in *Sandoval* and the other legal and policy concerns discussed above; harmonize the implementing regulations' scope with the conduct that Congress intended Title VI to prohibit; promote consistent enforcement of Title VI among private plaintiffs and Federal departments and agencies; and provide much needed clarity to the courts and Federal funding recipients and beneficiaries.

For the reasons summarized above, the Foundation's constituent agencies amend the following provisions in its Title VI implementing regulations that explain particular types of discrimination prohibited, located in 45 CFR part 1110.

A. Table Summarizing Amendments

The table below indicates the exact wording changes made by this rule. For each section indicated in the left column, the action described in the middle column is taken with respect to the text identified in the right column.

Section	Action	Details
1110.3(b)(2)	Remove	Remove full text of § 1110.3(b)(2).
1110.3(b)(3)	Remove	Remove ''or effect'' from both places.
1110.3(b)(6)	Remove	Remove full text of paragraph (6).
1110.3(c)(3)	Remove	Remove full text of paragraph (3).
1110.5(e)	Remove	Remove full text of paragraph (e).
1110.5(f)	Remove	Remove full text of paragraph (f).
1110.5(g)	Remove	Remove full text of paragraph (g).

B. Section-by-Section Analysis

Section 1110.3(b)(2)

Section 1110.3(b)(2) is the current regulation's general prohibition of conduct with unintentional disparate impact. It imposes liability on Federal funding recipients who ''utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination.'' Because the only purpose of section 1110.3(b)(2) is to extend the scope of Title VI to reach conduct giving rise to unintentional disparate impact, this rule deletes this paragraph in its entirety. Thus, it amends the Foundation's Title VI implementing regulations to conform to the scope of coverage Congress intended when it enacted Title VI and to address the legal and policy concerns described in this document. This rule replaces paragraph (b)(2) with a placeholder to maintain the numbering accuracy of previous citations and other references to parts of this section.

Section 1110.3(b)(3)

Section 1110.3(b)(3) addresses a Federal funding recipient's or applicant's selection of the site or location of facilities. It provides that a funding recipient may not make selections with the ''purpose or effect'' of discriminating, or ''with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of'' Title VI or the Foundation's implementing regulations. The paragraph's two references to ''effect'' extend its scope to conduct causing unintentional disparate impacts. This rule deletes both uses of ''or effect'' to conform paragraph (b)(3) more closely to the scope of coverage Congress intended when it enacted Title VI and to address the legal and policy concerns described in this document.

Section 1110.3(b)(6)

Section 1110.3(b)(6) pertains to ''reasonable action'' to overcome the consequences of certain conduct. The paragraph authorizes such action even in the absence of a finding of prior discrimination in a program ''to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin.'' This provision points not to intentional discrimination, but rather to the unintentional ''consequences of practices or impediments.'' It accordingly encourages intentional racial classifications, racial preferences, and other race-based actions without specifying the compelling governmental interest and narrow tailoring that the Equal Protection Clause demands. This section has long been unlawful under an Equal Protection Clause analysis.

Paragraph (b)(6) also states that a recipient ''has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage'' where ''previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination.'' This provision goes beyond the Equal Protection Clause, which, in limited circumstances permits, but does not mandate, a government to take narrowly tailored action to remedy the effects of its identified past discrimination. *See, e.g., Bakke,* 438 U.S. at 307 (Powell, J.). Even placing aside the mandatory language, this provision does not expressly require narrow tailoring to counter particular past discrimination, but rather ''reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage.'' Accordingly, this provision promotes potentially illegal race, color, and national origin discrimination. Moreover, in some instances, it may even coerce recipients to consider and use racial preferences when the recipient does not want to. This is contrary to the goal of promoting and defending a culture of nondiscrimination and is destructive to the public's understanding of and faith in the Nation's civil rights laws. Therefore, this rule removes paragraph (b)(6).

Section 1110.3(c)(3)

Section 1110.3(c)(3) addresses prohibited discriminatory employment practices. Paragraph (c)(1) prohibits intentionally discriminatory employment practices in a program for which a primary objective of the Federal financial assistance that program receives is to provide employment. Paragraph (c)(3) extends the prohibition on discrimination to employment practices of the funding recipient even

when ''a primary objective of the Federal financial assistance is not to provide employment'' if discrimination in the nonfunded ''employment practices of the recipient or other persons subject to the regulation tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this regulation applies.'' This paragraph prohibits not only intentional discrimination but rather extends the prohibition to conduct that ''tends'' to have a discriminatory effect.

Moreover, paragraph (c)(3)'s extension to employment practices for which the Federal funding's primary objective is not to provide employment conflicts with the statutory limitation found in 42 U.S.C. 2000d–3. That section states that ''[n]othing contained in [Title VI] shall be construed to authorize action under [Title VI] by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.'' 42 U.S.C. 2000d–3; *see also Johnson* v. *Transp. Agency, Santa Clara Cnty.,* 480 U.S. 616, 627–28 n.6 (1987) (citing the statutory limitation and noting Congress's intent that Title VI not ''impinge'' on Title VII, which prohibits discriminatory employment practices). This rule deletes paragraph (c)(3) to amend the regulation so that it more closely adheres to the scope of conduct Congress prohibited under Title VI and to address the legal and policy concerns described in this document.

Section 1110.5(e), (f), (g)

The ''Illustrative applications'' under section 1110.5 consist of examples that illustrate the application of the regulation to some of the activities for which Federal financial assistance is provided by the Foundation's constituent agencies. This rule deletes paragraph (e) because it is an illustrative example of section 1110.3(b)(2), which is being deleted for the reasons described above. Likewise, paragraphs (f) and (g) illustrate the application of section 1110.3(b)(6), which is also being deleted.

V. Severability

The Foundation's constituent agencies' position is that each of this rule's amendments serves a vital, related, but distinct purpose. The constituent agencies also confirm that each of the amendments is intended to operate independently of one other and that the potential invalidity of one amendment does not affect the validity of other amendments. The constituent agencies adopt any of the amendments independent and regardless of the invalidity of a separate amendment.

VI. Regulatory Certifications

Administrative Procedure Act

The Foundation's constituent agencies issue this final rule without prior public notice and comment or a delayed effective date pursuant to the exception in the Administrative Procedure Act (APA) for rules ''relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.'' 5 U.S.C. 553(a)(2).

Title VI concerns nondiscrimination conditions on the receipt of Federal financial assistance, and more particularly on the receipt of Federal ''[g]rants and loans,'' ''property,'' ''personnel'' and ''[a]ny Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.'' 45 CFR 1110.13(f); *see also id.* 1110.4 (requiring funding recipient sign contractual assurance of compliance with Title VI); *Cummings* v. *Premier Rehab Keller, P.L.L.C.,* 596 U.S. 212, 217–18 (2022) (observing that Congress enacted Title VI ''[p]ursuant to its authority to 'fix the terms on which it shall disburse federal money''' (internal citation omitted)). *Cf. Education Programs or Activities Receiving or Benefitting from Federal Financial Assistance,* 82 FR 46655 (Oct. 6, 2017) (invoking the section 553(a)(2) exception to amend Title IX regulations to ''promote consistency in the enforcement of Title IX for [the Department of Agriculture] financial assistance recipients''); *Preserving Community and Neighborhood Choice,* 85 FR 47899 (Aug. 7, 2020) (invoking the exception to repeal a Housing and Urban Development rule regarding Federal grantees); *Participation by Minority Business Enterprise in Department of Transportation Programs,* 53 FR 18285 (May 23, 1988) (invoking the exception to expand coverage of a Department of Transportation regulation regarding the Federal Aviation Administration's airport financial assistance program); *Nondiscrimination on the Basis of Handicap in Federally Assisted Programs—Suspension of Guidelines with Respect to Mass Transportation,* 46 FR 40687 (Aug. 11, 1981) (invoking the exception to suspend DOJ guidelines prohibiting disability discrimination in transportation programs and activities receiving Federal financial assistance).

Invoking 5 U.S.C. 553(a)(2) is consistent with the definition for Federal financial assistance provided by the U.S. Office for Management and Budget (OMB) in 2 CFR 200.1, which defines Federal financial assistance with the same categories as the APA'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). With potentially limited exceptions not applicable to the Foundation's constituent agencies, all forms of Federal financial assistance set forth under 2 CFR 200.1 that the constituent agencies administer fall under the ''public property, loans, grants, benefits, or contracts'' exception. Thus, the Foundation's constituent agencies issue this final rule without prior public notice and comment or a delayed effective date under 5 U.S.C. 553(a)(2).

Executive Orders 12866 and 13563 (Regulatory Review)

The Foundation's constituent agencies have determined that this rulemaking is a ''significant regulatory action'' under section 3(f) of Executive Order 12866, 58 FR 51735, 51738 (Sep. 30, 1993), but not an ''economically significant'' action under section 3(f)(1). Accordingly, this rule has been submitted to OMB for review.

This regulation has been drafted and reviewed in accordance with section 1(b) of Executive Order 12866, *id.* at 51735, and section 1(b) of Executive Order 13563, 76 FR 3821, 3821 (Jan. 18, 2011), which supplements and reaffirms the principles of Executive Order 12866. These Executive Orders direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. 58 FR at 51735; 76 FR at 3821. Executive Order 13563 also recognizes that some benefits and costs are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitative values that are difficult or impossible to quantify. *Id.*

As explained in the preamble, the regulatory modifications in this rule conform the Foundation's regulations to Executive Order 14281; address serious concerns regarding Title VI disparate-impact regulations that the Supreme Court raised in *Sandoval;* harmonize the implementing regulations' scope with the scope of conduct that Congress intended Title VI to prohibit; promote consistency in enforcement among private plaintiffs and Federal departments and agencies; and provide much needed clarity to courts and

Federal funding recipients and beneficiaries regarding the scope of the Foundation's Title VI regulations. Indeed, with respect to section 1110.3(c) of the Foundation's Title VI regulations, the changes made to this rule are necessary to bring the regulations into compliance with 42 U.S.C. 2000d–3. In short, this rule is necessary to conform the Foundation's current regulations to existing statutory law, as interpreted by the Supreme Court.

The costs and benefits of this rule are difficult to quantify due to data limitations. Although the figures below do not represent the monetary impact of the rule, the NEA issued approximately 14,950 separate awards totaling approximately $942 million from fiscal year 2020 through fiscal year 2024, and the NEH issued approximately 4,517 separate awards totaling approximately $920 million during this same period. IMLS issued approximately 2,346 separate awards totaling approximately $1.03 billion from fiscal year 2022 through fiscal year 2025. During the period from fiscal year 2020 through fiscal year 2024, the Foundation's constituent agencies did not conduct any Title VI-related active investigations or compliance reviews regarding these funds and their recipients that centered on disparate impact alone. For enforcement actions that relate to both intentional discrimination and conduct having an unintentional disparate impact, the constituent agencies do not track and cannot reliably quantify the costs attributable to the varying disparate-impact portions of enforcement actions. Also, the existence of a disparate impact is sometimes a factor that may be considered in determining whether discrimination was intentional; this further impedes monetizing costs and benefits specific to disparate-impact enforcement. Therefore, the overall cost effect on the constituent agencies is difficult to quantify, although this rule should decrease the constituent agencies' enforcement costs. This rule also should have the benefit of bringing the constituent agencies' conduct in line with the law, which is also difficult to quantify. Similarly, the constituent agencies are unable to quantify how funding recipients will respond to the regulatory changes. But this deregulatory action should result in greater flexibility and lower compliance costs for recipients.

The Foundation's constituent agencies recognize that a funding recipient may receive Federal funds from sources other than, and in addition to, the constituent agencies. Regardless, the constituent agencies do not envision that this rule will appreciably increase administrative costs or compliance costs for funding recipients that also must adhere to the regulations of another department or agency. This deregulatory action does not create any new obligations for constituent agencies' funding recipients. On the contrary, eliminating disparate-impact liability from the regulations eliminates a source of regulatory confusion, narrows and makes more specific the conduct prohibited, and thus lessens the costs of compliance and potential liability. Moreover, recipients that receive funds for the same program or activity from more than one Federal entity already enter into separate contractual assurances with each funding entity. *See, e.g.,* 45 CFR 1110.4 (the Foundation), 10 CFR 1040.4 (Department of Energy); 45 CFR 605.5 (National Science Foundation); 45 CFR 80.4 (Department of Health and Human Services).

Such assurances already impose varying requirements that each Federal funding source deems necessary. Thus, funding recipients will continue to be held to the most stringent contractual assurance and regulation. And in any event, the Foundation notes that other agencies are currently amending their regulations to align with the changes made in this rule, so the Foundation anticipates that there will be little, if any, disparity in Federal requirements regarding disparate-impact liability going forward.

Based on the analysis of the practical qualitative costs and benefits noted above, the Foundation's position is that this rule is consistent with the principles of Executive Orders 12866 and 13563, including the requirements that, to the extent permitted by law, an agency adopt a regulation only upon a reasoned determination that its benefits justify its costs and choose a regulatory approach that maximizes net benefits. *See* 58 FR at 51735; 76 FR at 3821.

Executive Order 14192 (Unleashing Prosperity Through Deregulation)

Executive Order 14192 requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed when the agency publicly promulgates a new regulation. 90 FR 9065, 9065 (Jan. 31, 2025). In furtherance of this requirement, section 3(c) of the Order requires that ''any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.'' *Id.* By revising the Foundation's current Title VI regulations, which extend prohibited conduct to include unintentional disparate impacts and thus expand the scope of those regulations to a vastly broader range of conduct than the statute prohibits, this rule eliminates unnecessary regulation. Accordingly, the Foundation's constituent agencies consider this rule to be a deregulatory action under Executive Order 14192.

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations)

Executive Order 14294 requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to ''explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to'' each element of those offenses. 90 FR 20363, 20363 (May 9, 2025). This rule does not impose a criminal regulatory penalty and is thus exempt from Executive Order 14294's requirements.

Executive Order 13132 (Federalism)

This rule will not have a substantial, direct effect on the relationship between the national government and the States, on distribution of power and responsibilities among various levels of government, or on States' policymaking discretion. States that choose to receive Federal financial assistance from the Foundation's constituent agencies do so voluntarily and agree to comply with relevant statutory requirements as a condition of receiving such funding. This rule does not subject States or any other funding recipients or beneficiaries to any new obligations. Rather, this rule amends and clarifies existing regulations that are required by statute. Therefore, in accordance with section 6 of Executive Order 13132, 64 FR 43255, 43257–58 (Aug. 4, 1999), the constituent agencies have determined that these amendments do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards set forth in sections 3(a) and (b)(2) of Executive Order 12988 to specify provisions in clear language. *See* 61 FR 4729, 4731–32 (Feb. 5, 1996). Pursuant to section 3(b)(1)(I) of the Executive Order, *id.* at 4731, nothing in this or any previous rule (or in any administrative policy, directive, ruling, notice, guideline, guidance, or writing) directly relating to the program that is the subject of this rule is intended to

create any legal or procedural rights enforceable against the United States.

Executive Order 12250

Pursuant to Executive Order 12250, DOJ has the responsibility to ''review . . . proposed rules . . . of the Executive agencies'' implementing nondiscrimination statutes such as Title VI ''in order to identify those which are inadequate, unclear or unnecessarily inconsistent.'' 45 FR at 72995. DOJ has reviewed and approved this rule.

Regulatory Flexibility Act

This rule does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, 604, because, for the reasons described above, no notice of proposed rulemaking is required under 5 U.S.C. 553. *See Or. Trollers Ass'n* v. *Gutierrez,* 452 F.3d 1104, 1123–24 (9th Cir. 2006) (noting that the RFA does not apply when an agency validly invokes an exception to the public comment requirements of 5 U.S.C. 553). Further, the Foundation's constituent agencies, in accordance with 5 U.S.C. 605(b), have reviewed these regulations and certify that the rule's changes will not have a significant economic impact on a substantial number of small entities because these regulatory changes do not impose any new substantive obligations on Federal funding recipients. Rather, the rule amends and clarifies existing regulations that are required by Title VI. Also, the rule brings constituent agencies into compliance with the Equal Protection Clause and harmonizes the scope of the current regulations to conform to the scope of Title VI, which does not prohibit conduct giving rise to unintentional disparate impact. All Federal funding recipients have been and will continue to be bound by existing standards that will remain in place after this rule is effective.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501 *et seq.,* requires agencies to prepare several analytic statements before proposing any rule that may result in annual expenditures of $100 million by State, local, or Tribal governments, or the private sector. 2 U.S.C. 1532(a). However, UMRA also excludes from its coverage any proposed or final Federal regulation that ''establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability.'' 2 U.S.C. 1503(2). Accordingly, this rule is not subject to the provisions of UMRA.

Congressional Review Act

The Office of Information and Regulatory Affairs has determined that this rule is not a ''major rule'' as defined by the Congressional Review Act, 5 U.S.C. 804(2).

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* agencies must consider whether a rule will create additional burdens related to recordkeeping, paperwork, or information collection. This rule will not impose additional reporting or recordkeeping requirements under the Act.

List of Subjects for 45 CFR Part 1110

Administrative practice and procedure, Civil rights, Equal employment opportunity, Grant programs.

Accordingly, for the reasons set forth above, the NEA (for itself and on behalf of FCAH, for which NEA provides legal counsel), NEH, and IMLS amend part 1110 of title 45 of the Code of Federal Regulations as follows:

PART 1110—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

■ 1. The authority citation for part 1110 is revised to read as follows:

Authority: 42 U.S.C. 2000d, 2000d–1, 2000d–7; E.O. 12250, 45 FR 72995; E.O. 14281, 90 FR 17537.

■ 2. Amend § 1110.3 by:

■ a. Removing and reserving paragraph (b)(2);

■ b. Revising paragraph (b)(3); and

■ c. Removing paragraphs (b)(6) and (c)(3).

The revision reads as follows:

§ 1110.3 Discrimination prohibited.

* * * * *

(b) * * *

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose of defeating or substantially impairing the accomplishment of the objectives of the Act or this regulation.

* * * * *

§ 1110.5 [Amended]

■ 3. Amend § 1110.5 by removing paragraphs (e), (f), and (g).

Mary Anne Carter,

Chairman, National Endowment for the Arts.

Michael McDonald,

Senior Deputy Chairman, National Endowment for the Humanities.

Lisa K. Solomson,

Senior Official Performing the Duties of the Director, Institute of Museum and Library Services.

[FR Doc. 2026–17366 Filed 8–25–26; 8:45 am]

BILLING CODE 7537–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 260820–0009]

RIN 0648–BN42

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Duckabush Estuary Restoration Project in Washington

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

ACTION: Final rule; notification of issuance of Letter of Authorization.

SUMMARY: NMFS, upon request from the U.S. Army Corps of Engineers (USACE) issues this final rule pursuant to the Marine Mammal Protection Act (MMPA), to govern the taking of marine mammals incidental to the Duckabush Estuary Restoration Project (DERP) in Hood Canal, Washington over 5 years (2027–2032). This final rule, which allows for the issuance of a 5-year letter of authorization (LOA) allowing for the incidental take of marine mammals during the described activities and timeframes, prescribes the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species and their habitat, and establishes requirements pertaining to the monitoring and reporting of such taking.

DATES: Effective from July 9, 2027, through July 8, 2032.

ADDRESSES: Electronic copies of the application and supporting documents, the proposed rule and associated public comments, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/action/*

incidental-take-authorization-us-army-corps-engineers-duckabush-estuary-restoration-project. In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Robert Pauline, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Purpose for Regulatory Action

These regulations, promulgated under the authority of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*), establish a framework for NMFS to authorize the take of marine mammals incidental to construction activities associated with the DERP project in Hood Canal, Washington.

Legal Authority for the Action

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1371(a)(5)(A)) directs the Secretary of Commerce, as delegated to NMFS, to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region for up to 5 years if, after notice and public comment, the agency makes certain findings and promulgates regulations that set forth permissible methods of taking pursuant to that activity and other means of effecting the ''least practicable adverse impact'' on the affected species or stocks and their habitat (see Mitigation section), as well as monitoring and reporting requirements.

Summary of Major Provisions Within the Rule

Following is a summary of the major provisions of this rule regarding USACE's activities. These provisions include measures requiring:

- Performance of construction work only during daylight hours when visual monitoring of marine mammals can be implemented;
- Gradually increasing time periods dedicated to construction activities each day throughout the day to reduce the risk of potentially startling marine mammals;
- Conducting 30 minutes of pre- and post-activity monitoring associated with pile installation or removal activities;
- Establishment and monitoring by protected species observers (PSOs) of a 300-meter observation zone for all construction activities;
- *Halting construction activity:* (1) if a marine mammal comes within 10 meters of operations of heavy equipment; or (2) a pup less than one week old comes within 20 meters of where heavy machinery is operating; and
- Not initiating construction activities within 300 meters of a mother-pup pair that is hauled out, or within 100 meters of a mother-pup pair in the water.

Through adaptive management, the regulations will allow NMFS to modify (*e.g.,* remove, revise, or add to) the existing mitigation, monitoring, or reporting measures summarized above and required by the LOA.

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Section 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are promulgated or an incidental harassment authorization is issued.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). If such findings are made, NMFS must prescribe permissible methods of taking; other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the monitoring and reporting of the takings. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below and can be found in section 3 of the MMPA (16 U.S.C. 1362) and NMFS regulations at 50 CFR 216.103.

Summary of Request

On April 17, 2024, NMFS received a request from the USACE for regulations and a subsequent LOA to take marine mammals incidental to construction activities related to the DERP in Washington. A revised application was submitted on September 27, 2024. We determined the application was adequate and complete on November 19, 2024. On November 25, 2024, we published a notice of receipt of the USACE's application in the **Federal Register**, requesting comments and information related to the request for 30 days (89 FR 92907). We received no public comments. On August 15, 2025, we published the proposed rule in the **Federal Register** (90 FR 39346) and requested comments and information from the public. NMFS reviewed the submitted material and considered it for promulgation of these regulations.

Description of the Specified Activities

A detailed description of the USACE's planned activities are provided in the proposed rule (90 FR 39346, August 15, 2025). Since publication of the proposed rule, the USACEC has not made any modifications to their specified activities; therefore, we refer the reader to the proposed rule for a detailed description of the specified activities. Mitigation, monitoring, and reporting measures proposed by the USACE and included in this final rule are also described in detail in the proposed rule and summarized later in this document (please see Mitigation and Monitoring and Reporting). Note that the effective dates of the regulations and LOA in the proposed rule (90 FR 39346) were listed as July 30, 2026, through July 29, 2031.

The project has been delayed by one year due to the inability of the USACE to secure funding during the 2026 budget cycle. Therefore, the applicant requested new effective dates of July 9, 2027, through July 8, 2032. These new effective dates have been authorized by NMFS. The delay of the project by one year (2026 to 2027) and the change in the effective start date by several weeks (July 30 compared to July 9) will not affect any additional species or have any impact on the life cycle of harbor seals. The one-year delay and change of effective start dates during Year 1 of the LOA is not expected to affect our analysis in any way. The species affected, number of animals authorized for take, and mitigation and monitoring requirement remain unchanged.

Additional details on the specified activities are available in the proposed rule (90 FR 39346, August 15, 2025).

Specified Geographic Region

The specified geographic region is Hood Canal in Puget Sound. Details regarding this area can be found in the proposed rule (90 FR 39346, August 15, 2025).

Comments and Responses

During the 30-day comment period, we received a single comment letter from a member of the public that

contained three separate comments. NMFS has reviewed and considered all relevant comments received on the proposed rule and issuance of the LOA. All substantive, relevant comments and our responses are described below.

Comment 1: The commenter wrote that construction activities could negatively impact marine mammals and that even a ''small number'' of takes could lead to disruptions in feeding, breeding, and migratory patterns, which could have lasting consequences for the population.

Response: Section 101(a)(5)(A) of the MMPA requires NMFS to make a determination that the take incidental to a ''specified activity'' will have a negligible impact on the affected species or stocks of marine mammals. NMFS' implementing regulations 50 CFR 216.104(a)(1) require applicants to include in their request a detailed description of the specified activity or class of activities that can be expected to result in incidental taking of marine mammals. NMFS has defined negligible impact as 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 (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.,* intensity, duration), the context of any impacts or responses (*e.g.,* critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. In this instance, NMFS has determined that the USACE's planned activities will have a negligible impact on harbor seals in the project area.

NMFS is also required to make a small numbers determination. NMFS explains the concept of ''small numbers'' in recognition that there could also be quantities of individuals taken that would correspond with ''medium'' and ''large'' numbers. As such, for an individual incidental take authorization, NMFS considers that one-third of the most appropriate population abundance number—as compared with the assumed number of individuals taken—is an appropriate limit with regard to ''small numbers.'' This relative approach is consistent with relevant case law. *See Center for Biological Diversity* v. *Salazar*, 695 F.3d 893, 907 (9th Cir. 2012) (holding that the U.S. Fish and Wildlife Service reasonably interpreted ''small numbers'' by analyzing take in relative or proportional terms). As noted above, there is no biological significance associated with ''small numbers'' and, as such, NMFS appropriately does not consider ''conservation status'' or other issues related to the status of a species or stock in making its small numbers finding. Instead, these concepts are considered as part of the negligible impact analysis described previously. The USACE requested, and NMFS has authorized, incidental take that amounts to no more than 14.3 percent of the Washington Inland Hood Canal stock of harbor seals, which is less than one-third of the stock's population abundance.

Comment 2: The commenter stated that the five-year period of incidental takes allowed under an LOA in such a sensitive area raises concerns about the cumulative impact on marine mammal populations. They stated that the risk of compounding negative effects over time—especially in a confined area like Hood Canal—demands a more cautious, conservative approach to project approval, as the ecological consequences of such disruptions may not become evident until it is too late to reverse the damage.

Response: Neither the MMPA nor NMFS' codified implementing regulations require consideration of other unrelated activities and their impacts on marine mammal populations. The preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989) states in response to comments that the impacts from other past and ongoing anthropogenic activities are to be incorporated into the negligible impact analysis via their impacts on the baseline. Consistent with that direction, NMFS has factored into its negligible impact analysis the impacts of other past and ongoing anthropogenic activities via their impacts on the baseline (*e.g.,* as reflected in the density, distribution and status of the species, population size and growth rate, and other relevant stressors). The 1989 final rule for the MMPA implementing regulations also addressed public comments regarding cumulative effects from future, unrelated activities. There, NMFS stated that such effects are not considered in making findings under MMPA section 101(a)(5) concerning negligible impact.

Comment 3: The commenter stated that an incidental take authorization may overlook the availability of alternatives that could prevent the need for any take of marine mammals and should be designed in such a way that minimizes its impact on wildlife and prioritizes the health of marine ecosystems without resorting to take authorizations. The goal should be to avoid take altogether, not merely to manage or mitigate it after the fact. The commenter further asserted that the precautionary principle demands that we prioritize the protection of vulnerable marine species, especially in ecologically sensitive areas like Hood Canal.

Response: Neither the MMPA nor NMFS' implementing regulations include discussion or requirements related to a ''precautionary principle.'' NMFS must process requests for incidental take regulations in a manner consistent with the requirements of section 101(a)(5)(A) of the MMPA, which establishes specific criteria for when incidental take must be authorized. NMFS is not required under the MMPA to avoid take altogether. As described above, NMFS has determined that the planned activities will have a negligible impact on affected species or stocks. Furthermore, NMFS has not overlooked the availability of alternatives. As required under the MMPA, NMFS has prescribed the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat.

The USACE would be unable to conduct their planned construction activities without being in violation of the MMPA if all incidental take of marine mammals was prohibited.

Changes From Proposed to Final Rule

The Level 2 Reaction Code in table 4 of this notice has been revised to include the following language: ''Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats, or if already moving a change of direction of greater than 90 degrees.'' The text has been updated from that in the proposed rule to match the most recent standardized language that is being utilized across all incidental take authorizations that incorporate the Marine Mammal Reaction Code. The Marine Mammal Reaction Code is used to classify the response of an animal to external stimuli. There are no

substantive changes accompanying the language update.

An incorrect value of 13.1 percent of the percentage of stock taken was listed in the Small Numbers section of the proposed rule (90 FR 39346). We are making a technical correction to revise this value to 14.3 percent in the Small Numbers section of this notice and in table 3.

The effective dates of the regulations and LOA in the proposed rule (90 FR 39346) were listed as July 30, 2026, through July 29, 2031. Because the project has been delayed by one year, we changed the effective dates to July 9, 2027, through July 8, 2032. Since the project was delayed for one year, table 3 in this notice, Authorized Takes by Level B Harassment Annually, covers the years 2027–2030 while table 3 in the proposed notice covered the years 2026 through 2029 (90 FR 39346).

Under the Monitoring and Reporting section of the proposed rule (90 FR 39346), language pertaining to the reporting of dead or injured animals was accidentally omitted. The appropriate language has been included in the Monitoring and Reporting section and regulations in this final rule. This is standard language included in all incidental take authorizations where there is the possibility of observing dead or injured animals and was inadvertently omitted from the proposed rule.

Description of Marine Mammals in the Specified Geographic Region

A single species of marine mammal may be taken by harassment incidental to the USACE's specified activities. A complete description of marine mammals status and trends, life history, habitat use, and threats is included in the USACE's application and NMFS' proposed rule (90 FR 39346). NMFS is not aware of any new relevant information since publication of the proposed rule. Please refer to the proposed rule for detailed descriptions of marine mammals in the project area.

Table 1 lists all species or stocks for which take is expected and has been authorized by NMFS for this activity and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' stock assessment reports). All values presented in table 1 are the most recent available at the time of publication (available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*).

TABLE 1—MARINE MAMMAL SPECIES [1] LIKELY TO OCCUR NEAR THE PROJECT AREA THAT MAY BE TAKEN BY USACE'S ACTIVITIES

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [2]	Stock abundance (CV, Nmin, most recent abundance survey) [3]	PBR	Annual M/SI [4]
Order Carnivora—Pinnipedia						
Family Phocidae (earless seals): Harbor Seal	*Phoca vitulina*	Washington Inland Hood Canal	-, -, N	3,363 (0.16, 2,940, 2019) [5]	88	2

[1] Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy at: *https://marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies*.

[2] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[3] NMFS marine mammal SARs online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

[4] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range.

[5] These values were presented in the 2023 Draft Marine Mammal SAR. However, the draft 2023 SAR for the Washington Inland Waters harbor seal stocks, including the Hood Canal stock was not finalized as part of the 2023 Final SAR (89 FR 104989, December 26, 2024) given that the Pearson *et al.* (2024) estimates of abundance and trends remain unpublished at the time of publication. This SAR will be revised in a subsequent cycle when the abundance estimates for these stocks are published. However, this remains the best available information for use in evaluating effects to this stock of harbor seals.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of visual and acoustic stimuli generated by the presence and operation of assorted DERP construction equipment as well as the presence of personnel, has the potential to cause Level B harassment of pinnipeds in the DERP project area. The proposed rule included a discussion of the effects of these stimuli from the planned activities on marine mammals and their habitat (90 FR 39346). There is no newly available relevant information that would change our analyses or the results thereof.

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes authorized through the LOA, which will inform NMFS' consideration of ''small numbers,'' the negligible impact determinations, and impacts on subsistence uses.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA (16 U.S.C. 1362(18)) defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) 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 (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of behavioral reactions for individual marine mammals resulting from exposure to visual or acoustic disturbance associated with various construction equipment and personnel or protected species observers (PSOs). Based on the nature of the activity, Level A harassment is neither anticipated nor authorized.

As described previously, no serious injury or mortality is anticipated or authorized for this activity. Below we

describe how the take numbers were estimated.

Acoustic Impacts

There is very limited potential for impacts from underwater noise to result in harassment of pinnipeds. As noted previously, nearly all construction would be land-based. Pile driving within a wetted channel is only planned at a single location among the river channels and other permanently inundated areas in the project area. A vibratory driver will be used to remove bridge piers within the wetted river channel during the demolition of the existing north Highway 101 bridge (see figure 12 in the USACE's application). The USACE, in consultation with NMFS, concluded that the meandering path of the river at this location will adequately prevent direct propagation of underwater noise to the nearest haulout site and, while it is possible that underwater noise from pile-driving could potentially result in take, it is not considered likely and will be adequately addressed through our consideration of the effects of other, more likely causes of disturbance to seals.

All other vibratory and impact pile driving will occur on solid ground and will either occur during low tide or will be isolated from water using the existing Highway 101 causeway, cofferdams, or aquadams, thereby dampening propagation of sound through the substrate. For in-air sounds, NMFS has established a threshold of received levels above 90 dB re 20 µPa (rms) that could result in behavioral harassment (Level B harassment) of harbor seals. The actual measured in-air Lmax (dBA) at 50 feet (15.24 m) for vibratory and impact pile drivers is 101 dB (FHWA 2017). Noise attenuates as the distance from the source of the noise increases. A general equation shows noise propagation loss as 7.5 dB for each doubling of distance in areas where landscape features and vegetation exist (WSDOT 2020). Additionally, the following equation can be used to determine construction noise levels at a specific distance from the source (WSDOT 2020):

Lmax = the Construction Lmax at 50 feet (15.24 m) − 25 * Log(D/Do). In this equation, Lmax = the highest A-weighted sound level occurring during a noise event during the time that noise is being measured; 50 feet (15.24 m) = the reference measurement distance; and D = the distance from the noise source.

Do = the reference measurement distance (50 feet (15.24 m) in this case). Using this equation, a 101 dB vibratory or impact pile driver will attenuate to 90 dB after 54 m (177 ft). The nearest vibratory pile driving site in the project area is about 265 m (870 ft) from known harbor seal haulout sites at the Duckabush River estuary. Therefore, Level B harassment from airborne noise could only occur if a seal left their haulout site and proceeded to within 54 m (177 ft) of an active pile driving site.

Marine Mammal Occurrence

In this section we provide information about the occurrence of marine mammals, including abundance or other relevant information which will inform the take calculations.

WDFW conducts regular aerial surveys of hauled out harbor seals in the Hood Canal, typically restricting monitoring to the peak of the pupping period and the window two hours before and after high tides to maximize the number of individuals on land. The USACE utilized unpublished WDFW data from 2021–2023 (USACE, 2024) as well as aerial survey information of hauled out harbor seals at Duckabush River in 2013 and 2014 (Jeffries *et al.* 2014) to estimate harbor seal abundance. Table 2 summarizes the results from both surveys.

From 2021–2023, an average of 86 seals hauled out at the Duckabush River estuary during the pupping season, with a maximum daily count of 130 seals. Harbor seal counts during the molting season peaked at 23 per day although data during this period is limited. Available count data outside of the critical life history periods of pupping and molting season is also limited but indicated scarce usage of Duckabush River estuary haulout sites during the daytime for this period.

TABLE 2—HARBOR SEAL COUNTS AT DUCKABUSH ESTUARY

Date	Year	Pups	Adults	Total count
February 4	2014	0	0	[a] 0
March 13	2013	0	0	[a] 0
March 21	2013	0	7	[a] 7
July 23	2013	0	0	[a] 0
August 26	2013	17	60	[a] 77
August 27	2013	21	78	[a] 99
September 21	2023	3	127	[b] 130
September 22	2023	2	94	[b] 96
September 28	2021	2	85	[b] 87
September 29	2022	4	111	[b] 115
October 17	2023	1	3	[a] 4
November 6	2013	0	23	[a] 23
November 8	2013	0	13	[a] 13

Count source: [a]—Jeffries *et al.* (2014), [b]—WDFW (unpublished).

Take Estimation

Here, we describe how the information provided above is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and which will be authorized by NMFS.

Since there is no previous data on how harbor seals react to construction activities at the Duckabush River estuary, take rates from an analogous project were utilized to estimate take. The Elkhorn Slough Tidal Marsh Restoration Project in Monterey County, California is a similar wetland restoration project involving land-based construction near harbor seal haulout sites (CDFW 2021). NMFS has issued IHAs for all three phases of this project, all authorizing take by Level B harassment of harbor seals resulting from similar disturbances as considered here, including the use of haul trucks, dozers, backhoes, loaders, and excavators. The objective of both projects is to restore tidal marshes that have been altered by past land use practices. The Elkhorn Slough project is in the process of restoring 147 wetland acres while the DMMP project will

restore 38 acres. Impacts from both projects include the potential for Level B harassment of harbor seals by visual disturbance and in-air noise.

Due to the limited harbor seal survey data at the Duckabush River estuary, a basic model was used to estimate seal counts throughout the year. Using the survey data from table 3, it was assumed that there is an increase or decrease in the number of seals, as defined by use of a linear function (instead of a block function). This means that every day of the year has a unique number of seals based on a linear relationship between a specific date on which a certain number of seals were actually recorded and the next specific date on which seals were recorded. For example, in table 2, there were 99 total seals (pups and adults) recorded on August 27, while 130 total seals were recorded on September 21. Using a linear relationship, it was assumed that 100.24 seals were observed on August 28 (one day after the date of recording—August 27 with 99 seals) observation, while 128.76 seals were observed on September 20 (one day before the next actual date of recording—September 20 with 130 seals). This methodology allows each day of the year to have a unique number of assumed seals present. The USACE developed a detailed project schedule which identified the number of workdays expected to occur for each year of the planned activity, ranging from a minimum of 111 days in 2026 to a maximum of 262 days in 2029. The USACE further identified the specific dates of each year that work is planned. The sum of the number of observed seals associated with each specified work date was then calculated for each year of the authorization.

Monitoring reports from the Elkhorn Slough Tidal Marsh Restoration Project showed that nine percent of harbor seals present were recorded as takes in Phase I of the Elkhorn Slough Tidal Marsh Restoration Project while 0.7 percent were recorded as takes in Phase II. Monitoring data from Phase III of the project is not available, so the conservative assumption of nine percent take rate were used to estimate realized take. The sum of the number of assumed seals present calculated for each year, as described previously, was then multiplied by nine percent to provide the calculated annual take estimates shown in table 3.

TABLE 3—AUTHORIZED TAKES BY LEVEL B HARASSMENT ANNUALLY

Year	NMFS stock abundance	Predicted work dates	Predicted work days	Estimated total seals exposed	Estimated take by Level B harassment	Take % of stock
2027	3,363	July 30–December 31	111	4,883	440	13.1
2028		January 1–December 31	261	5,331	480	14.3
2029		January 1–December 31	260	5,310	478	14.2
2030		January 1–November 7	262	5,090	458	13.6

To inform both the negligible impact analysis and the small numbers determination, NMFS assesses the maximum number of takes of marine mammals that could occur within any given year during the effective LOA period. In this calculation, the maximum estimated number of Level B harassment takes in any one year (480 in 2027) is used to yield the highest number of estimated take that could occur in any year (table 3). Table 3 also depicts the number of takes requested by the USACE and authorized by NMFS relative to the abundance of the Hood Canal stock.

Mitigation

In order to issue an LOA under section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable adverse impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

The mitigation measures described in the following sections will apply to the USACE construction activities.

The USACE shall conduct training between supervisors and crews, the PSO team, and relevant USACE staff prior to the start of DERP construction so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood. If new construction personnel are added to the project, the contractor shall ensure that the personnel receive the mandatory training before starting work.

Visual Monitoring

Required monitoring must be conducted by dedicated, trained, NMFS-approved PSO(s). PSOs shall establish and monitor a 300-meter zone around all construction activities. A PSO will be present every day when construction activities occur in or near the DERP area. A 30-minute pre-clearance observation period will occur prior to the start of construction activities. Construction may not start until the work area is cleared by the PSOs. Monitoring will occur until 30 minutes after construction is complete. One or more PSOs will be stationed at location(s) offering the best view of four haulout sites and the project area as described in the USACE's marine mammal monitoring plan (MMMP).

If environmental conditions deteriorate such that marine mammals within the entire shutdown zone (10 m)

will not be visible (*e.g.,* fog, heavy rain), construction must be delayed until the PSO is confident marine mammals within the shutdown zone could be detected.

Pre-Construction Clearance and Ramp-up

A 30-minute pre-clearance observation period must occur prior to the start of ramp-up and construction activities. The USACE must adhere to the following pre-clearance and ramp-up requirements: (i) Construction activities must not be initiated if any marine mammal is within 10 m of planned operations. If a marine mammal is observed within 10 m of planned operations during the 30-minute pre-clearance period, ramp-up must not begin until the animal(s) has been observed exiting the zones or until an additional time period has elapsed with no further sightings; and (ii) Construction activities may not be initiated within 100 meters of a mother-pup pair in the water.

To reduce the risk of potentially startling marine mammals with a sudden intensive sound, the contractor will ramp-up construction activities gradually each day by moving around the project area and starting equipment one at a time.

Shutdown Requirements

For heavy machinery work, if a marine mammal comes within 10 meters of such operations, operations must cease work or will not be initiated until the marine mammal has moved outside the 10-meter buffer. During pupping season (August 1–October 31) construction activities may not be initiated: (1) Within 300 meters of a mom/pup pair that is hauled out, or (2) within 100 meters of a mom/pup pair in the water. If a pup less than 1 week old (neonate) comes within 20 meters of where heavy machinery is working, construction activities in that area must be shut down or delayed until the pup has left the area.

Activities must cease if a marine mammal species for which take was not authorized, or a species for which authorization was granted but the authorized number of takes have been met, is observed by PSOs approaching or within the Level B harassment zone. Activities must not resume until the animal is confirmed to have left the area.

NMFS has determined that the mitigation measures contained within this final rule will provide the means of effecting the least practicable adverse impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an LOA for an activity, section 101(a)(5)(A) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) require that requests for authorizations include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and,
- Mitigation and monitoring effectiveness.

Visual Monitoring

PSO monitoring during construction will occur from vantage points along the current Highway 101 elevated causeway that allow monitors to observe any seals hauling out in the estuary as shown in the Marine Mammal Monitoring Plan. The primary observation locations shall be on the northern Highway 101 bridge and at the head of the existing estuary access path that will become the temporary parking platform. Monitors may also traverse along the Highway 101 causeway to obtain clearer views of approaching or hauled-out seals, such as from the southern Highway 101 bridge or North Parking Area. The observation area for the restoration area shall be accessed by foot and used to provide a vantage point of the construction area and Duckabush River estuary. This observation area includes all restoration areas within 300 meters of harbor seal haulout sites.

The USACE must submit a Marine Mammal Monitoring Plan to NMFS for approval at least 90 days in advance of construction. Marine mammal monitoring must be conducted in accordance with the conditions in this section and the approved Marine Mammal Monitoring Plan. Marine mammal monitoring during construction activities must be conducted by qualified, NMFS approved PSOs, in accordance with the following:

- PSOs must be independent of the activity contractor (for example, employed by a subcontractor) and have no other assigned tasks during monitoring periods.
- At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.
- Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training for prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.
- PSOs must be approved by NMFS prior to beginning any activity subject to this rule.

PSOs should have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to: (1) the number and species of marine mammals observed; (2) dates

and times when in-water construction activities were conducted; (3) dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and (4) marine mammal behavior; and

- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

Pre- and Post-Construction Daily Censuses

A census of marine mammals in the project area and the area surrounding the project will be conducted 30 minutes prior to the beginning of construction on monitoring days, and again 30 minutes after the completion of construction activities. Data collected during the pre- and post-construction daily censuses will include:

- Environmental conditions (weather condition, tidal conditions, visibility, cloud cover, air temperature and wind speed);
- Numbers of each marine mammal species spotted;
- Location of each species spotted, including distance from construction activity;
- Status (in water or hauled-out); and
- Behavior.

Hourly Counts

The USACE will conduct hourly counts of animals hauled out and in the water. Data collected will include:

- Numbers of each species;
- Location of species, whether hauled out or in the water; and distance from construction activities;
- Time;
- Tidal conditions;
- Time construction activities start and end;
- Primary construction activities occurring during past hour;
- Any noise or visual disturbance;
- Number of mom/pup pairs and neonates observed; and
- Notable behaviors, including foraging, grooming, resting, aggression, mating activity, and others.

PSOs will take notes including any of the following information to the extent it is feasible to record:

- Age-class;
- Sex;
- Unusual activity or signs of stress; and
- Any other information worth noting.

PSOs will record reaction observed in relation to construction activities including:

- Tally of each reaction;
- Time of reaction;
- Concurrent construction activity (including duration) and assumed cause (whether related to construction activities or not) and observer determination as to the source of disturbance, to the extent possible;
- Location of animal during initial reaction and distance from the noted disturbance;
- Direction of movement;
- Activity before and after disturbance;
- Status (in water or hauled out) before and after disturbance; and
- Coded reaction as shown in table 4.

TABLE 4—MARINE MAMMAL REACTION CODES

Level	Type of response	Definition
1	Alert	Head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck or craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length. Alerts would be recorded, but not counted as a 'take'.
2*	Movement	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats, or if already moving a change of direction of greater than 90 degrees.
3*	Flush	All retreats (flushes) to the water.

*Only Levels 2 and 3 are considered take under the MMPA, whereas Level 1 is not.

Reporting

The USACE must submit a draft monitoring report to NMFS within 90 calendar days of the completion of each construction year. A draft comprehensive 5-year summary report must also be submitted to NMFS within 90 days of the end of the effective period of the LOA. The reports must detail the monitoring protocol and summarize the data recorded during monitoring. Final annual reports and the final comprehensive report must be prepared and submitted within 30 days following resolution of any NMFS comments on the draft report. If no comments are received from NMFS within 30 days of receipt of the draft report, the report must be considered final. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments. The annual and final marine mammal monitoring reports will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period;
- PSO locations during marine mammal monitoring;
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance;
- Upon observation of a marine mammal, the following information: (1) name of PSO who sighted the animal(s) and PSO location and activity at time of sighting; (2) time of sighting; (3) identification of the animal(s) (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified); (4) distance and bearing of each marine mammal observed relative to the pile being driven for each sighting (if pile driving was occurring at time of sighting); (5) estimated number of animals (min/max/best estimate); (6) estimated number of animals by cohort (*e.g.,* adults, juveniles, neonates, group composition, *etc.*); (7) animal's closest point of approach; and (8) description of any marine mammal behavioral observations (*e.g.,* observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.,* no response or changes in behavioral state such as ceasing feeding,

changing direction, flushing, or breaching);

- Number of marine mammals detected within the harassment zones; and
- Detailed information about any implementation of any mitigation triggered (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.

The following requirement was unintentionally omitted from the proposed rule. It is included here as well as in the regulatory text. In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the USACE must report the incident to the Office of Protected Resources (OPR) and the West Coast regional stranding network as soon as feasible. If the death or injury was clearly caused by the specified activity, the USACE must immediately cease the activities until NMFS OPR is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of this IHA. The USACE must not resume their activities until notified by NMFS. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Adaptive Management

The regulations governing the take of marine mammals incidental to the USACE's construction activities contain an adaptive management component which was described in detail in the proposed rule and is not repeated here. The reporting requirements associated with this final rule are designed to provide NMFS with monitoring data from completed projects to allow consideration of whether any changes are appropriate. The use of adaptive management allows NMFS to consider new information from different sources to determine (with input from the USACE regarding practicability) on an annual or biennial basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications would have a reasonable likelihood of reducing adverse effects to marine mammals and if the measures are practicable.

The following are some of the possible sources of applicable data to be considered through the adaptive management process: (1) results from monitoring reports, as required by MMPA authorizations; (2) results from general marine mammal and sound research; and (3) any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or LOAs issued pursuant to these regulations.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as 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 (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.,* intensity, duration), the context of any impacts or responses (*e.g.,* critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with NMFS' implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

The USACE has requested, and NMFS is authorizing take, by Level B harassment, of harbor seals from the Washington Inland Hood Canal stock. No injuries or mortalities are anticipated to occur as a result of the DERP project and none are authorized. Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature, would likely be localized and limited to reactions such as alerts or movements away from the construction area, including flushing into the water. Most likely, individuals, if affected at all will simply move away from the visual or acoustic stimulus and be temporarily displaced from the areas.

Repeated exposures of individuals to relatively low levels of visual and sound disturbance outside of preferred habitat areas are unlikely to significantly disrupt critical behaviors or result in permanent abandonment of the haulout site. Even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in viability for the affected individuals, and thus would not result in any adverse impact to the stock as a whole. Level B harassment will be reduced to the level of least practicable adverse impact through use of mitigation measures described herein. If visual disturbance and low-level sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring.

No adverse effects to habitat or prey species are anticipated during or after construction has ended since almost the entirety of work will be land-based. There is other suitable habitat nearby where harbor seals could temporarily relocate. The restoration of the marsh habitat will have no adverse effect on marine mammal habitat, but possibly a long-term beneficial effect on habitat and harbor seals by improving ecological function of the slough, including increased prey availability, higher species diversity, larger fish, and improved habitat.

Harbor seals are not listed as threatened or endangered under the ESA and there are no known areas of biological importance in the project area. Furthermore, the population of the Hood Canal stock of harbor seals has been relatively stable over the past three decades (Pearson *et al.* 2024).

Taking into account the planned mitigation measures, effects to marine mammals are generally expected to be restricted to short-term changes in behavior or temporary displacement from haulout sites. There are other haulout areas for pinnipeds to temporarily relocate, and marine mammals are expected to return to the area shortly after activities cease.

In summary and as described above, the following factors primarily support our determination that the impacts

resulting from this activity are not expected to adversely affect harbor seals (or any other species) through effects on annual rates of recruitment or survival:

- No serious injury, mortality or Level A harassment is anticipated or authorized;
- Effects of the activities will be limited to localized behavioral changes and temporary displacement;
- Nominal adverse impacts to pinniped habitat are anticipated while improved ecological processes in the estuary will result in positive effects to habitat;
- No biologically important areas have been identified in the project area; and
- Mitigation measures are anticipated to be effective in minimizing the number and severity of takes by Level B harassment, which are expected to be localized.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the required monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the maximum number of individuals taken in any year to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted maximum annual number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

Table 3 in this notice demonstrates the maximum number of Level B harassment events per year. Our analysis shows that no more than 14.3 percent of harbor seals could be taken by Level B harassment. The numbers of animals authorized to be taken for this stock would be considered small relative to the relevant stock's abundances, even if each estimated taking occurred to a new individual—an extremely unlikely scenario.

Based on the analysis contained herein of the planned activity (including the required mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of proposed rules, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action

National Environmental Policy Act (NEPA)

To comply with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must evaluate the proposed action (*i.e.,* promulgation of regulations and subsequent issuance of a 5-year LOA) and alternatives with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (Incidental Harassment Authorizations (IHAs)) with no anticipated serious injury or mortality) of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that issuance of the final rule qualifies to be categorically excluded from further NEPA review.

Classification

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this final rule is significant under section 3(f) of Executive Order 12866. USACE's planned activities would support the construction of a new eight-span Highway 101 bridge across the Duckabush estuary. The existing bridge crossing will be removed. The activities would create economic benefits by improving the stream of commerce along Highway 101, which serves as a vital economic lifeline for Washington's Olympic Peninsula, generating hundreds of millions of dollars annually through robust tourism and critical freight and commercial transport. USACE initiated the request for an MMPA incidental take authorization, which suggests that it is relying on NMFS' authorization to proceed with its proposed action. While a MMPA incidental take authorization is not a pre-condition for conducting the proposed action (USACE is ultimately responsible for this decision), it would provide USACE with two key benefits: (1) a legal exemption from the MMPA's general prohibition on the take of marine mammals (assuming USACE complies with the terms and conditions of its authorization); and (2) regulatory certainty because USACE will be fully cognizant of NMFS' expectations in regard to the steps needed to be taken to address risks to marine mammals and how to minimize its legal exposure under the statute. USACE will also incur costs to comply with certain mitigation and monitoring requirements, as required by the MMPA. Despite the additional costs of such measures, the costs related to MMPA compliance during USACE's activities are small compared with expenditures on other aspects of construction and operations, and direct compliance costs of the regulatory requirements are unlikely to result in material impacts to the project.

In addition, cost savings may be generated by the reduced administrative effort required to obtain a LOA under the framework established by a rule compared to what would be required to obtain annual incidental harassment authorizations (IHA) under section 101(a)(5)(D). Absent the rule, to attain

equivalent compliance with the MMPA, USACE would need to apply for IHAs annually over the duration of their activities. Although not monetized, NMFS' analysis indicates that the upfront work associated with the rule (*e.g.,* analyses, modeling, process for obtaining an LOA valid for 5 years) likely saves significant time and money for both NMFS and USACE.

In addition, some degree of benefits can be expected to accrue solely via ecological benefits to marine mammals and other wildlife as a result of this rulemaking. The published literature is clear that healthy populations of marine mammals and other co-existing species benefit regional economies and provide social welfare benefits to people. However, the literature does not provide a basis for quantitatively valuing the cost of anticipated incremental changes in environmental disturbance and marine mammal harassment associated with the rule.

Executive Order 14192

This rule is considered an Executive Order 14192 deregulatory action. The promulgation of incidental take regulations under MMPA section 101(a)(5)(A) of the MMPA allows an otherwise prohibited action (*i.e.,* the taking of marine mammals), which increases flexibility and reduces burden.

Regulatory Flexibility Act (RFA)

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this rule would not have a significant economic impact on a substantial number of small entities. The USACE is the only entity that will be subject to the requirements in these regulations. The USACE is not a small governmental jurisdiction, small organization, or small business as defined by the RFA. No comments were received that would affect this certification. Therefore, a regulatory flexibility analysis is not required and none has been prepared.

Paperwork Reduction Act (PRA)

This final rule does not contain a collection-of-information requirement subject to the provisions of the Paperwork Reduction Act (PRA) because the applicant is a Federal agency.

List of Subjects in 50 CFR Part 217

Administrative practice and procedure, Endangered and threatened species, Fish, Fisheries, Marine mammals, Reporting and recordkeeping requirements, Wildlife.

Dated: August 21, 2026.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set forth in the preamble, NMFS amends 50 CFR part 217 as follows:

PART 217—REGULATIONS GOVERNING THE TAKE OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

■ 1. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.,* unless otherwise noted.

■ 2. Add subpart Y to part 217 to read as follows:

Subpart Y—Taking of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Duckabush Estuary Restoration Project in Washington

Sec.

217.240 Specified activity and geographical region.
217.241 Effective dates.
217.242 Permissible methods of taking.
217.243 Prohibitions.
217.244 Mitigation requirements.
217.245 Requirements for monitoring and reporting.
217.246 Letters of Authorization.
217.247 Renewals and modifications of Letters of Authorization.
217.248–217.249 [Reserved]

§ 217.240 Specified activity and geographical region.

(a) Regulations in this subpart apply only to the United States Army Corps of Engineers (USACE) and those persons it authorizes or funds to conduct activities on its behalf for the taking of marine mammals that occur in the areas outlined in paragraph (b) of this section and that occur incidental to construction activities, including maintenance and replacement of piles, as designated in the Duckabush Estuary Restoration Project in Washington. Requirements imposed on the USACE pursuant to this subpart must be implemented by those persons it authorizes or funds to conduct activities on its behalf.

(b) The taking of marine mammals by the USACE may be authorized in a Letter of Authorization (LOA) only if it occurs as part of the Duckabush Estuary Restoration Project in Washington.

§ 217.241 Effective dates.

Regulations in this subpart are effective from July 9, 2027 through July 8, 2032.

§ 217.242 Permissible methods of taking.

Under an LOA issued pursuant to §§ 216.106 of this chapter and 217.246 of this chapter, the Holder of the LOA (hereinafter ''USACE'') may incidentally, but not intentionally, take marine mammals within the area described in § 217.240 (b) by harassment associated with construction activities, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the applicable LOA.

§ 217.243 Prohibitions.

(a) Except for the takings contemplated in § 217.242 and authorized by an LOA issued under this subpart, it is unlawful for any person to do any of the following in connection with the activities described in § 217.240:

(1) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under this subpart;

(2) Take any marine mammal not specified in such LOA;

(3) Take any marine mammal specified in such LOA in any manner other than as specified;

(4) Take a marine mammal specified in such LOA if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(5) Take a marine mammal specified in such LOA after NMFS determines such taking results in an unmitigable adverse impact on the species or stock of such marine mammal for taking for subsistence uses.

(b) [Reserved]

§ 217.244 Mitigation requirements.

(a) When conducting the activities identified in § 217.240(a), the mitigation measures contained in any LOA issued under this subpart must be implemented. These mitigation measures include but are not limited to:

(1) A copy of this LOA must be in the possession of the USACE, supervisory construction personnel, lead protected species observers (PSOs), and any other relevant designees of the USACE operating under the authority of this LOA at all times that activities subject to this LOA are being conducted.

(2) The USACE shall conduct training between supervisors and crews, the PSO team, and relevant USACE staff prior to the start of construction activity subject to this rule, so that responsibilities,

communication procedures, monitoring protocols, and operational procedures are clearly understood. New personnel joining during the project must be trained in the aforementioned matters prior to commencing work.

(3) The USACE must employ PSOs and establish monitoring locations as described in the Marine Mammal Monitoring Plan. The USACE must monitor the Project Area to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions.

(4) Monitoring must take place from 30 minutes prior to initiation of pile driving activity (*i.e.,* pre-start clearance monitoring) through 30 minutes post-completion of construction activity.

(5) Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine that the shutdown zones are clear of marine mammals. Construction activity may commence following 30 minutes of observation when the shutdown zones are clear of marine mammals.

(6) Construction activities must stop if a marine mammal is in a shutdown zone and may not resume until a marine mammal exits the shutdown zone.

(7) If construction activity is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until the animal has voluntarily exited and has been visually confirmed beyond the shutdown zone.

(8) The USACE must conduct a gradual increase (*i.e.,* ramp-up) to begin construction each day by moving around the project area and starting equipment one at a time, not all at once.

(9) The USACE must avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 meters (m) of such activity operations must cease to avoid direct physical interaction and can only resume after the animal has left the 10 m zone.

(10) If a pup less than one week old comes within 20 m of where heavy machinery is working, operations must cease and can only resume after the animal has left the 20 m zone.

(11) During pupping season (August 1 through October 31), construction activities may not be initiated within 300 m of a mom/pup pair that is hauled out or within 100 m of a mom/pup pair in the water.

(b) [Reserved]

§ 217.245 Requirements for monitoring and reporting.

(a) The USACE must submit a Marine Mammal Monitoring Plan to NMFS for approval at least 90 days in advance of construction. Marine mammal monitoring must be conducted in accordance with the conditions in this section and the approved Marine Mammal Monitoring Plan.

(b) Monitoring must be conducted by qualified, NMFS-approved PSOs, in accordance with the following conditions:

(1) PSOs must be independent of the activity contractor (for example, employed by a subcontractor) and have no other assigned tasks during monitoring periods.

(2) At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.

(3) Other PSOs may substitute other relevant experience, education (*i.e.,* degree in biological science or related field), or training for prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.

(4) PSOs must record all observations of marine mammals as described in the Marine Mammal Monitoring Plan, regardless of distance from the pile being driven. PSOs shall document any behavioral reactions in concert with distance from piles being driven or removed.

(c) A census of marine mammals in the project area and the area surrounding the project must be conducted 30 minutes prior to the beginning of any construction day, and again 30 minutes after the completion of construction activities. Data collected during the pre-and post-construction daily censuses must include:

(1) Environmental conditions (weather condition, tidal conditions, visibility, cloud cover, air temperature and wind speed);

(2) Numbers of each marine mammal species spotted;

(3) Location of each species spotted, including distance from construction activity;

(4) Status (in water or hauled-out); and

(5) Behavior.

(d) The USACE must conduct hourly counts of animals hauled out and in the water. Data collected must include:

(1) Numbers of each species;

(2) Location of species; whether hauled-out or in the water; and distance from construction activities;

(3) Time;

(4) Tidal conditions;

(5) Time construction activities start and end;

(6) Primary construction activities occurring during past hour;

(7) Any noise or visual disturbance;

(8) Number of mom/pup pairs and neonates observed; and

(9) Notable behaviors, including foraging, grooming, resting, aggression, mating activity, and others.

(e) The USACE must note any of the following information to the extent it is feasible to record:

(1) Age-class;

(2) Sex;

(3) Unusual activity or signs of stress; and

(4) Any other information worth noting.

(f) The USACE must record reaction observed in relation to construction activities including:

(1) Tally of each reaction;

(2) Time of reaction;

(3) Concurrent construction activity (including duration) and assumed cause (whether related to construction activities or not) and whether observer feels the disturbance was visual or acoustic;

(4) Location of animal during initial reaction and distance from the noted disturbance;

(5) Direction of movement;

(6) Activity before and after disturbance;

(7) Status (in water or hauled out) before and after disturbance; and

(8) Coded reaction of Level 1—Alert; Level 2—Movement, or Level 3—Flush as defined in the Preamble.

(g) The USACE must submit a draft monitoring report to NMFS within 90 calendar days of the completion of each construction year. A draft comprehensive 5-year summary report must also be submitted to NMFS within 90 days of the end of the project. The reports must detail the monitoring protocol and summarize the data recorded during monitoring. Final annual reports and the final comprehensive report must be prepared and submitted within 30 days following resolution of any NMFS comments on the draft report. If no comments are received from NMFS within 30 days of receipt of the draft report, the report must be considered final. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments. The reports must contain the informational elements described at minimum below including:

(1) Information collected in § 247.245 (c) through (f).

(2) All PSO datasheets and/or raw sightings data in electronic format.

(h) In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the USACE must report the incident to the Office of Protected Resources (OPR) and the West Coast regional stranding network as soon as feasible. If the death or injury was clearly caused by the specified activity, the USACE must immediately cease the activities until NMFS OPR is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of this IHA. The USACE must not resume their activities until notified by NMFS. The report must include the following information:

(1) Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

(2) Species identification (if known) or description of the animal(s) involved;

(3) Condition of the animal(s) (including carcass condition if the animal is dead);

(4) Observed behaviors of the animal(s), if alive;

(5) If available, photographs or video footage of the animal(s); and

(6) General circumstances under which the animal was discovered.

§ 217.246 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the USACE must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, the USACE may apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, the USACE must apply for and obtain a modification of the LOA as described in § 217.247.

(e) The LOA must set forth the following information:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA must be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of an LOA must be published in the **Federal Register** within 30 days of a determination.

§ 217.247 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under § 216.106 of this chapter and § 217.246 for the activity identified in § 217.240(a) may be renewed or modified upon request by the applicant, provided that:

(1) The specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations; and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§ 216.106 of this chapter and 217.246 for the activity identified in § 217.240 (a) may be modified by NMFS under the following circumstances:

(1) NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with USACE regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations;

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from USACE's monitoring from previous years;

(B) Results from other marine mammal and/or sound research or studies; and

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs; and

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS must publish a notice of proposed LOA in the **Federal Register** and solicit public comment; and

(2) If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in a LOA issued pursuant to § 216.106 of this chapter and § 217.246, a LOA may be modified without prior notice or opportunity for public comment. Notification would be published in the **Federal Register** within 30 days of the action.

§§ 217.248–217.249 [Reserved]

[FR Doc. 2026–17391 Filed 8–25–26; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 91, No. 164
Wednesday, August 26, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2026–2806]

RIN 3150–AL72

List of Approved Spent Fuel Storage Casks: TN Americas, LLC Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel, Certificate of Compliance No. 1004, Renewed Amendment No. 19

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel regulations by revising the TN Americas, LLC Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel listing within the ''List of approved spent fuel storage casks'' to include Renewed Amendment No. 19 to Certificate of Compliance (CoC) No. 1004. The NRC is referring to this amendment as ''Renewed Amendment No. 19'' because it was submitted after the renewal of the TN Americas, LLC Standardized NUHOMS Horizontal Modular Storage System for Irradiated Nuclear Fuel Certificate of Compliance No. 1004 and, therefore, subject to the Aging Management Program requirements of the renewed certificate. Renewed Amendment No. 19 would amend the certificate of compliance to provide for a 61BTH improved basket design using staggered plates similar the 24PTH Type 3 basket approved in CoC 1004 Amendment 18 and similar to the EOS 37PTH and 89BTH baskets approved in CoC 1042. This would simplify construction, reduce weight and improve fabricability. Additional changes are proposed to address editorial corrections, consistency, and terminology clarifications.

DATES: Submit comments by September 25, 2026. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration of only comments received on or before this date.

ADDRESSES: Submit your comments, identified by Docket ID NRC–2026–2806, at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments are public records; they are publicly displayed exactly as received, and will not be deleted, modified, or redacted. Comments may be submitted anonymously.

Follow the search instructions on *https://www.regulations.gov* to view public comments.

You can read a plain language description of this at *https://www.regulations.gov/docket/NRC-2026-2806.* 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: Heath Stroud, Office of Nuclear Material Safety and Safeguards, telephone: 301–287–3664, email: *Heath.Stroud@nrc.gov;* and Tim Mossman, Office of Nuclear Material Safety and Safeguards, telephone: 301–287–9100, email: *Timothy.Mossman@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

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I. Obtaining Information and Submitting Comments
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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–2806, 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–2026–2806. Address questions about NRC dockets to Helen Chang, telephone: 301–415–3228, email: *Helen.Chang@nrc.gov.* For technical questions contact the individuals 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 Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 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:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. 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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2026–2806, in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include

identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

Because the NRC considers this action to be non-controversial, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. The direct final rule will become effective on November 9, 2026. However, if the NRC receives any significant adverse comment by September 25, 2026, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments in a subsequent final rule. In general, absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule, certificate of compliance, or technical specifications.

For a more detailed discussion of the proposed rule changes and associated analyses, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that ''[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the Nuclear Waste Policy Act states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule that added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on December 22, 1994 (59 FR 65898) that approved the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1004.

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

V. Regulatory Planning and Review

Executive Order (E.O.) 12866

Executive Order (E.O.) 12866, as amended by E.O. 14215, provides that the Office of Information and Regulatory Affairs (OIRA) will determine whether a regulatory action is significant as defined by E.O. 12866 and will review significant regulatory actions. OIRA determined that this proposed rule is not a significant regulatory action under E.O. 12866.

Review Under E.O.s 14154, 14192, 14215, and 14300

NRC has examined this proposed rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154, ''Unleashing American Energy,'' E.O. 14192, ''Unleashing Prosperity Through Deregulation,'' E.O. 14215 ''Ensuring Accountability for All Agencies,'' and E.O. 14300, ''Ordering the Reform of the Nuclear Regulatory Commission.'' This proposed rule is not considered an E.O. 14192 deregulatory action.

VI. Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

Document	ADAMS Accession No./ web link/ **Federal Register** citation
Proposed NUHOMS 1004 Amendment No. 19 Certificate of Compliance	ML26103A253.
Proposed NUHOMS 1004 Amendment No. 19 Technical Specification Appendix A	ML26103A254.
Proposed NUHOMS 1004 Amendment No. 19 Technical Specification Appendix B Table of Contents	ML26103A255.
Proposed NUHOMS 1004 Amendment No. 19 Technical Specification Appendix B Text	ML26103A256.
Proposed NUHOMS 1004 Amendment No. 19 Technical Specification Appendix B Tables	ML26103A257.
Proposed NUHOMS 1004 Amendment No. 19 Technical Specification Appendix B Figures	ML26103A258.
Proposed NUHOMS 1004 Amendment No. 19 Technical Specification Appendix C	ML26103A259.
Proposed NUHOMS 1004 Amendment No. 19 Safety Evaluation Report	ML26103A252.

Document	ADAMS Accession No./ web link/ **Federal Register** citation
Environmental Assessment for Proposed Rule Entitled, ''Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites.'' (1989).	ML051230231.
''Environmental Assessment and Finding of No Significant Impact for the Final Rule Amending 10 CFR Part 72 License and Certificate of Compliance Terms'' (2010).	ML100710441.
Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel: Final Report (NUREG–2157, Volumes 1 and 2) (2014).	ML14198A440 (package).
Application for Amendment 19 to Standardized NUHOMS® Certificate of Compliance No. 1004 for Spent Fuel Storage Casks, Revision 0 (Docket No. 72–1004), November 5, 2024.	ML24310A095.
Response to Request for Supplemental Information—Application for Amendment 19 to Standardized NUHOMS® Certificate of Compliance No. 1004 for Spent Fuel Storage Casks, Revision 1 (Docket No. 72–1004, CAC No. 001028, EPID: L–2024–LLA–0142), February 20, 2025.	ML25051A273.
Response to Request for Additional Information—Application for Amendment 19 to Standardized NUHOMS® Certificate of Compliance No. 1004 for Spent Fuel Storage Casks, Revision 3 (Docket No. 72–1004, CAC No. 001028, EPID: L–2024–LLA–0142), August 26, 2025.	ML25238A033.
Plain Language in Government Writing, dated June 10, 1998	63 FR 31885.
Storage of Spent Fuel In NRC-Approved Storage Casks at Power Reactor Sites: Final Rule, dated July 18, 1990	55 FR 29181.
List of Approved Spent Fuel Storage Casks: TN Americas LLC, NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel, Certificate of Compliance No. 1004: Direct Final Rule, dated December 22, 1994.	59 FR 65898.

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2026–2806. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder (NRC–2026–2806); (2) click the ''Subscribe'' link; and (3) enter an email address and click on the ''Subscribe'' link.

Dated: August 14, 2026.

For the Nuclear Regulatory Commission.

Michael King,

Executive Director for Operations.

[FR Doc. 2026–17446 Filed 8–25–26; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 37

RIN 3038–AF79

Swap Execution Facility Order Book Requirement for Permitted Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') proposes to amend its regulations for swap execution facilities (''SEFs'') to remove the requirement for SEFs to offer an order book for swap transactions that are not subject to trade execution requirement under section 2(h)(8) of the Commodity Exchange Act (''CEA'' or ''Act''). These types of swap transactions are referred to in the Commission's regulations as ''permitted transactions.''

DATES: Comments must be received on or before September 25, 2026.

ADDRESSES: You may submit comments, specifically referencing ''Swap Execution Facility Order Book Requirement for Permitted Transactions'' and RIN 3038–AF79, by any of the following methods:

- *Regulations.gov:* Go to *https://www.regulations.gov* and press the ''Search'' button, then proceed as follows:
  1. Under Refine Documents Results—check the box to ''Only show documents open for comment'';
  2. Under Agency—select ''See More'' and check the box for ''Commodity Futures Trading Commission,'' then press the Apply button;
  3. Identify this proposal in the list of CFTC documents open for comment, press the ''Comment'' button to open the submission form, and follow the instructions on the form.

  Alternatively, if you are viewing this proposal on *www.federalregister.gov,* click the ''Submit A Public Comment'' button at the top of the page to open the comment form. Follow the instructions on the form to submit your comment to *Regulations.gov.*
- *Mail:* Send to—Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Address to—CFTC Comment Submission, Attn: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

Please submit your comments using only one of these methods. To avoid possible delays with mail or in-person deliveries, submissions through *Regulations.gov* are encouraged.

All comments must be submitted in English or, if not, accompanied by an English translation. Do not include in your comment text or attachments any personal identifying information or business information that you do not want published online. Comments (regardless of submission method) will be published without review for, and without removal of, any personal identifying information or information your business may consider confidential.

If you wish to submit confidential information for the Commission's consideration, please contact the CFTC personnel listed in this Notice under **FOR FURTHER INFORMATION CONTACT** before making any submission. Please also carefully review the Commission's procedures in 17 CFR 145.9 for requesting confidential treatment under the Freedom of Information Act (''FOIA'') of information submitted to the Commission.

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, or redact all or any part of your comment submission. The CFTC also reserves the right, without further notification, to refuse to publish or to remove from public view all or any part of your submission to the extent it contains content inappropriate for publication in a comment file, such as—without limitation—obscene language, threats of violence, solicitations for commercial sales or illegal activity, or obvious spam. If a submission that is refused for or withdrawn from publication because of inappropriate

content also contains comments on the merits of this proposal, such submission will be retained in the record for the matter and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

Pursuant to the Administrative Procedure Act at 5 U.S.C. 553(b)(4), a plain language summary of the proposed rule is available at *regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Roger Smith, (202) 418–5344, *rsmith@cftc.gov,* Division of Market Oversight, Commodity Futures Trading Commission, 77 West Jackson Blvd., Suite 800, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION:

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I. Background

A. Part 37 of the Commission's Regulations

The Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') amended the CEA by adding section 5h, which establishes registration requirements and core principles for SEFs.[1] The Commission implemented CEA section 5h by adopting part 37 of its regulations,[2] which sets forth registration and operational requirements for SEFs, including various trading requirements for swaps transacted on SEFs.[3] Among the requirements set forth in part 37 are those specifying minimum trading functionality that a SEF must offer to participants for all listed swaps;[4] those specifying the methods of execution that a SEF must offer for swaps trading, including for the trading of swaps that are subject to the trade execution requirement under CEA section 2(h)(8);[5] and those implementing the statutory core principles with which a SEF must comply in order to obtain and maintain registration with the Commission. The Commission adopted this framework in part to achieve the SEF statutory goals in CEA section 5h(e) of promoting trading on SEFs and promoting pre-trade transparency in the swaps market.[6]

Commission regulation 37.3(a)(2) prescribes the minimum trading functionality that a SEF must provide for all listed swaps, stating that a SEF ''shall, at a minimum, offer an Order Book'' as defined in § 37.3(a)(3) (''Order Book Requirement'' or ''Minimum Trading Functionality''). Commission regulation 37.9(a)(1) defines a ''Required Transaction'' as a transaction involving a swap that is subject to the trade execution requirement, and provides that a SEF must offer, for the execution of a Required Transaction, either (i) an Order Book, or (ii) a request-for-quote system that sends a request-for-quote to no less than three unaffiliated market participants and operates in conjunction with an Order Book for the execution of such transactions (''RFQ System'').[7] The Commission's part 37 regulations also specify additional requirements that correspond to the offering by a SEF of an Order Book or RFQ System for the execution of Required Transactions.[8]

Commission regulation 37.9(c)(1) defines a ''Permitted Transaction'' as a transaction that does not involve a swap that is subject to the trade execution requirement. A SEF may offer any execution method for a Permitted Transaction, and market participants may voluntarily, but are not required to, trade Permitted Transactions on a SEF.[9] As noted above, however, all SEFs currently must satisfy the Order Book Requirement in § 37.3(a)(2) by offering an Order Book, both with respect to Required Transactions and Permitted Transactions.

B. Summary of Proposed Amendments to § 37.3(a)(2)

After several years observing the offering and operating by SEFs of Order Books for Permitted Transactions, and taking into consideration the experience and insights of SEF operators,[10] it is the Commission's preliminary view, as discussed in more detail below, that the Order Book Requirement for Permitted Transactions does not serve to improve transparency or lead to more liquidity in the swaps market on SEFs, which are the CEA statutory goals for SEFs.[11] Further, it is the Commission's preliminary view that the Order Book Requirement for Permitted Transactions places a heavy financial burden on the continual operations of SEFs, which in turn may divert SEF resources away from other efforts that could achieve transparency and liquidity objectives more effectively.[12]

To provide the opportunity for the Commission to reconsider the usefulness and effectiveness of the Order Book Requirement for Permitted Transactions, in 2025, staff of the Commission's Division of Market Oversight issued CFTC No-Action Letter No. 25–24 (''NAL No. 25–24''),[13] which

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[1] 7 U.S.C. 7b–3.

[2] Core Principles and Other Requirements for Swap Execution Facilities, 78 FR 33476 (June 4, 2013) (hereinafter ''SEF Core Principles Final Rule'').

[3] The Dodd-Frank Act also added to the CEA certain provisions related to the trading of swaps on designated contract markets (''DCMs''). Given the statutory requirements under DCM Core Principle 9 for DCMs to provide a competitive, open, and efficient market and mechanism for executing transactions that protects the price discovery process of trading in the centralized market of the DCM, the Commission is not proposing any changes to regulatory framework for DCMs. *See* 7 U.S.C. 7(d)(9).

[4] 17 CFR 37.3(a)(2).

[5] CEA section 2(h)(8) requires that transactions involving swaps subject to the CEA section 2(h)(1) clearing requirement be executed on or pursuant to the rules of a DCM or SEF, or a SEF that is exempt from registration, unless no DCM or SEF makes such swaps available to trade (''MAT'') or such swaps qualify for the clearing exception under CEA section 2(h)(7) (the ''trade execution requirement'').

[6] 7 U.S.C. 7b–3(e).

[7] 17 CFR 37.9(a). With the exception of block trades, as defined under § 43.2, Required Transactions must be executed on a SEF's Order Book or RFQ System. 17 CFR 37.9(a)(2)(i).

[8] For example, under § 37.9(b), the Commission implemented a fifteen-second time-delay requirement for Required Transactions that are pre-arranged or pre-negotiated by a broker and submitted as cross trades for execution through the SEF's Order Book. This requirement allows a broker or dealer to execute a Required Transaction by trading against a customer's order, or executing two customers' orders against each other, through pre-negotiation or pre-arrangement, provided that one side of the transaction is exposed to the Order Book for fifteen seconds before the other side of the transaction is submitted for execution.

[9] 17 CFR 37.9(c).

[10] *See* LSEG FX SEF, operated by Refinitiv US SEF LLC (''LSEG SEF''), Request for Relief from Minimum Trading Functionality for Swap Execution Facilities (June 30, 2025) (''LSEG SEF Request Letter''). *See also* Bloomberg SEF LLC (''BSEF''), Order Book and Annual Compliance Report Data Structuring for Security-Based Swap Execution Facilities (Feb. 25, 2026) (''BSEF Request Letter''). While the BSEF Request Letter requested a no-action position from staff of the Securities and Exchange Commission (''SEC'') for BSEF's security-based swap execution facility (''SBEF'') operations, throughout the letter BSEF invokes its experience and insights operating a Commission-registered SEF to bolster its request and provide necessary context.

[11] *See* 7 U.S.C. 7b–3(e)

[12] *Id.*

[13] CFTC Letter No. 25–24, No-Action Position with Respect to the Swap Execution Facility Minimum Trading Functionality under Commission Regulation 37.3(a)(2) (July 30, 2025) (''NAL No. 25–

Continued

provided a no-action position from such requirement.[14] The Commission now seeks public comment on a proposal to codify the staff no-action position. More specifically, the Commission is proposing to amend § 37.3(a)(2) to allow SEFs not to offer an Order Book for Permitted Transactions, while maintaining the requirement for SEFs to offer an Order Book for Required Transactions.[15]

C. Consultation With Other U.S. Financial Regulators

In developing these proposed rules, the Commission has consulted with the SEC, pursuant to section 712(a)(1) of the Dodd-Frank Act.[16]

II. The Proposed Regulations

A. Swap Execution Facility Order Books for Permitted Transactions

1. Background

In § 37.3(a)(2), the Commission designated an Order Book as the ''minimum trading functionality'' each SEF must maintain and offer for each swap that it lists for trading. An Order Book is defined under § 37.3(a)(3) as (i) an electronic trading facility; [17] (ii) a trading facility; [18] or (iii) ''[a] trading system or platform in which all market participants in the trading system or platform have the ability to enter multiple bids and offers, observe or receive bids and offers entered by other market participants, and transact on such bids and offers.'' [19]

In the SEF Core Principles Final Rule, the Commission stated its anticipation that an Order Book would typically work well for liquid Required Transactions, *i.e.,* transactions involving swaps that are subject to the trade execution requirement.[20] However, the Commission also acknowledged that the Order Book functionality does not have the requisite flexibility to serve as the ideal method of execution for a variety of swaps, in particular, those swaps that may feature lower levels of liquidity.[21] The Commission nevertheless believed that an Order Book could establish a base level of pre-trade price transparency to all market participants and, thus, required that each SEF offer an Order Book for all swaps that it lists for trading, including both swaps subject to the trade execution requirement and swaps not subject to the trade execution requirement.[22]

The Commission has observed that Order Books for Permitted Transactions, unlike Order Books for Required Transactions, have been rarely used by market participants for swaps trading on SEFs despite their availability for all swaps listed by SEFs for trading. Depending on the product involved, for example, order book trading typically ranges between ''less than [one percent] to less than [three percent] of total CDS transactions'' on SEFs, while order book trading constitutes between ''less than [one percent] to approximately [twenty percent] of total IRS transactions . . . .'' [23] In the 2026 BSEF Request Letter, BSEF stated in its experience that ''since 2015, over 96% of Order Book trading has been in [Required Transactions], and less than 4% of Order Book trades have been in [Permitted Transactions]''.[24] Further to this point, LSEG SEF, which trades only Permitted Transactions, stated in its 2025 no-action letter request that ''during the entire time that LSEG SEF's Order Book has been operational (*i.e.,* prior to obtaining temporary registration status in 2013), not a single trade has been executed on, nor any orders submitted to, LSEG SEF's Order Book.'' [25] The Commission preliminarily believes that this low level of swaps trading activity on Order Books for Permitted Transactions over more than a decade is likely attributable to an Order Book's inability to support the broad and diverse range of Permitted Transactions that trade episodically, rather than on a continuous basis.[26]

The Commission understands that mandating that a SEF provide an Order Book for Permitted Transactions has imposed significant operational and

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24''). Shortly after the issuance of NAL No. 25–24, SEC staff provided an identical no-action position for SBSEFs. *See* SEC staff, Order Book and Annual Compliance Report Data Structuring for Security-Based Swap Execution Facilities (Feb. 27, 2026).

[14] As defined in § 140.99(a)(2) of the Commission's regulations, a no-action letter is a written statement issued by a Commission Division stating that the Division will not recommend enforcement action to the Commission for failure to comply with a specific provision of the Act or a Commission rule, regulation, or order. A no-action letter represents only the issuing Division's position and binds only that Division. It does not bind the Commission. 17 CFR 140.99(a)(2).

[15] In 2018, the Commission issued a comprehensive proposal to amend the SEF regulatory framework. *See* Swap Execution Facilities and Trade Execution Requirement, 83 FR 61946 (Nov. 30, 2018) (''2018 SEF Proposal''). Among other things, the 2018 SEF Proposal proposed eliminating the Order Book Requirement as part of a more holistic approach to amending the SEF regulatory framework.

In 2021, the Commission adopted two final rulemakings related to the 2018 SEF Proposal. *See* Exemptions From Swap Trade Execution Requirement, 86 FR 8993 (Feb. 11, 2021) and Swap Execution Facilities, 86 FR 9224, (Feb. 11, 2021). Following the adoption of these two final rulemakings, the Commission voted to withdraw the unadopted portions of the 2018 SEF Proposal, including the proposed elimination of the Order Book Requirement. *See* Swap Execution Facilities and Trade Execution Requirement, 86 FR 9304 (Feb. 12, 2021).

While the proposal and rationales contained herein with respect to the Order Book Requirement are, in some cases, identical or similar to the proposal and rationales included in the 2018 SEF Proposal, the Commission believes the context surrounding the two proposals distinguishes them in terms of application and scope. Further, while the Commission received public comments on the 2018 SEF Proposal, given the withdrawal of the unadopted portions of the 2018 SEF Proposal and the Commission's belief that it is important for public comments to be provided and considered in light of the facts and circumstances of the proposal at hand, the Commission believes that any comments made on the 2018 SEF Proposal that are relevant to this rule proposal should be resubmitted as comments to this rule proposal in order to be considered.

[16] Dodd-Frank Act, Public Law 111–203, tit. VII, § 712(a)(1), 124 Stat. 1376 (2010).

[17] CEA section 1a(16) defines ''electronic trading facility'' as a trading facility that (i) operates by means of an electronic or telecommunications network; and (ii) maintains an automated audit trail of bids, offers, and the matching of orders or the execution of transactions on the facility. 7 U.S.C. 1a(16).

[18] CEA section 1a(51) defines ''trading facility'' as ''a person or group of persons that constitutes, maintains, or provides a physical or electronic facility or system in which multiple participants have the ability to execute or trade agreements, contracts, or transactions (i) by accepting bids or offers made by other participants that are open to multiple participants in the facility or system; or (ii) through the interaction of multiple bids or multiple offers within a system with a pre-determined non-discretionary automated trade matching and execution algorithm.'' 7 U.S.C. 1a(51)(A).

[19] 17 CFR 37.3(a)(3).

[20] SEF Core Principles Final Rule at 33564–65.

[21] *Id.* To this end, the Commission acknowledged that for less liquid Required Transactions, however, it anticipated that RFQ systems would help facilitate trading. *Id.*

[22] SEF Core Principles Final Rule at 33564.

[23] J. Christopher Giancarlo and Bruce Tuckman, Swaps Regulation Version 2.0: An Assessment of the Current Implementation of Reform and Proposals for Next Steps 49–50 (Apr. 26, 2018), *available at https://www.cftc.gov/sites/.../oce_chairman_swapregversion2whitepaper_042618.pdf.* (''Giancarlo White Paper'').

[24] BSEF Request Letter at 5.

[25] LSEG SEF Request Letter at 2–3.

[26] In their study of the index CDS market, Pierre Collin-Dufresne, Benjamin Junge, and Anders B. Trolle state that ''[p]roponents of bringing all market participants onto one limit order book typically argue that it would (i) increase quote competition among dealers and (ii) allow clients to occasionally supply liquidity via limit orders thereby lowering overall transaction costs (although at the cost of execution risk). However, a limit order book arguably works best when trading is continuous and it is not necessarily optimal when trading is more episodic as is the case for index CDSs. For instance, Barclay, Hendershott, and Kotz (2006) document a precipitous drop in electronic trading (via limit order books) when Treasuries go off-the-run and trading volumes decline.'' Pierre Collin-Dufresne, Benjamin Junge, & Anders B. Trolle, *Market Structure and Transaction Costs of Index CDSs* 6 n.10 (Swiss Fin. Inst. Res. Paper No. 18–40, 2017) (''2017 Collin-Dufresne Research Paper''), citing Michael J. Barclay, Terrence Hendershott, & Kenneth Kotz, *Automation Versus Intermediation: Evidence from Treasuries Going Off the Run,* 61 J. Fin. 2395, 2395–2414 (2006).

financial costs and burdens, particularly from a technological standpoint, with little benefit to most market participants who choose not to utilize them.[27] For example, LSEG SEF, in its 2025 request for a no-action letter, explained that establishing and maintaining an Order Book incurs substantial financial and staffing costs.[28] LSEG SEF emphasized that it invests significant resources annually to keep its Order Book operational and must periodically upgrade its systems and hardware, which adds further expenses.[29] As such, LSEG SEF argued that the requirement to maintain a rarely used Order Book forces participants to pay for systems they seldom use and hinders SEFs from developing new offerings that could increase new participants and trading activity.[30]

2. Proposed Amendment of § 37.3(a)(2)

Therefore, based in part on its experience, the Commission proposes to amend § 37.3(a)(2) to allow SEFs not to offer an Order Book for Permitted Transactions. However, this proposal would not alter the Order Book Requirement as applicable to Required Transactions. The Commission believes that eliminating the Order Book Requirement for Permitted Transactions would help reduce operating costs for SEFs as they would no longer be required to operate and maintain order book systems that may be poorly suited for trading in less liquid swaps, such as Permitted Transactions, and therefore, do not attract significant pools of liquidity. The Commission acknowledges that some Permitted Transactions may have adequate liquidity to be listed on an Order Book; however, the Commission believes that as a category of swaps, the number of Permitted Transactions that may meet this criterion does not justify a requirement to build out, operate, and maintain an Order Book for all Permitted Transactions. The Commission believes that instead of employing resources to build and support a dormant trading system or platform, the proposed elimination of the Order Book Requirement for Permitted Transactions provides a SEF with the flexibility to determine how to allocate its resources, particularly as it relates to developing methods of execution that are better suited to trading the products that it lists.[31] The Commission preliminarily believes that the Order Book Requirement has not achieved the CEA section 5h(e) statutory goal of promoting more liquidity in the swaps market on SEFs. To this end, the Commission preliminary believes that other execution methods may be better suited to maximizing participation and concentrating liquidity formation on SEFs for Permitted Transactions.[32] Therefore, the Commission preliminary believes that removing this requirement may help spur further development and innovation in execution methods and bring in more market participants, as this barrier to entry is removed, spurring competition.[33] The Commission also preliminarily believes that eliminating this requirement may encourage SEFs to list new and different types of swaps, given that they would no longer have to incur the costs of operating and supporting Order Books for Permitted Transactions. The Commission notes, however, that a SEF would be free to continue to offer an order book, if it chooses.

The Commission adopted the Order Book Requirement based in part on the statutory goal of promoting pre-trade price transparency,[34] but the Commission acknowledges that the CEA does not explicitly prescribe the Order Book as a SEF minimum trading functionality. In addition, as noted above, Order Books for Permitted Transactions are seldom utilized. Therefore, although they were implemented in part to promote pre-trade price transparency, the Commission preliminarily believes that the Order Book Requirement for Permitted Transactions does not achieve the statutory goal of promoting pre-trade transparency for Permitted Transactions due to their limited usage.

Accordingly, with the proposed elimination of this requirement for Permitted Transactions under § 37.3(a)(2), SEFs would be free to offer any method of execution under § 37.9(c)(2).[35]

Request for Comment

The Commission requests comment on all aspects of the proposed amendments to § 37.3(a)(2). The Commission also invites comments specifically on the following:

(1) Are the proposed amendments to § 37.3(a)(2) appropriate?

(2) Should the Commission still require SEFs to offer an Order Book for all Permitted Transactions, as defined in § 37.9(c)(1) or should the Commission use another method, such as trading volume in a certain swap, to require the use of an Order Book for some Permitted Transactions?

(3) Should the Commission eliminate the requirement for SEFs to offer an Order Book for Required Transactions, as defined in § 37.9(a)(1)?

(4) Are the Commission's preliminary views regarding the usage of Order Books for Permitted Transactions accurate? Do the Commission's assumptions based on the data provided still stand?

III. Effective Date and Transition Period

The Commission proposes that the effective date for the proposed regulations be 30 days after publication of final regulations in the **Federal Register**. The Commission preliminarily believes that such an effective date would allow SEFs and market participants sufficient time to adapt to the amended rules in an efficient and orderly manner.

[27] The Commission understands that these costs include regularly occurring software updates to electronic order book systems and other ongoing technology-related maintenance.

[28] LSEG SEF Request Letter at 3. Similarly, BSEF noted that ''[b]uilding and maintaining an Order Book imposes significant initial and ongoing costs—engineering, infrastructure, market-surveillance integration, and periodic upgrades . . . .'' BSEF Request Letter at 6.

[29] *Id.*

[30] *Id.* Similarly, BSEF argues that the resources used to operate and maintain an Order Book ''could otherwise be directed to protocols SBSEF participants actually use and to innovations that promote transparency and enhanced execution quality.'' BSEF Request Letter at 6. While BSEF's statement is related to SBSEF participants and its operation of an SBSEF, the Commission believes the statement is equally applicable to SEF participants and the operation of a SEF, which BSEF is also.

[31] *See* LSEG Request Letter at 3–4 stating that offering and maintaining an Order Book for Permitted Transactions ''restricts SEFs' ability to develop new offerings that would attract additional participants and actually encourage more trading on SEFs . . . imposes significant costs on SEFs that divert time and resources away from efforts that could be much more effective at accomplishing [greater transparency and increased liquidity].'' *See also* BSEF Request Letter at 5–6 stating ''[g]iven the costs associated with the operation and maintenance of an Order Book, and the lack of any meaningful benefit to the SBS market, we believe the Order Book requirement for Permitted Transactions should be removed. SBSEF resources could be better deployed elsewhere to provide services that are more useful, innovative, and responsive to customer needs . . . . These resources could otherwise be directed to protocols SBSEF participants actually use and to innovations that promote transparency and enhanced execution quality.''

[32] *See* BSEF Request Letter at 4 referring to statistics regarding the low level of Order Book trading on SEFs, ''[w]hile this statistic pertains to the CFTC-regulated market, it illustrates the broader reality that over-the-counter derivatives liquidity generally coalesces around request-for-quote and voice-intermediated workflows and not Order Books.''

[33] *See supra* note 29.

[34] 7 U.S.C.7b–3(e).

[35] For avoidance of doubt, the Commission emphasizes that this proposal does not change the SEF registration requirements under CEA section 1a(50) and Commission Regulations 37.3(a)(1).

Request for Comment

The Commission requests comment on whether the proposed effective date is appropriate and, if not, the Commission further requests comment on possible alternative effective dates and the basis for any such alternative dates.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') [36] requires Federal agencies, in promulgating regulations, to consider the impact of those regulations on small businesses. The regulations adopted herein will affect SEFs and their market participants. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its regulations on small entities in accordance with the RFA.[37] The Commission previously concluded that SEFs are not small entities for the purpose of the RFA.[38] The Commission has also previously stated its belief in the context of relevant rulemakings that SEFs' market participants, which are all required to be eligible contract participants (''ECPs'') [39] as defined in section 1a(18) of the CEA,[40] are not small entities for purposes of the RFA.[41] Therefore, the Chairman, on behalf of the Commission, hereby preliminarily certifies, pursuant to 5 U.S.C. 605(b), that the regulations will not have a significant economic impact on a substantial number of small entities. The Commission invites the public to comment on whether SEFs and SEF market participants covered by these proposed rules should be considered small entities for the purpose of the RFA.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* (''PRA'') imposes certain requirements on Federal agencies (including the Commission) in connection with conducting or sponsoring any ''collection of information,'' [42] as defined by the PRA. Among its purposes, the PRA is intended to minimize the paperwork burden to the private sector, to ensure that any collection of information by a government agency is put to the greatest possible uses, and to minimize duplicative information collections across the government.[43]

The PRA applies to all information, ''regardless of form or format,'' whenever the government is ''obtaining, causing to be obtained, [or] soliciting'' information, and includes required ''disclosure to third parties or the public, of facts or opinions,'' when the information collection calls for ''answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons.'' [44] The PRA requirements have been determined to include not only mandatory, but also voluntary information collections, and include both written and oral communications.[45] The Commission may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (''OMB'') control number.

This proposed rulemaking affects regulations that contain collections of information for which the Commission has previously received control numbers from OMB. The titles for these collections of information are ''Core Principles and Other Requirements for Swap Execution Facilities, OMB control number 3038–0074.'' This proposed rulemaking would not, however, alter or revise any existing information collections or impose any new information collection requirements from any persons or entities that require approval of OMB under the PRA. Accordingly, it will create no new paperwork burdens or modifications to existing burdens that are subject to review by the Office of Management and Budget under the PRA.

C. Cost-Benefit Considerations

Section 15(a) of the CEA [46] requires the Commission to ''consider the costs and benefits'' of its actions before promulgating a regulation under the CEA or issuing certain orders. Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) factors.

1. Background

The Commission is proposing to amend § 37.3(a)(2) to limit its requirement of offering an Order Book to only Required Transactions.

The baseline against which the Commission considers the costs and benefits of these proposed rules is the statutory and regulatory requirements of the CEA and Commission regulations now in effect, in particular § 37.3(a)(2) of the Commission's regulations. The Commission, however, notes that as a practical matter SEFs and market participants have adopted some current practices based upon the no-action letter provided by Commission staff.[47] As such, to the extent that SEFs have relied on the relevant staff no-action letter, the actual costs and benefits discussed below of the proposed rules may not be fully realized.

To the extent possible, the Commission has endeavored to quantify the costs and benefits of this proposal; However, in some instances, it is not reasonably feasible to quantify the costs and benefits to SEFs and certain market participants with respect to, for example, market integrity. Notwithstanding these types of limitations, however, the Commission otherwise identifies and considers the costs and benefits of these rules in qualitative terms.

In the following consideration of costs and benefits, the Commission first identifies and discusses the benefits and costs attributable to the proposed rule amendments. The Commission, where applicable, then considers the costs and benefits of the proposed rules in light of the five public interest considerations set out in § 15(a) of the CEA.

The Commission notes that this consideration of costs and benefits is based on the understanding that the swaps market functions internationally, with many transactions involving U.S. firms taking place across international boundaries, with some Commission registrants being organized outside of the United States, with leading industry members typically conducting operations both within and outside the

[36] 5 U.S.C. 601 *et seq.*

[37] 47 FR at 18618–21 (Apr. 30, 1982).

[38] SEF Core Principles Final Rule, 78 FR 33476, 33548 (June 4, 2013) (citing 47 FR 18618, 18621 (Apr. 30, 1982) (discussing DCMs); 66 FR 42256, 42268 (Aug. 10, 2001) (discussing DTFs, ECMs, and EBOTs); and 66 FR 45604, 45609 (Aug. 29, 2001) (discussing registered DCOs)).

[39] 17 CFR 37.703.

[40] 7 U.S.C. 1(a)(18).

[41] 66 FR 20740, 20743 (Apr. 25, 2001) (stating that ECPs by the nature of their definition in the CEA should not be considered small entities).

[42] *See* 44 U.S.C. 3502(3)(A).

[43] *See* 44 U.S.C. 3501.

[44] *See* 44 U.S.C. 3502(3).

[45] *See* 5 CFR 1320.3(c)(1).

[46] 7 U.S.C. 19(a).

[47] In its discussion of alternatives, the Commission believes it is also relevant to consider the costs and benefits of the proposed regulations in comparison to circumstances in which such no-action letter is no longer available.

United States, and with industry members commonly following substantially similar business practices wherever located. Where the Commission does not specifically refer to matters of location, the below discussion of costs and benefits refers to the effects of the proposed rules on all swaps activity subject to the proposed and amended regulations, whether by virtue of the activity's physical location in the United States or by virtue of the activity's connection with or effect on U.S. commerce under CEA section 2(i).[48]

2. Permitted Transaction Order Books

The Commission is proposing to amend § 37.3(a)(2) to eliminate the requirement that SEFs offer an Order Book for Permitted Transactions, while maintaining the requirement to offer an Order Book for Required Transactions.

a. Benefits

The Commission preliminarily believes that not requiring SEFs to offer an Order Book for Permitted Transactions would benefit SEFs by helping them reduce operating costs, as they would no longer be required to operate and maintain an Order Book for trading Permitted Transactions. In addition, for those SEFs that may enter the market, these savings would extend to the development and design of an Order Book, as it is no longer required, if they did not list Required Transactions on their SEF. The Commission notes that these benefits are currently available to market participants through the existing no-action letter.

Further, as discussed above, the Commission preliminarily believes that by eliminating the Order Book requirement for Permitted Transactions, SEFs will be able to more effectively employ their resources, and no longer face the prospect of being required to provide Order Books that will not be utilized.

The Commission preliminarily believes that eliminating the Order Book Requirement for Permitted Transactions would provide several other benefits. Based on its experience, the Commission has observed that market participants have generally not used Order Books for swaps trading on SEFs despite their availability for all Permitted Transactions.[49] The Commission recognizes that market participants view Order Books as unsuitable for trading in a large segment of the swaps market and believes that eliminating this requirement would reduce costs by enabling SEFs to discontinue their use as a method of execution or limit their availability, based on their own discretion, to Permitted Transactions that are liquid enough to support such trading. Moreover, new SEFs would be able to register without setting up an Order Book for Permitted Transactions, which should significantly reduce the cost of establishing a SEF, especially for SEFs that plan to offer only Permitted Transactions. In removing this barrier of entry, the Commission believes that it may result in a more competitive marketplace, as more SEFs vie for trading activity.

Accordingly, the Commission preliminarily believes that the proposed elimination of the one size fits all Order Book Requirement for Permitted Transactions would free up resources that could enable SEFs to innovate and develop new and different methods of execution tailored to their markets, which may be more efficient, transparent, and cost-effective means for participants to trade Permitted Transactions. Such methods could be more efficient for a broader range of swaps and various market liquidity conditions, which may allow SEFs to effectively promote appropriate counterparty and swap-specific levels of pre-trade price transparency. This potential innovation of efficient, transparent, and cost-effective means of trading Permitted Transactions would facilitate natural market evolution by SEFs, which may ultimately lower transaction costs and increase trading efficiency.[50]

As the Commission is not prohibiting the use of an Order Book for Permitted Transactions, the Commission anticipates that SEFs that already are listing Permitted Transactions on their Order Book, will continue to offer them for some or all of these Permitted Transactions if they believe they are appropriate, such that customers who wish to transact Permitted Transactions on Order Books would continue to be able to do so. The Commission also notes that swap transactions on SEFs will continue to be subject to the part 43 real-time reporting requirements, so market participants would continue to benefit from the post-trade transparency associated with access to information about the most recent transaction price.

b. Costs

As noted above, not requiring SEFs to offer an Order Book for Permitted Transactions should enable SEFs to reduce operating costs. Since any existing Order Books for Permitted Transactions are not actively used, the Commission preliminarily believes that removing the Order Book Requirement (and not requiring SEFs to create such Order Books) should not impose significant costs on market participants.

The Commission notes that some market participants may not perceive a significant cost from the lack of availability of an Order Book for Permitted Transactions because the Order Books for Permitted Transactions on many SEFs exhibit little or no trading activity and contain few or no bids and offers, despite SEFs maintaining them over the past decade. The original intent of the Order Book Requirement was to provide market participants price transparency; however, since market participants are not currently using the available Order Books for Permitted Transactions, the Commission preliminarily believes that the cost related to removing the requirement would be de minimis.[51] As

[48] Section 2(i)(1) applies the swaps provisions of both the Dodd-Frank Act and Commission regulations promulgated under those provisions to activities outside the United States that ''have a direct and significant connection with activities in, or effect on, commerce of the United States[.]'' 7 U.S.C. 2(i). Section 2(i)(2) makes them applicable to activities outside the United States that contravene Commission rules promulgated to prevent evasion of Dodd-Frank.

[49] A research study by Lynn Riggs, Esen Onur, David Reiffen, and Haoxiang Zhu finds that for index CDS, a minimal amount of trading activity on the two highest-volume SEFs occurs via an order book. Lynn Riggs, Esen Onur, David Reiffen & Haoxian Zhu, Mechanism Selection and Trade Formation on Swap Execution Facilities: Evidence from Index CDS 10 (2017),*available at https://www.cftc.gov/idc/groups/public/@economicanalysis/documents/file/oce_mechanism_selection.pdf* (''2017 Riggs Study''). Similarly, in the BSEF Request Letter, BSEF stated in its experience that ''since 2015, over 96% of Order Book trading has been in [Required Transactions], and less than 4% of Order Book trades have been in [Permitted Transactions]''. BSEF Request Letter at 5. Further to this point, LSEG SEF, which trades only Permitted Transactions, stated in its no-action letter request that ''during the entire time that LSEG SEF's Order Book has been operational (*i.e.,* prior to obtaining temporary registration status in 2013), not a single trade has been executed on, nor any orders submitted to, LSEG SEF's Order Book.'' LSEG SEF Request Letter at 2–3

[50] Darrell Duffie and Haoxiang Zhu suggest that work-ups can sometimes be a more efficient means of transacting than a limit order book. *See* Darrell Duffie & Haoxiang Zhu, *Size Discovery,* 30 Rev. Fin. Stud. 1095–1150 (2017).

[51] To the extent that requiring SEFs to offer Order Books for Permitted Transactions facilitates their eventual use, the proposed elimination of the Order Book Requirement under § 37.3 creates a potential decrease in future pre-trade price transparency. If SEFs decide to stop offering Order Books for Permitted Transactions pursuant to this proposal, some swaps markets may not be able to move onto an Order Book even if there is future interest from some market participants. This cost would be mitigated to the extent that SEFs can always reinstate their Order Books for Permitted

Continued

noted above, the Commission anticipates that SEFs that believe Order Books are appropriate for Permitted Transactions would continue to offer them, so in that case, there would be no loss of the perceived benefit of an Order Book for Permitted Transactions.

Further, the Commission notes that to the extent that SEFs respond to the proposed approach by focusing the cost-savings and freed up resources from eliminating Order Books for Permitted Transactions into offering additional flexible execution methods, market participants should benefit by having the opportunity to choose an execution method with a more appropriate level of pre-trade transparency for their transactions and their swap trading needs.

c. Consideration of Alternatives

The relevant no-action position set forth in NAL No. 25–24, upon which the proposal is based, is subject to withdrawal by Commission staff. In addressing alternatives to adopting the proposed amendments to § 37.3(a)(2), the Commission considered the costs and benefits associated with withdrawal of the no-action position in NAL No. 25–24, which would obligate SEFs to satisfy the requirements of existing § 37.3(a)(2). The Commission preliminarily believes that adopting the proposed amendments to § 37.3(a)(2) would help reduce related costs for SEFs with respect to offering Order Books for Permitted Transactions.

Section 15(a) Factors

a. Protection of Market Participants and the Public

Allowing SEFs to eliminate the Order Book for Permitted Transactions should not impact protection of market participants. While protecting market participants also benefits the public, the Commission has not identified any further effect of the proposal on protection of the public.

b. Efficiency, Competitiveness, and Financial Integrity of the Markets

The proposed elimination of the Order Book Requirement would enhance efficiency by enabling SEFs to free up resources that were previously required for operating, maintaining, and updating seldomly used Order Books for Permitted Transactions. Freeing up these resources could enable SEFs to innovate and develop new and different methods of execution tailored to their markets, which may be more efficient, transparent, and cost-effective means for participants to trade Permitted Transactions. Such methods could be more efficient for a broader range of swaps and various market liquidity conditions, which may allow SEFs to effectively promote appropriate counterparty and swap-specific levels of pre-trade price transparency. This potential innovation of efficient, transparent, and cost-effective means of trading Permitted Transactions would facilitate natural market evolution by SEFs, which may ultimately lower transaction costs and increase trading efficiency. In addition, the Commission preliminarily believes that removing this requirement may result in more competition in the SEF space. As noted above, designing and developing an Order Book is a significant barrier of entry into this space, so by removing this barrier, it is possible that more SEFs may enter the market, which may result in a more efficient market for Permitted Transactions. The Commission has not identified any likely effects of the proposed amendments on financial integrity in the swap markets. The Commission preliminarily believes expects that, since there are few, if any, active Order Books for Permitted Transactions, SEFs will not use the proposed amendment to § 37.3(a)(2) to remove active Order Books that are providing competitive markets.

c. Price Discovery

The Commission preliminarily believes that the proposed amendment to § 37.3(a)(2), which would allow SEFs to choose not offer an Order Book for Permitted Transactions, would not materially inhibit price discovery since the Commission anticipates that SEFs would retain Order Books for Permitted Transactions where price discovery is occurring but to that point, the Commission preliminarily believes that currently price discovery is not occurring in Order Books for Permitted Transactions as addressed within this proposal.

d. Sound Risk Management Practices

The Commission has not identified any likely effects of the proposed amendments on sound risk management practices in the swap markets.

e. Other Public Interest Considerations

The Commission is identifying a public interest benefit in codifying the no-action position in NAL 25–24, where the efficacy of that position has been demonstrated. In such a situation, the Commission believes it serves the public interest to engage in notice-and-comment rulemaking, where it seeks and considers the views of the public in amending its regulations, rather than for SEFs to continue to rely on a staff provided no-action position that does not bind the Commission, provides less long-term certainty, and offers a more limited opportunity for public input.

Request for Comment

The Commission invites public comment on all aspects of its cost benefit considerations, including the discussion of the section 15(a) factors. Commenters are requested to provide data and any other information or statistics to support their position. To the extent commenters believe that the costs or benefits of any aspect of the proposed rules are reasonably quantifiable, the Commission requests that they provide data and any other information or statistics to assist the Commission in quantification.

(5) The Commission preliminarily believes that SEFs are relying on the no action position in NAL 25–24 and are not currently offering Order Books for Permitted Transactions. Is the Commission's understanding correct?

(6) If a SEF applicant was required to comply with existing § 37.3(a)(2) and build an Order Book for Permitted Transactions, what costs and expenses would the SEF applicant incur? To the extent possible, please quantify the costs and expenses in U.S. Dollars.

(7) What costs and expenses have SEFs typically incurred in operating, maintaining, and updating an Order Book for Permitted Transactions? To the extent possible, please quantify the costs and expenses in U.S. Dollars.

(8) Is there a viable alternative to a total removal of the requirement of an Order Book for Permitted Transactions? If so, how should the Commission implement it and what costs and benefits would be incurred?

D. Antitrust Considerations

Section 15(b) of the CEA requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of the CEA, in issuing any order or adopting any Commission rule or regulation. The Commission does not anticipate that the proposed amendments to parts 37 would promote or result in anti-competitive consequences or behavior. On the contrary, as described in its analysis of Cost-Benefit Considerations, the Commission anticipates that the proposed amendments will afford SEFs additional flexibility to innovate and develop new methods of execution tailored to their markets, which may be

Transactions in response to customer demand or offer other execution methods that provide similar pre-trade price transparency benefits.

more efficient, transparent, and cost-effective and thereby promote competition. The Commission requests comments on this preliminary analysis and on the potential impact of the proposed amendments on competition.

E. Executive Orders 12866, 13563, and 14192

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select those regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; and distributive impacts). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, or the President's priorities.

The Office of Management and Budget has determined that this action is not a significant regulatory action as defined in Executive Order 12866, as amended, and therefore it was not subject to Executive Order 12866 review.

This Proposal, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

List of Subjects in 17 CFR Part 37

Order Books, Permitted transactions, Swaps, Swap execution facilities, Minimum trading functionality.

For the reasons stated in the preamble, the Commodity Futures Trading Commission proposes to amend part 37 of title 17 of the Code of Federal Regulations as follows:

Revise part 37 to read as follows:

PART 37—SWAP EXECUTION FACILITIES

■ 1. The authority citation for part 37 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 5, 6, 7, 7a–2, 7b–3, and 12a, as amended by Titles VII and VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376.

■ 2. Revise § 37.3(a)(2) to read as follows:

§ 37.3 Requirements and procedures for registration.

(a) * * *

(2) *Minimum trading functionality.* A swap execution facility shall, at a minimum, offer an Order Book as defined in paragraph (a)(3) of this section for Required Transactions as defined in § 37.9(a)(1).

* * * * *

Issued in Washington, DC, on August 24, 2026, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Swap Execution Facility Order Book Requirement for Permitted Transactions—Voting Summary

On this matter, Chairman Selig voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2026–17416 Filed 8–25–26; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–115646–25]

RIN 1545–BR77

Pro Rata Share of Subpart F Income, Tested Income, or Tested Loss

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the determination of a United States shareholder's pro rata share of subpart F income, tested income, or tested loss of a controlled foreign corporation. The proposed regulations would affect shareholders of foreign corporations, including United States shareholders of controlled foreign corporations.

DATES: Written or electronic comments and requests for a public hearing must be received by October 26, 2026.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–115646–25) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the ''Comments and Requests for a Public Hearing'' section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted to the IRS's public docket. Send paper submissions to: CC:PA:01:PR (REG–115646–25), Room 5503, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Dylan J. Steiner at (202) 317–6934; concerning submissions of comments and requests for a public hearing, contact the Publications and Regulations Section of the Office of Associate Chief Counsel (Procedure and Administration) by email at *publichearings@irs.gov* (preferred) or by telephone at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Authority

This document contains proposed additions and amendments to 26 CFR part 1 (proposed regulations) under sections 951 and 951A and certain other provisions of the Internal Revenue Code (Code) relating to the determination of a United States shareholder's pro rata share of subpart F income, tested income, or tested loss of a controlled foreign corporation. The proposed regulations also include guidance regarding the transition rule (transition rule) in section 70354(c)(2) of Public Law 119–21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA). The proposed regulations are issued pursuant to the express delegations of authority in section 951(a)(4) and section 70354(c)(2) of the OBBBA. The proposed regulations are also issued pursuant to the express delegation of authority in section 7805(a).

Background

I. Scope

This Background describes the rules for determining a United States shareholder's pro rata share of subpart F income, tested income, or tested loss, as relevant, as well as certain other related provisions. Any term used but not defined in this preamble has the meaning given to it in the proposed regulations.

II. Pro Rata Share Rules

A. Rules Before OBBBA

Former section 951(a)(1)(A), as in effect before amendments made by the OBBBA,[1] generally required a United States shareholder (U.S. shareholder) (as defined in section 951(b)) of a foreign corporation to include in gross income its pro rata share of the corporation's subpart F income (as defined in section 952) for a taxable year of the corporation if the corporation was a controlled foreign corporation (CFC) (as defined in section 957(a)) at any time during the taxable year and the shareholder owned stock of the corporation on the last day of the taxable year on which the corporation was a CFC (last relevant day). For this purpose, ownership of stock was determined under section 958(a) and thus included stock owned directly and stock owned indirectly through foreign corporations and other foreign entities (including certain domestic entities to the extent treated as foreign entities under § 1.958–1(d)(1)).[2] Under former section 951(a)(1)(B), a U.S. shareholder was generally also required to include in gross income its amount determined under section 956 for the taxable year of the foreign corporation.

For purposes of former section 951(a)(1)(A), a U.S. shareholder's pro rata share of a CFC's subpart F income for a taxable year of the CFC was calculated by first determining the amount described in former section 951(a)(2)(A). This amount, which was determined based on the U.S. shareholder's proportionate share of a hypothetical distribution by the CFC, represented subpart F income (unreduced by distributions during the taxable year) allocable to stock of the CFC that the U.S. shareholder owned on the last relevant day. *See* § 1.951–1(b) and (e). This amount was limited under former section 951(a)(2)(A) based on the portion of the taxable year during which the foreign corporation was a CFC. The amount determined under former section 951(a)(2)(A) was then reduced for certain distributions under former section 951(a)(2)(B) to arrive at the U.S. shareholder's pro rata share of the CFC's subpart F income. Former section 951(a)(2)(B) addressed cases in which stock of a CFC owned by a U.S. shareholder on the last relevant day was acquired by the U.S. shareholder during the CFC's taxable year by generally reducing the U.S. shareholder's pro rata share of the CFC's subpart F income by the amount of dividends received by any other person during the taxable year with respect to the acquired stock (but limited that reduction based on the portion of the CFC's taxable year during which the U.S. shareholder did not own the stock of the CFC).

Former section 951A(a) required a U.S. shareholder of a CFC to include in gross income its global intangible low-taxed income (GILTI inclusion amount). *See* § 1.951A–1(b). A U.S. shareholder's GILTI inclusion amount was determined by taking into account the shareholder's pro rata share of tested items (as defined in § 1.951A–1(f)(5)) of CFCs in which the shareholder owned stock, such as tested income, tested loss, and qualified business asset investment. *See* § 1.951A–1(c). A U.S. shareholder's pro rata share of a CFC's tested items was determined in the same manner as a U.S. shareholder's pro rata share of a CFC's subpart F income under former section 951(a)(2), subject to certain modifications. *See* section 951A(e)(1) and § 1.951A–1(d).

B. OBBBA Revisions

1. Overview

The OBBBA amended sections 951(a) and 951A for taxable years of foreign corporations beginning after December 31, 2025. The OBBBA also provided the transition rule for certain taxable years before the amendments to sections 951(a) and 951A apply.

2. Revised Section 951(a)

As amended by the OBBBA, section 951(a)(1)(A) requires a U.S. shareholder of a foreign corporation to include in gross income the U.S. shareholder's pro rata share of the foreign corporation's subpart F income if the foreign corporation is a CFC at any time during the foreign corporation's taxable year (a CFC year) and the U.S. shareholder owns stock of the foreign corporation on any day during the CFC year. Thus, unlike pre-OBBBA law, a section 951(a)(1)(A) inclusion is not limited to U.S. shareholders that own stock in the CFC on the last relevant day. However, the OBBBA retains the last relevant day rule in section 951(a)(1)(B), under which a U.S. shareholder is generally required to include in gross income its amount determined under section 956.

For purposes of section 951(a)(1)(A), the OBBBA replaced the hypothetical distribution and reduction rules for determining a U.S. shareholder's pro rata share of subpart F income under former sections 951(a)(2)(A) and (B) with an approach that is instead based on the subpart F income attributable to the U.S. shareholder's ownership of stock of the foreign corporation during the CFC year. Specifically, section 951(a)(2) provides that a U.S. shareholder's pro rata share of a CFC's subpart F income is the portion of such income that is attributable to the stock of the foreign corporation owned by the shareholder and any period of the CFC year during which (i) the shareholder owned such stock, (ii) the shareholder was a U.S. shareholder of the corporation, and (iii) the corporation was a CFC.

The OBBBA also modified the time at which amounts determined under sections 951(a)(1)(A) and (B) are included in gross income by a U.S. shareholder. Under section 951(a)(3), any amount required to be included in gross income by a U.S. shareholder under section 951(a)(1)(A) or (B) with respect to a CFC year is included in gross income for the U.S. shareholder's taxable year that includes the last day on which the shareholder owns stock in the CFC during such CFC year.

Section 951(a)(4) provides that the Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of section 951(a), including regulations or other guidance allowing taxpayers to elect, or requiring taxpayers, to close the taxable year of a CFC upon a direct or indirect disposition of stock of the corporation.

3. Revised Section 951A

As amended by the OBBBA, section 951A(a) requires each person that is a U.S. shareholder of a CFC for any taxable year of the U.S. shareholder to include in gross income the U.S. shareholder's net CFC tested income for the taxable year. Section 951A(b)(1) provides that net CFC tested income means, with respect to any U.S. shareholder for any taxable year of the U.S. shareholder, the excess (if any) of (i) the aggregate of the U.S. shareholder's pro rata share of the tested income of each CFC with respect to which the shareholder is a U.S. shareholder for the taxable year of the U.S. shareholder, over (ii) the aggregate of the U.S. shareholder's pro rata share of the tested loss of each CFC with respect to which the shareholder is a U.S. shareholder for the taxable year of the U.S. shareholder.

Section 951A(c) provides that the pro rata shares of tested income and tested loss referred to in section 951A(b)(1) are determined under the rules of section 951(a)(2) in the same manner as section 951(a)(2) applies to subpart F income

[1] All references to former provisions under section 951 or 951A in this preamble are to the versions of those provisions as in effect before the amendments made by the OBBBA.

[2] For purposes of this preamble, a reference to stock ownership means stock owned within the meaning of section 958(a).

and are taken into account in the taxable year of the U.S. shareholder determined under section 951(a)(3).

4. Transition Rule

For certain taxable years before the amendments to sections 951(a) and 951A made by the OBBBA apply, a U.S. shareholder determines its pro rata share of subpart F income and tested items under the transition rule. The transition rule provides that certain dividends are not treated as dividends for purposes of applying former section 951(a)(2)(B), except to the extent provided by the Secretary.

A dividend is subject to the transition rule if the dividend is (i) paid or deemed paid on or before June 28, 2025, and during the taxable year of a CFC that includes such date, provided the U.S. shareholder described in section 951(a) did not own (within the meaning of section 958(a)) the stock of the CFC during the portion of the taxable year on or before June 28, 2025, or (ii) paid or deemed paid after June 28, 2025, and before a foreign corporation's first taxable year beginning after December 31, 2025. *See* section 70354(c)(2)(A) of the OBBBA. Any dividend subject to the transition rule is not treated as a dividend for purposes of applying former section 951(a)(2)(B) if the dividend does not increase the taxable income of a United States person subject to Federal income tax for the taxable year (including by reason of a dividends received deduction, an exclusion from gross income, or an exclusion from subpart F income). *See* section 70354(c)(2)(B) of the OBBBA.

On December 4, 2025, the Treasury Department and the IRS released Notice 2025–75, 2025–52 I.R.B. 867 (transition rule notice), describing rules expected to be included in forthcoming proposed regulations regarding the application of the transition rule. The transition rule notice describes rules addressing the meaning of dividends paid or deemed paid by a CFC and the determination of whether a dividend does not increase the taxable income of a United States person subject to Federal income tax.

III. Other Provisions

A. Section 951B

The OBBBA added section 951B, which generally provides that sections 951 through 965 (other than sections 951A, 951(b), and 957) apply to any foreign controlled United States shareholder (FCUSS) of a foreign controlled foreign corporation (FCFC) by substituting ''foreign controlled United States shareholder'' for ''United States shareholder'' each place it appears and by substituting ''foreign controlled foreign corporation'' for ''controlled foreign corporation'' each place it appears. *See* section 951B(a)(1). Section 951A applies to an FCUSS by treating each reference to a ''United States shareholder'' in such section as including a reference to an FCUSS, and by treating each reference to a ''controlled foreign corporation'' in such section as including a reference to an FCFC. *See* section 951B(a)(2).

Section 951B(b) provides that an FCUSS is any United States person that would be a U.S. shareholder with respect to a foreign corporation if section 951(b) were applied by substituting ''more than 50 percent'' for ''10 percent or more,'' and section 958(b) were applied without regard to section 958(b)(4). Section 951B(c) provides that an FCFC is a foreign corporation, other than a CFC, which would be a CFC if section 957(a) were applied by substituting ''foreign controlled United States shareholders'' for ''United States shareholders,'' and section 958(b) were applied without regard to section 958(b)(4).

B. Section 960

Section 901(a) generally provides that a taxpayer choosing to credit foreign income taxes is allowed a credit for certain foreign income taxes paid or accrued by the taxpayer plus, in the case of a corporation, the taxes deemed to have been paid by the corporation under section 960.

Section 960(a) provides that, if a domestic corporation that is a U.S. shareholder of a CFC includes any item of income under section 951(a)(1), the domestic corporation is deemed to have paid so much of the CFC's foreign income taxes as are properly attributable to such item of income. Section 960(d) generally provides that if any amount is includible in the gross income of a domestic corporation under section 951A, the domestic corporation is deemed to pay a percentage of the foreign income taxes paid or accrued by its CFCs with respect to their tested income.

C. Section 245A and § 1.245A–5(e) and (f)

Section 245A(a) allows a domestic corporation that is a U.S. shareholder a 100-percent deduction for the foreign-source portion of a dividend received from a specified 10-percent owned foreign corporation (section 245A deduction). *See also* sections 964(e)(4) and 1248(j) (generally permitting the section 245A deduction in connection with the sale or exchange of stock of a CFC). A specified 10-percent owned foreign corporation (SFC) is defined as any foreign corporation (other than a passive foreign investment company as defined in section 1297) with respect to which a domestic corporation is a U.S. shareholder.

Section 954 generally provides that a dividend received by a CFC is included in the CFC's foreign personal holding company income (as defined in section 954(c)) and, thus, in the determination of the CFC's subpart F income. Under section 954(c)(6), however, a dividend received by a CFC from a related CFC is not included in the CFC's foreign personal holding company income if certain requirements are met (section 954(c)(6) exception).

Under § 1.245A–5(e), a section 245A shareholder (defined as a domestic corporation that is a U.S. shareholder with respect to an SFC and that owns directly or indirectly stock of the SFC) is not allowed a section 245A deduction for any dividend received from an SFC to the extent of the extraordinary reduction amount. Additionally, § 1.245A–5(f) provides that, if an upper-tier CFC receives a dividend from a lower-tier CFC in the same taxable year that an extraordinary reduction occurs with respect to the lower-tier CFC, then the section 954(c)(6) exception applies only to the extent the dividend exceeds the tiered extraordinary reduction amount.

In general, an extraordinary reduction amount is, with respect to a dividend received by a controlling section 245A shareholder (as defined in § 1.245A–5(i)(2)) from a CFC during a taxable year of the CFC in which an extraordinary reduction occurs with respect to the controlling section 245A shareholder's ownership of the CFC, the lesser of (i) the amount of the dividend, and (ii) the amount equal to the sum of the controlling section 245A shareholder's pre-reduction pro rata share of the CFC's subpart F income and tested income for the taxable year, reduced, but not below zero, by the prior extraordinary reduction amount. A pre-reduction pro rata share generally reflects the amount of subpart F income and tested income that the shareholder would have included in income, absent the extraordinary reduction. An extraordinary reduction generally occurs where a controlling section 245A shareholder transfers more than 10 percent of the CFC's stock during the CFC's taxable year or where the shareholder's ownership of the CFC otherwise decreases by more than 10 percent by the end of the taxable year.

An election may be made to close a CFC's taxable year if an extraordinary reduction occurs with respect to a

controlling section 245A shareholder and there would be an extraordinary reduction amount or tiered extraordinary reduction amount greater than zero. If the election is made, no amount is considered an extraordinary reduction amount or tiered extraordinary reduction amount with respect to the controlling section 245A shareholder. Instead, the CFC's taxable year closes for all purposes of the Code and for all shareholders of the CFC.

Explanation of Provisions

I. Scope

The proposed regulations would provide rules under sections 951 and 951A that determine a U.S. shareholder's pro rata share of a CFC's subpart F income, tested income, or tested loss. The proposed regulations would also modify information reporting regulations under section 6038 and the applicability date of certain regulations under sections 245A and 1502.

II. Section 951 Regulations

A. Overview

The proposed regulations under section 951 would provide rules to determine a U.S. shareholder's pro rata share of a CFC's subpart F income that reflect the changes to section 951(a) made by the OBBBA. The proposed regulations would also provide rules that require or permit the closing of a foreign corporation's taxable year in certain circumstances for all purposes of the Code.

B. Income Inclusion Rule

The proposed regulations would require each U.S. shareholder of a foreign corporation that owns stock in the foreign corporation at any time during a taxable year of the foreign corporation that is a CFC year to include in gross income the U.S. shareholder's pro rata share of the foreign corporation's subpart F income for the CFC year. *See* proposed § 1.951–1(b)(1). This amount is included in gross income in the U.S. shareholder's taxable year that includes the last day on which the shareholder owns stock in the foreign corporation during the CFC year. The determination of the amount of a U.S. shareholder's pro rata share of subpart F income of a CFC for a CFC year is discussed in part II.E of this Explanation of Provisions.

The proposed regulations would also provide a rule for section 956 inclusions under section 951(a)(1)(B). *See* proposed § 1.951–1(b)(2). Because the amendments made by the OBBBA to section 951 generally retain the same approach to determining inclusions under section 951(a)(1)(B), this rule is consistent with the regulations under former section 951(a)(1)(B). However, as with inclusions of subpart F income under section 951(a)(1)(A), the proposed regulations would provide that amounts required to be included in gross income under section 951(a)(1)(B) are included in the U.S. shareholder's taxable year that includes the last day on which the shareholder owns stock in the foreign corporation during the CFC year, which may accelerate the taxable year of the inclusion relative to former section 951(a)(1)(B). Further, as discussed in part II.D of this Explanation of Provisions, the closing of a foreign corporation's taxable year under the proposed regulations may affect the calculation of amounts under section 956 and a U.S. shareholder's inclusion under section 951(a)(1)(B).

C. Changes in Ownership of CFC Stock

As revised in the OBBBA, a U.S. shareholder's pro rata share of a CFC's subpart F income (as well as tested income or tested loss) is the amount attributable to the stock of the CFC owned by the U.S. shareholder and the periods of the CFC year during which the U.S. shareholder owned such stock while the foreign corporation was a CFC. The Treasury Department and the IRS considered various recommendations for implementing the OBBBA's revisions to the pro rata share rules. For example, the Treasury Department and the IRS considered a suggestion to address changes in ownership of stock of a CFC by permitting taxpayers to elect a per diem approach with exceptions for extraordinary items or an interim closing of the books approach, and to provide taxpayers an election to close the taxable year of CFCs in certain circumstances comparable to the election permitted under § 1.245A–5(e). The Treasury Department and the IRS also considered a suggestion to provide for both elective and mandatory closings with respect to the taxable year of a CFC, depending on the amount of ownership shift in a given transaction, and to otherwise address changes in ownership of stock of a CFC by implementing a ratable approach to determining a U.S. shareholder's pro rata share.

In general, in cases where there is no change in the ownership of stock of a CFC during its taxable year, a U.S. shareholder's pro rata share under the proposed regulations would be the same as determined under the existing rules in § 1.951–1(e) (*see* part II.E of this Explanation of Provisions). However, to address changes in ownership of stock of a CFC, and largely consistent with a recommendation received, the proposed regulations would generally apply a daily proration approach to allocating subpart F income, tested income, or tested loss to U.S. shareholders and, in certain cases, would require or permit a closing of the taxable year.

The Treasury Department and the IRS are of the view that other suggested approaches to address changes in ownership of stock of a CFC, such as an interim closing of the foreign corporation's books or a special allocation of extraordinary items, may, in certain cases, be complex, administratively burdensome, or lead to inappropriate results (for example, when the earnings and profits (E&P) limitation under section 952(c) applies). Rules in other contexts that adopt such approaches in allocating various items of income, gain, deduction, loss, and credit attributable to a taxpayer's ownership period differ from the pro rata share rules in that sections 951 and 951A require the allocation of subpart F income, tested income, or tested loss, each of which is a single, net amount determined at the foreign corporation level with respect to its taxable year. *Cf.* § 1.706–4 (providing various rules, including a proration approach, interim closing method, and extraordinary item exception, where a partner's interest in a partnership varies during its taxable year) and § 1.1502–76(b) (permitting the ratable allocation of a year's items (other than extraordinary items) between the periods ending and beginning with a corporation becoming or ceasing to be a member of a consolidated group). The statutory language in section 951(a)(1)(A) requires this result by referring to the pro rata share of ''the corporation's subpart F income for the CFC year,'' which, in using the term defined in section 952, means the pro rata share of the sum of the amounts described in section 952(a) and not the pro rata share of specific items that comprise subpart F income. *See also* section 951A(c)(1) (providing that a U.S. shareholder's pro rata share of a CFC's tested income or tested loss, each defined in section 951A(b)(2) as a net amount for the CFC's taxable year, is determined under the rules of section 951(a)(2) in the same manner as such section applies to subpart F income).

The proposed regulations would require a closing of a foreign corporation's taxable year only in circumstances where the change in ownership of stock of a foreign corporation results in the foreign corporation becoming or ceasing to be a CFC (subject to certain modifications for

determining CFC status that generally are intended to prevent avoidance of the rule). *See* part II.D.2 of this Explanation of Provisions. In those cases, the provision's requirement to determine the subpart F income, tested income, or tested loss attributable to the ownership period of a U.S. shareholder is appropriately carried out by confining the analysis to the period in which the relevant earnings of the foreign corporation are subject to U.S. taxation under sections 951 through 965. The closing of the foreign corporation's taxable year in such cases prevents items of income, gain, deduction, or loss incurred while the foreign corporation's earnings are not subject to the subpart F provisions of the Code from affecting the determination of a U.S. shareholder's pro rata share under section 951 or 951A. Additionally, the required closing of the foreign corporation's taxable year may mitigate potential compliance burdens associated with obtaining information relating to the foreign corporation while it is owned and controlled by foreign persons.

In other cases involving changes in the ownership of stock of a foreign corporation during a CFC year, the proposed regulations would generally apply a daily proration approach. *See* part II.E of this Explanation of Provisions. The Treasury Department and the IRS are of the view that this approach, which allocates subpart F income (as well as tested income or tested loss) proportionately based on the number of days in the CFC year, is consistent with the statute's requirement to attribute an overall income amount to periods of ownership. *See also* §§ 1.1248–2 and 1.1248–3 (applying a similar daily proration approach for purposes of determining E&P attributable to foreign corporation stock owned by a United States person during certain periods). However, for certain changes in the ownership of stock of a CFC involving unrelated persons that generally result in shifts of ownership of more than 50 percentage points, the proposed regulations would provide an election to close the CFC's taxable year. This election permits taxpayers to achieve the accuracy, certainty, and reduced compliance burdens afforded by closing the taxable year in lieu of applying the daily proration approach to the entire taxable year. *See* part II.D.3 of this Explanation of Provisions. Contrary to certain recommendations that an elective closing be available upon less substantial transfers of ownership, the proposed regulations would limit elective closings to these circumstances, as a greater than 50 percentage point shift in ownership generally indicates that a seller or selling group has relinquished control of the CFC and therefore has a heightened interest in closing the CFC's taxable year so as to avoid the effect of the new controlling shareholder or shareholders' actions on the determination of their pro rata share. In these cases, the seller typically does not remain involved in the CFC's activities after relinquishing control, and an inability to close the taxable year could require the buyer and seller to coordinate in terms of tax compliance and controversy defense with respect to that year, potentially necessitating complex contractual provisions. Further, the potential benefit afforded by a closing of the CFC's taxable year in cases of less significant changes in ownership would likely be outweighed by the resulting compliance and administrative burden, and the additional flexibility to close the taxable year of a CFC could lead to improper manipulation or abuse if it was available for minor changes in ownership or transfers involving related persons.

D. Determination of CFC Year

1. In General

A U.S. shareholder's pro rata share of a foreign corporation's subpart F income is determined by reference to a CFC year of the foreign corporation. The determination of a CFC year of a foreign corporation is made after the application of rules in the proposed regulations that would require or permit the closing of the taxable year of a foreign corporation in certain cases where there is a change in the ownership of stock of the foreign corporation.

2. Mandatory Closing of Taxable Year of Foreign Corporation

The proposed regulations would provide that a foreign corporation closes its taxable year if there is a status change event, which occurs if a foreign corporation becomes or ceases to be a CFC. *See* proposed § 1.951–1(d)(1). If there is a status change event, the taxable year of the foreign corporation closes for all purposes of the Code and, thus, the closing applies to all shareholders of the foreign corporation regardless of whether a particular shareholder's ownership of stock in the foreign corporation changes.

The taxable year of the foreign corporation closes as of the end of the day on which the status change event occurs, which is the last day that the foreign corporation is or is not a CFC (unless the taxable year otherwise closes as of such date under another provision of the Code, for example, as a result of a section 338(g) election). *See* proposed § 1.951–1(d)(1)(ii). Thus, for example, if a domestic corporation owns all the stock of a foreign corporation (which uses a calendar taxable year) and sells all the stock of the foreign corporation to a nonresident alien individual on June 30, the status change event would occur on June 30, the date the foreign corporation ceases to be a CFC, and the taxable yefar of the foreign corporation would close as of the end of the day on June 30. *See also* proposed § 1.951–1(f) (regarding the ownership period of foreign corporation stock) discussed in part II.F of this Explanation of Provisions.

The proposed regulations would provide additional rules for domestic partnerships (including certain S corporations treated as partnerships by operation of section 1373(a)) and options to acquire stock in determining whether there is a status change event that requires the closing of a foreign corporation's taxable year. *See* proposed § 1.951–1(d)(1)(iii). Specifically, solely for this purpose, in determining whether a foreign corporation is a CFC when stock of a foreign corporation is owned through a domestic partnership, the rule in § 1.958–1(d)(1) would apply without regard to the exceptions in § 1.958–1(d)(2)(i) and (ii) (and, thus, a domestic partnership would not be treated as owning stock of a foreign corporation within the meaning of section 958(a)). A similar rule would disregard the constructive ownership of stock of a foreign corporation by reason of an option to acquire such stock under section 318(a)(4) and § 1.958–2(e). These rules are generally intended to ensure that, while the requirement to close the taxable year of a foreign corporation is based on the CFC status of the foreign corporation, the CFC status of the foreign corporation for this purpose is determined by reference to the U.S. shareholders of the foreign corporation that are subject to income inclusions under sections 951 and 951A. Thus, for example, if a domestic corporation sells all the stock of a foreign corporation that is a CFC to a domestic partnership, and not more than 50 percent of the stock of the foreign corporation is owned after the sale, in the aggregate, by partners of the domestic partnership that are U.S. shareholders in the foreign corporation, the sale results in a status change event of the foreign corporation because, for this purpose, the foreign corporation ceases to be a CFC. Similarly, if a domestic partnership sells all the stock

of a foreign corporation to a domestic corporation, and not more than 50 percent of the stock of the foreign corporation was owned before the sale, in the aggregate, by partners of the domestic partnership that were U.S. shareholders in the foreign corporation, the sale also results in a status change event because, for this purpose, the foreign corporation *becomes* a CFC.

3. Election To Close Taxable Year of Foreign Corporation

Under the proposed regulations, the controlling section 958(a) U.S. shareholders of a CFC may elect to close the CFC's taxable year if a significant ownership variance occurs with respect to the CFC and the taxable year does not otherwise close on that date. *See* proposed § 1.951–1(d)(2). As with the mandatory closing of a foreign corporation's taxable year described in part II.D.2 of this Explanation of Provisions, if the election is made, the taxable year of the CFC closes for all shareholders of the foreign corporation and for all purposes of the Code as of the end of the day on which the significant ownership variance occurs.

The determination of whether there is a significant ownership variance is based on the total change in ownership of CFC stock by section 958(a) U.S. shareholders resulting from all specified transfers that occur pursuant to the same plan during what would be the taxable year of a CFC absent an elective closing (default taxable year). A significant ownership variance generally occurs if the specified transfers result in a decrease by more than 50 percentage points in section 958(a) shareholder ownership. *See* proposed § 1.951–1(d)(2)(ii)(A). For this purpose, a specified transfer generally includes a change in the ownership of the stock of a CFC resulting from a sale, exchange, or other disposition of stock of a foreign corporation or a partnership interest, as well as an issuance of stock or a partnership interest.

Because a significant ownership variance looks to all specified transfers that occur pursuant to the same plan during the same default taxable year of a CFC, the proposed regulations are intended to make the election available for transactions undertaken by multiple section 958(a) U.S. shareholders or that involve multiple specified transfers over the course of the CFC's default taxable year. For example, the proposed regulations would permit an elective closing of a CFC's taxable year if multiple section 958(a) U.S. shareholders that separately do not own more than 50 percent of the stock of a CFC together sell more than 50 percent of the stock of the CFC pursuant to the same plan on different days during the CFC's default taxable year.

If there are multiple specified transfers that occur pursuant to the same plan on different days in a default taxable year of a CFC, the significant ownership variance occurs on the day that the last such specified transfer occurs. *See* proposed § 1.951–1(d)(2)(ii)(A). This is the case regardless of the day on which there has been a more than 50-percent decrease in the ownership percentage of one or more section 958(a) U.S. shareholders of the CFC. For example, assume US1 and US2, both domestic corporations, own 60 percent and 40 percent of the stock of CFC, respectively. CFC uses a calendar taxable year. On June 30, US1 sells all its stock of CFC (60 percent) to US3, also a domestic corporation that is not related to US1 or US2, and pursuant to the same plan, US2 sells all its stock in CFC (40 percent) to US3 on September 1. In that case, the significant ownership variance occurs on September 1, the date of US2's sale, and, if an election is made, the taxable year of CFC closes on that date.

The Treasury Department and the IRS are of the view that the elective closing of the taxable year of a CFC should be restricted with respect to specified transfers among related parties because, in those cases, the change in economic ownership of CFC stock is less meaningful or possibly absent. Likewise, there is less reason, from an accuracy and burden-reduction standpoint, to provide an elective closing in the case of a transfer between related persons, and the availability of the election may lead to inappropriate manipulation (for example, transactions may be undertaken solely for purposes of closing a CFC's taxable year). Accordingly, the proposed regulations would generally provide that, in determining whether there is a significant ownership variance with respect to a CFC, the percentage of ownership of stock of the CFC owned by section 958(a) U.S. shareholders is not treated as decreasing to the extent there is an increase in the percentage of ownership of stock of the CFC by a related United States person. *See* proposed § 1.951–1(d)(2)(ii)(C)(*1*). For similar reasons, the proposed regulations would not take into account certain transfers in connection with reorganizations described in section 368(a)(1)(F) for this purpose. *See* proposed § 1.951–1(d)(2)(ii)(C)(*2*).

The section 958(a) U.S. shareholders of a CFC are the U.S. shareholders that own stock of the CFC. For purposes of making the election to close a CFC's taxable year, the controlling section 958(a) U.S. shareholders are all the section 958(a) U.S. shareholders of a CFC whose ownership of stock of the CFC decreases in a significant ownership variance. In certain cases, there may be only one controlling section 958(a) U.S. shareholder that makes the election (for example, if a U.S. shareholder owns all the stock of a CFC). A domestic partnership is not treated as owning stock of a CFC for this purpose and therefore cannot be a section 958(a) U.S. shareholder or a controlling section 958(a) U.S. shareholder. *See* § 1.958–1(d).

To make the election, the controlling section 958(a) U.S. shareholders and each U.S. shareholder (if any) of the CFC that owns stock of the CFC on any date during the CFC's taxable year on or before the date of the significant ownership variance must enter into a written, binding agreement that all parties agree to the election. Each party to this binding agreement must be able to present the agreement to the IRS for inspection upon request. No binding agreement is required, however, if there is only one controlling section 958(a) U.S. shareholder and no other relevant U.S. shareholders of the CFC. Additionally, for this purpose, a U.S. shareholder that acquires stock of the CFC on the date of the significant ownership variance is not considered as owning that stock on that date and therefore is not required to enter the binding agreement unless the shareholder otherwise was a U.S. shareholder on or before that date. *See* proposed § 1.951–1(f). The proposed regulations would prescribe additional procedural requirements for making the election, including the requirement to provide certain information in a statement that must be submitted to the IRS. *See* proposed § 1.951–1(d)(2)(iv). The proposed regulations would also provide a consistency requirement, under which, if a significant ownership variance occurs with respect to multiple CFCs pursuant to a plan or series of related transactions, an election to close a CFC's taxable year may be made only if the election is made with respect to all the CFCs. *See* proposed § 1.951–1(d)(2)(vi).

4. Allocation of Foreign Income Taxes

The proposed regulations would provide a rule for allocating certain foreign income taxes that accrue during the period that would have been the foreign corporation's taxable year if not for the mandatory or elective closing. A mandatory or elective closing of a foreign corporation's taxable year can result in the foreign corporation's

foreign taxable year spanning multiple short U.S. taxable years. However, the foreign income tax with respect to that foreign taxable year would accrue only in the U.S. taxable year in which the foreign taxable year ends. *See* § 1.905–1(d)(1)(i). The proposed regulations would address this issue by requiring an allocation of a portion of the foreign income tax that accrues in the CFC's U.S. taxable year following the closing date to the U.S. taxable year ending with the closing. *See* proposed § 1.951–1(d)(3)(i). The portion of the foreign income tax allocated to the U.S. taxable year ending with the closing is determined based on the portion of the foreign taxable income attributable to the period of the foreign taxable year ending with the closing using the closing of the books method described in § 1.1502–76(b). For example, if a foreign corporation that uses a calendar taxable year for both U.S. and foreign income tax purposes has its U.S. taxable year close on June 30 as a result of a mandatory or elective closing and the foreign corporation earned 50 percent of its foreign taxable income from January to June 30, 50 percent of the foreign income tax that accrues on December 31 (at the end of the foreign corporation's foreign taxable year and during its U.S. taxable year following the June 30 closing) would be allocated to its U.S. taxable year ending with the closing (January 1 to June 30).

5. Taxable Years of Partnerships Owned by Foreign Corporations

In the case of a foreign corporation that owns an interest in a partnership, generally, the partnership's taxable year would not close for any purpose of the Code solely as a result of the foreign corporation's taxable year closing. Therefore, if the partnership's taxable year begins before a status change event or significant ownership variance (for which an election is made) and ends after the early closing of the foreign corporation's taxable year, the foreign corporation would include its distributive share of the partnership's items arising in that partnership taxable year entirely in the foreign corporation's short taxable year following the status change event or significant ownership variance. By contrast, a concurrent closing of the partnership's taxable year would require the partnership's items to be allocated between the foreign corporation's short taxable year ending on the day of the status change event or significant ownership variance and the following short taxable year. Because this requirement to allocate partnership items between periods that are pre- and post-sale of stock of the foreign corporation would require a seller to obtain information from a buyer to determine the foreign corporation's distributive share of partnership items includible in the foreign corporation's first short taxable year, the proposed regulations would not provide for a closing of the partnership's taxable year with respect to the foreign corporation.

The Treasury Department and the IRS welcome comments as to whether a closing of a foreign corporation's taxable year as a result of a status change event or significant ownership variance should be treated as a deemed disposition of the foreign corporation's entire interest in a partnership for purposes of section 706, and therefore result in a closing of the partnership's taxable year with respect to the foreign corporation partner. *Cf.* §§ 1.706–1(c)(2)(i) and (iii), 1.1362–3(c)(1), 1.1377–1(b)(3)(iv), and 1.1502–76(b)(2)(vi) (in certain cases, treating an early closing of a corporate partner's taxable year as a deemed disposition of the partner's entire interest in the partnership and therefore resulting in treating the partnership taxable year as closing with respect to that partner).

E. Determination of Pro Rata Share of Subpart F Income

1. In General

The proposed regulations would provide rules for determining a U.S. shareholder's pro rata share of a CFC's subpart F income for a CFC year. This determination is made after the determination of the subpart F income of the CFC for the CFC year in accordance with section 952 and other applicable provisions, such as the E&P limitation, the chain deficit rules, and the recapture rules.

In general, the proposed regulations would apply a daily proration approach for purposes of determining the amount of a CFC's subpart F income that is attributed to the period during which a U.S. shareholder owns stock of a foreign corporation while it is a CFC during the CFC year. *See* part II.E.2 of this Explanation of Provisions. The proposed regulations would provide additional rules for applying this daily proration approach in circumstances involving multiple classes of stock of a foreign corporation and changes in the number of shares of outstanding stock of a foreign corporation during the CFC year. *See* parts II.E.3 and 4 of this Explanation of Provisions.

2. Single Class of Foreign Corporation Stock

Under the proposed regulations, if at all times during the CFC year the CFC has only a single class of stock outstanding and there is no change in the number of outstanding shares of stock of the CFC, a U.S. shareholder's pro rata share of subpart F income of a CFC would be determined based on the percentage of stock of the CFC the U.S. shareholder owned (that is, the number of shares the U.S. shareholder owned over the number of outstanding shares of the CFC) and the percentage of the CFC year during which the shareholder owned the stock of the foreign corporation while it was a U.S. shareholder and the foreign corporation was a CFC. *See* proposed § 1.951–1(e)(2)(i).

Thus, for example, if two U.S. shareholders (US1 and US2) each owned 50 percent of the single class of stock of a CFC for an entire CFC year, each of US1's and US2's pro rata shares of the CFC's subpart F income for the CFC year is equal to the proportionate amount of subpart F income attributable to the stock of the CFC the U.S. shareholder owned (that is, 50 percent of CFC's subpart F income). As an additional example, if US1 instead transfers all of its stock of a CFC to another U.S. shareholder (US3) during the CFC year, each of US1 and US3's pro rata share of the CFC's subpart F income for the CFC year is equal to the proportionate amount of subpart F income attributable to the stock multiplied by the percentage of days during the CFC year on which the U.S. shareholder owned the stock of the CFC. *See* proposed § 1.951–1(e)(4)(iii) (Example 2).

The computation prescribed in the proposed regulations is made separately with respect to CFC year blocks, which are those shares of a class of stock of the CFC that a U.S. shareholder owned for the same period within the CFC year (for example, if the U.S. shareholder acquired or disposed of a portion of its shares of the class of stock of the CFC during the CFC year). *See* proposed § 1.951–1(e)(2)(i)(B). A U.S. shareholder's pro rata share of subpart F income of the CFC for the CFC year is equal to the total of the amounts determined for each of its CFC year blocks. *See* proposed § 1.951–1(e)(4)(iii) (Example 2).

3. Multiple Classes of Foreign Corporation Stock

The proposed regulations would provide additional rules to address cases in which a foreign corporation has multiple classes of stock outstanding during a CFC year. In general, the proposed regulations would adopt the hypothetical distribution analysis under existing § 1.951–1(e) for purposes of

determining the subpart F income that is allocated among the classes of stock of a foreign corporation. Thus, to determine a U.S. shareholder's pro rata share of a CFC's subpart F income for a CFC year, the subpart F income is first allocated to the classes of stock of the CFC in the same proportion as the amount of allocable earnings and profits that would be distributed to each class of stock in a hypothetical distribution of the CFC's allocable earnings and profits on the last day of the CFC year (hypothetical distribution). *See* proposed § 1.951–1(e)(2)(ii). After the subpart F income is allocated to a class of stock, a U.S. shareholder determines its pro rata share of subpart F income with respect to each class of stock using the daily proration approach described in part II.E.2 of this Explanation of Provisions. *See* proposed § 1.951–1(e)(4)(iv) (Example 3).

For example, if, for the entirety of a CFC year, one U.S. shareholder (US1) owned all the common stock of a CFC and another U.S. shareholder (US2) owned all the preferred stock of the CFC, the hypothetical distribution applies to allocate the subpart F income of the CFC to the preferred and common stock. Each of US1 and US2's pro rata share of the CFC's subpart F income for the CFC year is then equal to the proportionate amount of subpart F income allocated to each class of stock of the foreign corporation that is attributable to the stock of the CFC the U.S. shareholder owned (thus, US1's pro rata share is equal to all of the subpart F income allocated to the common stock and US2's pro rata share is equal to all of the subpart F income allocated to the preferred stock). As an additional example, if US2 instead transfers all of its stock of the CFC (that is, the preferred stock) to another U.S. shareholder (US3) during the CFC year, each of US2 and US3's pro rata share of the CFC's subpart F income for the CFC year is equal to the subpart F income allocated to the preferred stock of the CFC as determined under the hypothetical distribution, multiplied by the percentage of days during the CFC year on which the U.S. shareholder owned the preferred stock of the CFC. *See* proposed § 1.951–1(e)(4)(iv) (Example 3).

4. Changes in Number of Outstanding Shares of Foreign Corporation

The proposed regulations would provide additional rules to address cases in which there are changes in the number of shares of stock of a foreign corporation outstanding during the year, for example, as a result of a redemption or issuance of stock of the foreign corporation during a CFC year. In general, the proposed regulations would adopt an approach based on the average number of shares outstanding of the foreign corporation during the CFC year. *See also* § 1.1248–3(c)(2) (applying a similar share averaging approach for purposes of determining E&P attributable to stock of a foreign corporation).

If the number of shares outstanding within a class of stock of a CFC varies during the CFC year, the proposed regulations would provide that the daily proration approach described in part II.E.2 of this Explanation of Provisions is applied with respect to a class of stock by substituting a weighted average share count for the number of the CFC's shares outstanding during the CFC year when determining the U.S. shareholder's percentage of ownership of the stock of the foreign corporation. *See* proposed § 1.951–1(e)(2)(iii)(A). The weighted average share count is equal to the sum of the number of shares outstanding on each day of the CFC year divided by the number of days in the CFC year. *See* proposed § 1.951–1(e)(4)(v) (Example 4).

If there is more than one class of stock of a CFC outstanding during the CFC year and the number of shares within a class of stock varies during the CFC year, then the hypothetical distribution described in part II.E.3 of this Explanation of Provisions is based on the allocable earnings and profits that would be distributed to a class of shares if a weighted average share count was outstanding on the last day of the CFC year. *See* proposed § 1.951–1(e)(2)(iii)(B) and (4)(v) (Example 4).

F. Ownership Period of Foreign Corporation Stock

Section 1.951–1(f) provides that, for purposes of sections 951 through 964, the holding period of an asset (including stock of a CFC) is determined by excluding the day on which such asset is acquired and including the day on which such asset is disposed of. The proposed regulations would clarify that this rule applies in determining the period when stock of a foreign corporation is owned. Thus, for example, if a U.S. shareholder sells all the stock of a CFC to another U.S. shareholder, the selling U.S. shareholder is treated as owning the stock of the CFC through the end of the day of the sale, and the acquiring U.S. shareholder is treated as owning the stock of the CFC as of the beginning of the day immediately after the sale.

III. Section 951A Regulations

A. Pro Rata Share of Tested Income or Tested Loss

The proposed regulations would revise § 1.951A–1 to coordinate the determination of a U.S. shareholder's pro rata share of a CFC's tested income or tested loss with the rules provided in proposed § 1.951–1, including the determination of a foreign corporation's CFC year under the rules for mandatory and elective closings of a foreign corporation's taxable year. *See* proposed § 1.951A–1(d). The proposed regulations would generally retain the rules relating to the allocation of tested loss to preferred stock but modify those provisions to apply for purposes of the hypothetical distribution described in proposed § 1.951–1(e)(2)(ii). *See* proposed § 1.951A–1(d)(2)(ii) and (3). The examples under § 1.951A–1 would also be modified to illustrate the pro rata share rules in the proposed regulations. *See* proposed § 1.951A–1(d)(2)(iii) and (3)(iv).

B. Section 951A Inclusion Rules

The proposed regulations would revise § 1.951A–1 to incorporate other amendments to section 951A in the OBBBA. In particular, the proposed regulations would provide that, under section 951A as revised by the OBBBA, a U.S. shareholder is required to include in gross income its net CFC tested income inclusion amount, and the proposed regulations would prescribe the rule for determining this amount. *See* proposed § 1.951A–1(b) and (c). The proposed regulations would also remove the rules for determining a U.S. shareholder's pro rata share of qualified business asset investment, tested interest expense, and tested interest income. The Treasury Department and the IRS anticipate proposing additional changes to the regulations under section 951A to conform with the amendments made in the OBBBA in a separate guidance project.

IV. Information Reporting Under Section 1.6038–2

Section 6038(a)(1) provides that every United States person that controls (within the meaning of section 6038(e)(2)) any foreign business entity must furnish with respect to that entity such information as the Secretary may prescribe related to the items listed in section 6038(a)(1)(A) through (E) and any other information that is similar or related in nature to such listed information or which the Secretary determines to be appropriate to carry out the provisions of the Code. Section 1.6038–2(f) sets forth information that

may be required to be provided on Form 5471.

The proposed regulations would modify the information described in § 1.6038–2(f)(8) regarding the outstanding stock of a foreign corporation to reflect the amendments made by the OBBBA to sections 951 and 951A. *See* proposed § 1.6038–2(f)(8). Additionally, as revised, proposed § 1.6038–2(f) would provide that returns on Form 5471, *Information Return of U.S. Persons With Respect To Certain Foreign Corporations,* must contain information prescribed by Form 5471 (or successor form) and that such information may include, but is not limited to, the information set forth in § 1.6038–2(f). This revision clarifies that additional information may be required on Form 5471 that is not described by regulation, consistent with section 6038(a)(1).

V. Related Provisions

A. Section 951B

As described in part III.A of the Background, pursuant to section 951B(a)(1), section 951 applies to FCUSSs and FCFCs by replacing references to ''United States shareholder'' with ''foreign controlled United States shareholder'' and references to ''controlled foreign corporation'' with ''foreign controlled foreign corporation.'' Additionally, under section 951B(a)(2), section 951A applies to an FCUSS by treating references to a ''United States shareholder'' as including a reference to an FCUSS and by treating each reference to a ''controlled foreign corporation'' as including a reference to an FCFC.

Pursuant to the application of section 951B, the proposed regulations under sections 951 and 951A would apply to FCUSSs and FCFCs in the same manner. Thus, the proposed regulations under section 951 would apply by substituting references to ''United States shareholder'' for ''foreign controlled United States shareholder'' and references to ''controlled foreign corporation'' for ''foreign controlled foreign corporation.'' The proposed regulations under section 951A would apply by treating each reference to a ''United States shareholder'' as including a reference to an FCUSS and by treating each reference to a ''controlled foreign corporation'' as including a reference to an FCFC.

Because the proposed regulations would apply the same rules under sections 951 and 951A to FCUSSs and FCFCs pursuant to section 951B, the election to close the taxable year of a foreign corporation under proposed § 1.951–1(d)(2) would not be available to FCUSSs with respect to an FCFC because such shareholders cannot own the requisite percentage of stock of an FCFC (more than 50 percent of the vote or value) for a significant ownership variance to occur. The mandatory closing of a foreign corporation's taxable year under proposed § 1.951–1(d)(2), however, is required if a foreign corporation becomes or ceases to be an FCFC for the same reasons described in part II.C of this Explanation of Provisions. The mandatory closing of a foreign corporation's taxable year would include cases in which a CFC becomes an FCFC or an FCFC becomes a CFC to ensure the proper operation of section 951B.

B. Section 960

These proposed regulations would not make any changes to the regulations under section 960. While the determination of a corporate U.S. shareholder's pro rata share of a CFC's subpart F income, tested income, or tested loss has changed, the regulations under section 960 should continue to operate appropriately to determine the foreign income taxes deemed paid by a domestic corporation as a result of its inclusions under sections 951(a)(1) and 951A.

VI. Effect on Other Regulations

A. Section 1.1502–80(j)

Section 1.1502–80(j) provides that, in determining the amount described in former section 951(a)(2)(B) that is attributable to distributions of previously taxed earnings and profits to which section 959(b) applies, members of a consolidated group (as defined in § 1.1502–1(h)) are treated as a single U.S. shareholder for purposes of determining the part of the year during which such shareholder did not own the stock described in former section 951(a)(2)(A). Following the revisions to section 951 in the OBBBA, for taxable years of foreign corporations that begin after December 31, 2025, former section 951(a)(2)(B) does not apply in determining a U.S. shareholder's pro rata share of subpart F income or tested income. As a result, to the extent former section 951(a)(2)(B) is no longer relevant, § 1.1502–80(j) is no longer necessary to address the application of former section 951(a)(2)(B) within a consolidated group with respect to distributions to which section 959(b) applies. Accordingly, the proposed regulations would amend the applicability date in § 1.1502–80(j)(3) to clarify that § 1.1502–80(j) applies only to the extent former section 951(a)(2)(B) is applicable.

B. Section 1.245A–5(e) and (f)

The Treasury Department and the IRS are of the view that, because of the revisions to sections 951 and 951A in the OBBBA, the extraordinary reduction rules in § 1.245A–5(e) and (f) are no longer necessary. Accordingly, under the proposed regulations, the extraordinary reduction rules would not apply for taxable years of foreign corporations beginning after December 31, 2025. *See* proposed § 1.245A–5(k)(3). The proposed regulations would also modify § 1.245A–5(d) (limitation on the section 954(c)(6) exception with respect to extraordinary disposition accounts for lower-tier CFCs) to reflect the revisions to section 951 in the OBBBA. *See* proposed § 1.245A–5(d)(1)(ii).

C. Section 1248 Regulations

In general, under section 1248(a), if a United States person that satisfies certain ownership requirements recognizes gain on a sale or exchange of stock in a foreign corporation, then the gain is included in the gross income of such person as a dividend to the extent of the E&P of the foreign corporation attributable to the stock that accumulated while the United States person held the stock and the corporation was a CFC, taking into account E&P of certain lower-tier foreign corporations but excluding previously taxed earnings and profits. For this purpose, regulations under section 1248 provide rules for determining E&P attributable to stock in a foreign corporation in simple and complex cases. *See* §§ 1.1248–2 and 1.1248–3. The rules addressing complex cases incorporate the principles of § 1.951–1(e)(2) and (3) for purposes of allocating E&P to multiple classes of stock of a foreign corporation. *See* § 1.1248–3(c)(4) and (d)(6).

The determination of a U.S. shareholder's pro rata share of a CFC's subpart F income, tested income, or tested loss under the proposed regulations is intended to be consistent with the manner in which E&P is attributed to stock of a foreign corporation under the rules prescribed in regulations under section 1248. The Treasury Department and the IRS, however, are studying the regulations under section 1248 and revisions to those regulations may be proposed in a separate guidance project. Comments are requested on the extent to which revisions to the regulations under section 1248 are necessary to coordinate

with the proposed regulations under sections 951 and 951A.

D. Proposed Regulations on Previously Taxed Earnings and Profits

On December 2, 2024, the Treasury Department and the IRS published proposed regulations under sections 959 and 961 and certain other provisions of the Code regarding previously taxed earnings and profits (89 FR 95362) (2024 proposed PTEP regulations). The 2024 proposed PTEP regulations contain certain rules premised on former section 951 and also proposed revisions to the regulations under section 951. The Treasury Department and the IRS intend to modify the 2024 proposed PTEP regulations to reflect the amendments to sections 951 and 951A in the OBBBA and the rules in these proposed regulations in a separate guidance project.

VII. Transition Rule

A. Application

The proposed regulations would provide rules for the application of the transition rule that are consistent with the rules described in the transition rule notice. *See* proposed § 1.951–4.

For example, the proposed regulations would provide as a general rule that certain dividends are not treated as dividends for purposes of applying former section 951(a)(2)(B) to the extent the dividend does not increase the taxable income of a United States person subject to Federal income tax. *See* proposed § 1.951–4(b). As described in section 3.04 of the transition rule notice, this general rule would apply by reference to the specific shares of stock of the CFC with respect to which a dividend was paid or deemed paid, and for which a U.S. shareholder would otherwise reduce its pro rata share under former section 951(a)(2)(B) absent the application of the transition rule. Accordingly, if a U.S. shareholder acquires shares of stock in a CFC after June 28, 2025, dividends paid with respect to those shares on or before June 28, 2025, and during the taxable year of the CFC that includes such date, are subject to the transition rule even if the U.S. shareholder owned other shares in the CFC on or before June 28, 2025.

The proposed regulations would also define dividends paid or deemed paid, United States person subject to Federal income tax, and taxable income for purposes of the transition rule. *See* proposed § 1.951–4(c) through (e).

In addition, the proposed regulations would provide rules for determining whether a dividend increases taxable income. *See* proposed § 1.951–4(f). The proposed regulations would provide that all applicable provisions of the Code, and the regulations thereunder, are applied before applying, and without regard to, the transition rule. Therefore, for example, to the extent a dividend paid to a controlling domestic shareholder before an extraordinary reduction would be ineligible for the dividends received deduction under section 245A(a) after applying section 245A and § 1.245A–5 without regard to the transition rule, the dividend would be treated as increasing the taxable income of a United States person subject to Federal income tax. The proposed regulations would provide an example demonstrating this result and the consequences that would follow under section 245A.

Finally, the proposed regulations would include the rules on partnerships and S corporations generally described in the transition rule notice, including a safe harbor in the context of certain publicly held partnerships. *See* proposed § 1.951–4(g).

B. Substantiation Requirement

Under section 3.03(4) of the transition rule notice, a U.S. shareholder that reduces its pro rata share of subpart F income or tested income under former section 951(a)(2)(B) as a result of a dividend subject to the transition rule must determine and document that the dividend increased the taxable income of a United States person subject to Federal income tax. The U.S. shareholder is required to provide a statement to the IRS that describes why the U.S. shareholder is entitled to treat such amount as a dividend for purposes of former section 951(a)(2)(B) and how the U.S. shareholder determined such amount increased the taxable income of a United States person subject to Federal income tax.

A commenter on the transition rule notice asserted that the requirement that a U.S. shareholder must determine and document that the dividend increased the taxable income of a United States person subject to Federal income tax is ambiguous and potentially onerous. The commenter noted that the transition rule notice does not explain what level of analysis, substantiation, or third-party information is required to demonstrate that a dividend resulted in an increase to taxable income and indicated that this information would be difficult to obtain for transactions that have already closed. The commenter recommended that the Treasury Department and the IRS eliminate or significantly pare back the requirement where the dividend is required by law to be included in the gross income of a United States person and where no exclusion or deduction could reasonably apply. Alternatively, the commenter suggested adopting a per se rule or safe harbor under which the requirement does not apply to dividends received by certain United States persons for whom inclusion in taxable income is mandatory under the Code and, for all other situations, provide that Federal income tax principles must be analyzed and indicate the type of documentation that is sufficient to demonstrate that the dividend increased taxable income.

The Treasury Department and the IRS are of the view that the substantiation requirement described in the transition rule notice properly requires taxpayers to establish that they are correctly calculating their pro rata share of subpart F income or tested income when applying the transition rule, while adequately prescribing the degree of detail taxpayers must provide. The Treasury Department and the IRS are also of the view that a per se rule or safe harbor rule is not appropriate. For example, in the case of a dividend paid or deemed paid to a United States person for whom inclusion in taxable income is mandatory under the Code (for example, an individual who is a United States citizen), information supporting the determination that the dividend recipient is such a person would satisfy the substantiation requirement. Additionally, a specific description of the types of documentation that taxpayers must provide for substantiation purposes would be overly restrictive. Accordingly, the proposed regulations do not adopt the commenter's recommendations and would include the substantiation requirement described in the transition rule notice. *See* proposed § 1.951–4(h).

VIII. Applicability Dates

The Treasury Department and the IRS expect to finalize the proposed regulations by January 4, 2027. Under section 7805(b)(2), the proposed regulations under sections 951, 951A, and 6038 are generally proposed to apply to taxable years of foreign corporations beginning after December 31, 2025, and to taxable years of U.S. shareholders for which such taxable years of those foreign corporations are relevant. *See* proposed §§ 1.951–1(i)(1), 1.951A–7(a), and 1.6038–2(m).

Under section 70354(c) of the OBBBA, the amendments to the pro rata share rules of section 951(a) made by section 70354(a) of the OBBBA are made effective ''for taxable years of foreign corporations beginning after December 31, 2025.'' However, under section

70323(c) of the OBBBA, the amendments to section 951A made by section 70323(a) of the OBBBA, requiring a U.S. shareholder to include in gross income its net CFC tested income instead of its GILTI inclusion amount, are made effective ''for taxable years beginning after December 31, 2025,'' which the Treasury Department and the IRS believe is best interpreted as referring to the taxable years of a U.S. shareholder. Therefore, in the case of a foreign corporation whose taxable year begins after December 31, 2025, but ends with or within a taxable year of a U.S. shareholder that begins on or before December 31, 2025, former section 951A applies with respect to the U.S. shareholder, with the U.S. shareholder's pro rata shares of the CFC's tested items determined under section 951(a)(2) as amended by the OBBBA. Proposed § 1.951A–7(c) would therefore provide that, in this fact pattern, the U.S. shareholder applies the former version of § 1.951A–1 (which provides for the calculation and inclusion of the U.S. shareholder's GILTI inclusion amount rather than net CFC tested income) with respect to the CFC, but must take into account the amendments to section 951(a)(2) made by the OBBBA in determining the U.S. shareholder's pro rata share of any tested item.

As revised in the proposed regulations, §§ 1.245A–5(e) and (f) and 1.1502–80(j) would not apply with respect to taxable years of foreign corporations beginning after December 31, 2025. *See* proposed §§ 1.245A–5(k)(3) and 1.1502–80(j)(3).

Under section 7805(b)(2), the proposed regulations regarding the transition rule would apply to taxable years of a foreign corporation that either include June 28, 2025, or begin after June 28, 2025, but before the foreign corporation's first taxable year beginning after December 31, 2025. *See* proposed § 1.951–4(i).

Taxpayers may rely on all aspects of the proposed regulations before the date the proposed regulations are finalized, provided a taxpayer and its related parties (within the meaning of sections 267(b) and 707(b)(1)) follow the rules in their entirety and in a consistent manner.

Special Analyses

I. Regulatory Planning and Review—Economic Analysis

The Office of Management and Budget's (OMB) Office of Information and Regulatory Analysis has determined that this proposed regulation is not significant and is not subject to review under section 6(b) of Executive Order 12866. Therefore, a regulatory impact assessment is not required.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) generally requires that a Federal agency obtain the approval of the OMB before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the OMB.

The collections of information in these proposed regulations contain reporting and recordkeeping requirements that enable the IRS to verify that a taxpayer is reporting the correct amount of taxable income. The collections of information will be used by the IRS for tax compliance purposes. The likely respondents are individuals, businesses, and other for-profit institutions.

The collections of information in the proposed regulations are in proposed §§ 1.951–1(d)(2)(i) and (iv), 1.951–4(h), and 1.6038–2(f)(8).

The collections of information in proposed § 1.951–1(d)(2)(i) and (iv) are elective for controlling section 958(a) U.S. shareholders electing to close a CFC's taxable year if a significant ownership variance occurs. The collection of information in proposed § 1.951–1(d)(2)(i) is satisfied by the controlling section 958(a) U.S. shareholders providing notice regarding the election to United States persons that own stock of a CFC during the taxable year that ends on the day on which the CFC's taxable year is treated as closing under proposed § 1.951–1(d)(2), other than those persons required to enter into the binding agreement. The collection of information in proposed § 1.951–1(d)(2)(iv) is satisfied by all controlling section 958(a) U.S. shareholders filing the ''Elective Section 951 Year-Closing Statement'' with a timely filed original Federal income tax return (including extensions) for the taxable year that includes the day the CFC's taxable year is treated as closing under proposed § 1.951–1(d)(2).

The collection of information in proposed § 1.951–4(h)(2) is mandatory for certain United States persons that are entitled to treat certain dividend amounts as a dividend for purposes of former section 951(a)(2)(B) as described in proposed § 1.951–4(h)(2). The collection of information is satisfied by a United States person attaching a statement to Form 5471 that describes how the United States person determined that the dividend increased the taxable income of a United States person that is subject to Federal income tax for the taxable year, applying the rules in proposed § 1.951–4.

The collection of information in proposed § 1.6038–2(f)(8) is mandatory for U.S. shareholders. The collection of information is satisfied by completing Schedules A and B relating to the outstanding stock of a CFC and changes in direct and indirect ownership of the CFC as described in or as prescribed by Form 5471 and its instructions.

These reporting requirements will be included within OMB Control Numbers 1545–0123 for business filers, 1545–0074 for individual filers, 1545–0092 for trust and estate filers and 1545–0047 for tax exempt filers in accordance with the PRA procedures under 5 CFR 1320.10.

The recordkeeping requirements include that taxpayers keep books of account and records that are adequate to permit verification that the reduction in the taxpayer's pro rata share under former section 951(a)(2)(B) was appropriate and that the taxpayer is reporting the correct amount of taxable income. The recordkeeping requirements also include that certain taxpayers enter into a binding agreement with other shareholders as described in part II.D.3 of the Explanation of Provisions.

All recordkeeping requirements will be included within OMB Control Numbers 1545–0123 for business filers, 1545–0074 for individual filers, 1545–0092 for trust and estate filers, and 1545–0047 for tax exempt filers in accordance with the PRA procedures under 5 CFR 1320.10.

III. Regulatory Flexibility Act

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (5 U.S.C. chapter 6) (RFA) requires the agency to prepare and make available for public comment an initial regulatory flexibility analysis that will describe the impact of the proposed rule on small entities. *See* 5 U.S.C. 603(a). Section 605 of the RFA provides an exception to this requirement if the agency certifies that the proposed rulemaking will not have a substantial economic impact on a substantial number of small entities. A small entity is defined as a small business, small nonprofit organization, or small governmental jurisdiction. *See* U.S.C. 601(3) through (6).

It is hereby certified that the proposed regulations will not have a significant economic impact on a substantial number of small entities. The Treasury

Department and the IRS have determined that the regulations may affect a substantial number of small entities but do not expect that the proposed regulations will have a significant economic impact on affected small entities within the meaning of sections 601(3) through (6) of the RFA. The proposed regulations provide guidance on issues regarding sections 951 and 951A and related provisions but do not change the economic impact of the existing regulations or impose any new costs on small entities. The proposed regulations would modify some existing reporting requirements as discussed in part II of this Special Analyses, but the modifications are not expected to impose significant costs on any entities. Notwithstanding this certification, the Treasury Department and the IRS welcome comments from the public about the impact of these regulations on small entities.

IV. Submission to the Small Business Administration

Pursuant to section 7805(f) of the Code, the proposed regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. In 2026, that threshold is approximately $214 million. The proposed regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

VI. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. The proposed regulations do not have federalism implications, do not impose substantial direct compliance costs on State and local governments, and do not preempt State law within the meaning of the Executive order.

Comments and Requests for a Public Hearing

Consideration will be given to comments that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** section. In addition to the comments specifically requested in the Explanation of Provisions, the Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any comments submitted will be made available at *www.regulations.gov* or upon request.

A public hearing will be scheduled if requested in writing by any person who timely submits written comments. Requests for a public hearing are encouraged to be made electronically. If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the **Federal Register**. Public hearings will be conducted in person with a telephonic option for individuals who wish to attend or testify at the hearing by telephone. Hearings will be made accessible to people with disabilities.

Statement of Availability of IRS Documents

Any IRS Revenue Procedures, Revenue Rulings, Notices, or other guidance cited in this document are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *www.irs.gov.*

Drafting Information

The principal author of these regulations is James R. Kostura, Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by revising the entry for § 1.951–1 and adding entries in numerical order for § 1.951–4 and § 1.951A–1 to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

* * * * *

Section 1.951–1 also issued under 26 U.S.C. 951, 951(a)(4), and 7701(a).

Section 1.951–4 also issued under section 70354(c)(2), Pub. L. 119–21, 139 Stat. 72.

Section 1.951A–1 also issued under 26 U.S.C. 951(a)(4) and 951A.

* * * * *

■ **Par. 2.** Section 1.245A–5 is amended by:

■ 1. Revising the last sentence of paragraph (a);

■ 2. Revising paragraph (d)(1)(ii);

■ 3. Revising the second sentence of paragraph (j)(3)(ii)(D);

■ 4. Revising paragraph (k)(1); and

■ 5. Adding paragraphs (k)(3) and (4).

The revisions and additions read as follows:

§ 1.245A–5 Limitation of section 245A deduction and section 954(c)(6) exception.

(a) * * * Paragraph (k) of this section provides the applicability date of this section, including a rule that provides that the extraordinary reduction rules described in paragraphs (e) and (f) of this section do not apply to taxable periods of foreign corporations beginning after December 31, 2025.

* * * * *

(d) * * *

(1) * * *

(ii) The percentage of the upper-tier CFC's subpart F income that would be included in a United States shareholder's income under section 951(a) with respect to the upper-tier CFC's taxable year, determined without regard to the application of section 954(c)(6).

* * * * *

(j) * * *

(3) * * *

(ii) * * *

(D) * * * The percentage of CFC1's subpart F income for its taxable year that would be included in a United States shareholder's income is 100%.

* * *

* * * * *

(k) *Applicability date*—(1) *In general.* Except as provided in paragraphs (k)(3) and (4) of this section, this section applies to taxable periods of a foreign corporation ending on or after June 14, 2019, and to taxable periods of section 245A shareholders in which or with which such taxable periods end.

* * * * *

(3) *Phaseout of extraordinary reduction rules.* Paragraphs (b)(2)(ii), (e), and (f) of this section do not apply to taxable periods of foreign corporations beginning after December 31, 2025.

(4) *Modification of extraordinary disposition rules.* Paragraphs (d)(1)(ii)

and (j)(3)(ii)(D) of this section apply to taxable periods of foreign corporations beginning after December 31, 2025, and to taxable periods of section 245A shareholders in which or with which such taxable periods end. For rules that apply to taxable periods of foreign corporations beginning on or before December 31, 2025, see § 1.245A–5 as contained in 26 CFR part 1 edition revised as of April 1, 2026.

■ **Par. 3.** Section 1.901–2 is amended by revising paragraph (f)(6) to read as follows:

§ 1.901–2 Income, war profits, or excess profits tax paid or accrued.

* * * * *

(f) * * *

(6) *Allocation of foreign income taxes in connection with certain elections and status change events.* For rules relating to the allocation of foreign income taxes in connection with elections made pursuant to section 336(e), *see* § 1.336–2(g)(3)(ii). For rules relating to the allocation of foreign income taxes in connection with elections made pursuant to section 338, *see* § 1.338–9(d). For rules relating to the allocation of foreign income taxes in connection with elections made pursuant to § 1.245A–5(e)(3)(i), *see* § 1.245A–5(e)(3)(i)(B) (applicable to taxable periods of foreign corporations beginning before December 31, 2025). For rules relating to the allocation of foreign income taxes in connection with an election pursuant to § 1.951–1(d)(2) or a status change event under § 1.951–1(d)(1), *see* § 1.951–1(d)(3).

* * * * *

■ **Par. 4.** Section 1.951–1 is amended by:

■ 1. Revising paragraphs (a), (b), (d) through (f), and (h); and

■ 2. Adding paragraph (i).

The revisions and addition read as follows:

§ 1.951–1 Amounts included in gross income of United States shareholders.

(a) *Scope.* This section sets forth the rules for determining amounts included in the gross income of a United States shareholder under section 951(a). Paragraph (b) of this section provides the general rule for amounts required to be included in gross income under section 951(a)(1)(A) and (B). Paragraph (c) of this section is reserved. Paragraph (d) of this section provides rules that require or permit the closing of the taxable year of a foreign corporation, which, if applicable, are necessary to determine the CFC year with respect to which a United States shareholder determines its pro rata share of subpart F income. Paragraph (e) of this section prescribes the rules for determining a United States shareholder's pro rata share of subpart F income for a CFC year. Paragraph (f) of this section provides a rule for determining the holding period of an asset (including stock of a controlled foreign corporation). Paragraph (g) of this section defines United States shareholder. Paragraph (h) of this section provides additional definitions. Paragraph (i) of this section provides applicability dates. For rules applying this section to foreign controlled United States shareholders and foreign controlled foreign corporations, see section 951B (generally replacing references in this section to the term ''United States shareholder'' with the term ''foreign controlled United States shareholder'' and the term ''controlled foreign corporation'' with the term ''foreign controlled foreign corporation'').

(b) *In general*—(1) *Section 951(a)(1)(A) inclusions.* Each United States shareholder of a foreign corporation that owns stock in the foreign corporation on any day during a CFC year of the foreign corporation must, for the United States shareholder's taxable year that includes the last day on which the shareholder owns stock in the foreign corporation during the CFC year, include in gross income the United States shareholder's pro rata share (determined under paragraph (e) of this section) of the foreign corporation's subpart F income for the CFC year.

(2) *Section 951(a)(1)(B) inclusions.* Each United States shareholder of a foreign corporation that owns stock in the foreign corporation on the last day of a CFC year on which the foreign corporation is a controlled foreign corporation must, for the United States shareholder's taxable year that includes the last day on which the shareholder owns stock in the foreign corporation during the CFC year, include in gross income the amount determined under section 956 with respect to the United States shareholder for the CFC year, but only to the extent not excluded from gross income under section 959(a)(2).

(3) *Personal holding company determination.* For purposes of determining whether a United States shareholder that is a domestic corporation is a personal holding company under section 542 and § 1.542–1, the character of the amount includible in gross income of such domestic corporation under this paragraph (b) is determined as if such amount were realized directly by such domestic corporation from the source from which it is realized by the controlled foreign corporation.

(4) *Cross references. See* § 1.957–2(a) for a special limitation on the amount of subpart F income in the case of a controlled foreign corporation described in section 957(b) (involving insurance income). *See* section 970(a) and § 1.970–1 for rules that reduce subpart F income of controlled foreign corporations that are export trade corporations.

* * * * *

(d) *Certain taxable year determinations*—(1) *Required closing of foreign corporation's taxable year*—(i) *In general.* If a status change event occurs with respect to a foreign corporation, the taxable year of the foreign corporation closes for all purposes of the Internal Revenue Code (and, therefore, as to all shareholders of the foreign corporation) under this paragraph (d)(1) as of the end of the day on which the status change event occurs, unless the taxable year otherwise closes as of such day under another provision of the Internal Revenue Code.

(ii) *Status change event.* A *status change event* occurs if a foreign corporation becomes or ceases to be a controlled foreign corporation. For purposes of paragraph (d)(1)(i) of this section, in the case of a foreign corporation becoming a controlled foreign corporation, the status change event occurs on the last day that the foreign corporation is not a controlled foreign corporation, and in the case of a foreign corporation ceasing to be a controlled foreign corporation, the status change event occurs on the last day that the foreign corporation is a controlled foreign corporation.

(iii) *Special rules for domestic partnerships and options.* Solely for purposes of determining whether a status change event occurs with respect to a foreign corporation—

(A) § 1.958–1(d)(1) is applied without regard to the exceptions in § 1.958–1(d)(2)(i) and (ii), and

(B) Section 318(a)(4) and § 1.958–2(e) do not apply.

(2) *Elective closing of controlled foreign corporation's taxable year*—(i) *In general.* If a significant ownership variance occurs with respect to a controlled foreign corporation, all the controlling section 958(a) U.S. shareholders of the controlled foreign corporation may elect to close the controlled foreign corporation's taxable year for all purposes of the Internal Revenue Code (and, therefore, as to all shareholders of the controlled foreign corporation) under this paragraph (d)(2) as of the end of the day on which the

significant ownership variance occurs, unless the taxable year otherwise closes as of such day under another provision of the Internal Revenue Code. If the election is made, all persons that own stock of the controlled foreign corporation (regardless of whether they are controlling section 958(a) U.S. shareholders) must file their respective Federal income tax returns and information returns consistently with the election. The closing of the controlled foreign corporation's taxable year is treated as a change in taxable year for purposes of the notice requirement in § 1.964–1(c)(3)(iii), treating the controlling section 958(a) U.S. shareholders as the controlling domestic shareholders of the foreign corporation for this purpose. The notice described in § 1.964–1(c)(3)(iii) must be provided to all United States persons that own stock of the controlled foreign corporation during the taxable year that ends on the day on which the controlled foreign corporation's taxable year closes under this paragraph (d)(2), other than those persons required to enter into the binding agreement described in paragraph (d)(2)(iv)(B) of this section.

(ii) *Significant ownership variance*—(A) *In general.* A *significant ownership variance* occurs if, taking into account all specified transfers that occur pursuant to the same plan during the same taxable year of a controlled foreign corporation (such taxable year determined without regard to this paragraph (d)(2)), the percentage of the outstanding stock of the controlled foreign corporation owned by one or more section 958(a) U.S. shareholders of the controlled foreign corporation decreases, in the aggregate, by more than 50 percentage points (by vote or value), as compared to the percentage of stock of the controlled foreign corporation owned by those section 958(a) U.S. shareholders immediately before the first such specified transfer. For purposes of paragraph (d)(2)(i) of this section, the significant ownership variance occurs on the day that the last specified transfer taken into account in the significant ownership variance occurs.

(B) *Specified trans*fer. A *specified transfer* is—

(*1*) A sale, exchange, or any other disposition of one or more shares of stock of a foreign corporation or of a partnership interest by the same person on the same date, including a redemption of stock within the meaning of section 317(b) or a change in a partner's interest in a partnership as a result of a distribution or redemption, or

(*2*) An issuance of one or more shares of stock of a foreign corporation, an issuance of a partnership interest, or a change in a partner's interest in a partnership as a result of a contribution of property or services to the partnership, in each case occurring on the same date.

(C) *Special rules for related persons and certain reorganizations.* Solely for purposes of applying paragraph (d)(2)(ii)(A) of this section—

(*1*) The total percentage of the outstanding stock of the controlled foreign corporation owned by one or more section 958(a) U.S. shareholders is not treated as decreasing to the extent that, taking into account all the specified transfers referred to in paragraph (d)(2)(ii)(A) of this section, a United States person that is a related person, immediately following the last such specified transfer, with respect to any section 958(a) U.S. shareholder whose percentage of ownership of stock of the controlled foreign corporation decreased (determined without regard to this paragraph (d)(2)(ii)(C)(*1*)), has an increase in its percentage of ownership of stock of the controlled foreign corporation; and

(*2*) The transferor corporation and the resulting corporation (as defined in § 1.368–2(m)(1)) in a reorganization described under section 368(a)(1)(F) are treated as the same corporation.

(iii) *Certain United States shareholders*—(A) *Section 958(a) U.S. shareholders.* The *section 958(a) U.S. shareholders* of a controlled foreign corporation are the United States shareholders that own stock of the controlled foreign corporation.

(B) *Controlling section 958(a) U.S. shareholders.* The *controlling section 958(a) U.S. shareholders* of a controlled foreign corporation are the section 958(a) U.S. shareholders (or, if applicable, single section 958(a) U.S. shareholder) whose percentage of ownership of stock of the controlled foreign corporation decreases as part of a significant ownership variance.

(iv) *Time and manner of making election*—(A) *Election by controlling section 958(a) U.S. shareholders.* An election pursuant to this paragraph (d)(2) is made and effective if each controlling section 958(a) U.S. shareholder files the statement described in paragraph (d)(2)(v) of this section with its timely filed original Federal income tax return (including extensions) for the taxable year that includes the day the controlled foreign corporation's taxable year closes under this paragraph (d)(2). If a controlling section 958(a) U.S. shareholder is a member of a consolidated group (within the meaning of § 1.1502–1(h)), the agent for the group (within the meaning of § 1.1502–77(c)(1)) makes the election by filing the statement described in paragraph (d)(2)(v) of this section on behalf of such member.

(B) *Binding agreement.* Before the filing of the statement described in paragraph (d)(2)(v) of this section, all the controlling section 958(a) U.S. shareholders and all other section 958(a) U.S. shareholders of the controlled foreign corporation (if any) that own stock of the controlled foreign corporation on any day of the controlled foreign corporation's taxable year up to and including the day that the significant ownership variance occurs must enter into a written, binding agreement requiring the controlling section 958(a) U.S. shareholders to make the election described in this paragraph (d)(2). Each party to this binding agreement must be able to present the agreement to the Internal Revenue Service for inspection upon request. No binding agreement is required under this paragraph (d)(2)(iv)(B) if there is a single controlling section 958(a) U.S. shareholder and there is no other section 958(a) U.S. shareholder of the controlled foreign corporation that owns stock of the controlled foreign corporation on any day of the controlled foreign corporation's taxable year up to and including the day that the significant ownership variance occurs. In the case of a section 958(a) U.S. shareholder that owns stock of the controlled foreign corporation indirectly through one or more partnerships, the partnership that directly holds the stock of the controlled foreign corporation may enter into the binding agreement on behalf of the United States shareholder partner provided that, before the due date of the partner's original Federal income tax return, including extensions, the partner delegated the authority to the partnership to enter into the binding agreement pursuant to a written partnership agreement (within the meaning of § 1.704–1(b)(2)(ii)(*h*)).

(v) *Form and content of statement.* The statement required by paragraph (d)(2)(iv) of this section must be titled ''Elective Section 951 Year-Closing Statement.'' The statement must—

(A) Identify (by name and tax identification number, if any) the controlled foreign corporation, the controlling section 958(a) U.S. shareholders, and each other section 958(a) U.S. shareholder of the controlled foreign corporation that is party to the binding agreement referred to in paragraph (d)(2)(iv)(B) of this section;

(B) Describe the significant ownership variance to which the election applies and provide the date on which the

controlled foreign corporation's taxable year closes;

(C) State that each controlling section 958(a) U.S. shareholder and all other section 958(a) U.S. shareholders of the controlled foreign corporation described in paragraph (d)(2)(iv)(B) of this section have entered into a written, binding agreement to elect to close the controlled foreign corporation's taxable year in accordance with paragraph (d)(2)(iv)(B) of this section; and

(D) Be filed in the manner, if any, prescribed by forms, publications, or other guidance published in the Internal Revenue Bulletin.

(vi) *Consistency requirement.* If significant ownership variances occur with respect to multiple controlled foreign corporations pursuant to a plan or series of related transactions, the election described in this paragraph (d)(2) may be made only if it is made with respect to each of the controlled foreign corporations.

(3) *Foreign income taxes*—(i) *Allocation to taxable years.* If a foreign corporation's taxable year closes under paragraph (d)(1) or (d)(2) of this section and the foreign corporation's taxable year under foreign law does not close at the end of the date on which the foreign corporation's taxable year closes (the closing date), a portion of the foreign income tax with respect to such foreign taxable year that accrues in the taxable year following the closing date is allocated to the taxable year ending with the closing date. The allocation is made based on the portion of the taxable income of the foreign corporation (as determined under foreign law) for the foreign taxable year that is attributable under the principles of § 1.1502–76(b) (without regard to § 1.1502–76(b)(2)(ii)) to the period of the foreign taxable year ending with the closing date. This paragraph (d)(3) applies to all foreign income taxes for which the foreign corporation is the taxpayer under § 1.901–2(f) (other than withholding taxes as defined in section 901(k)(1)(B)). Foreign income taxes allocated to a taxable year under this paragraph (d)(3) are treated as accrued by the foreign corporation as of the close of that taxable year for all purposes of the Internal Revenue Code except for section 986(a).

(ii) *Allocation and apportionment to statutory and residual groupings.* The portion of the foreign income tax allocated under paragraph (d)(3)(i) of this section to the taxable year ending with the closing date is allocated and apportioned to statutory and residual groupings under § 1.861–20 by treating the foreign taxable income attributed under paragraph (d)(3)(i) of this section to the period of the foreign taxable year ending with the closing date as the foreign income included in the base on which the tax is imposed. The portion of the foreign income tax that remains in the taxable year following the closing date is allocated and apportioned to statutory and residual groupings under § 1.861–20 by treating the remaining foreign taxable income as the foreign income included in the base on which the tax is imposed.

(4) *Examples.* The following examples illustrate the application of this paragraph (d).

(i) *Example 1: Status change event*—(A) *Facts.* FC is a foreign corporation with a calendar taxable year. As of January 1 of Year 1, 100 percent of the stock of FC is owned by USP, a domestic corporation. On June 30 of Year 1, USP sells all its stock in FC to Individual A, a nonresident alien individual.

(B) *Analysis.* Under paragraph (f)(1) of this section, USP owns the stock of FC through June 30 of Year 1. Individual A owns the stock of FC on July 1 of Year 1. FC is therefore a controlled foreign corporation through June 30 of Year 1 and is not a controlled foreign corporation on July 1 of Year 1. Under paragraph (d)(1)(ii) of this section, a status change event occurs with respect to FC on June 30 of Year 1, which is the last day that FC is a controlled foreign corporation. Therefore, under paragraph (d)(1)(i) of this section, the taxable year of FC closes for all purposes of the Internal Revenue Code as of the end of the day on June 30 of Year 1.

(ii) *Example 2: Significant ownership variance*—(A) *Facts.* The facts are the same as in paragraph (d)(4)(i)(A) of this section (*Example 1*), except that Individual A is a United States citizen. USP and Individual A are not related persons.

(B) *Analysis.* Paragraph (d)(1) of this section does not apply to the sale of stock of FC by USP to Individual A because the sale does not result in FC ceasing to be a controlled foreign corporation. Under paragraph (d)(2)(ii)(B) of this section, the sale of stock of FC by USP to Individual A is a specified transfer. Under paragraph (d)(2)(ii)(B) of this section, USP is a section 958(a) U.S. shareholder of FC prior to the sale. Under paragraph (f)(1) of this section, USP owns the stock of FC through June 30 of Year 1, and Individual A owns the stock of FC on July 1 of Year 1. Under paragraph (d)(2)(ii)(A) of this section, USP's sale of all the stock of FC to Individual A results in a significant ownership variance that occurs on June 30 of Year 1. A significant ownership variance occurs because, taking into account the sale, the percentage of the outstanding stock of FC owned by USP decreases, in the aggregate, by more than 50 percentage points (by vote or value), as compared to the percentage of stock of FC owned by USP immediately before the sale (from 100 percent to 0 percent). Under paragraph (d)(2)(iii)(B) of this section, USP is the single controlling section 958(a) U.S. shareholder of FC. Therefore, pursuant to paragraph (d)(2)(i) of this section, USP may elect to close the taxable year of FC for all purposes of the Internal Revenue Code as of the end of the day on June 30 of Year 1.

(iii) *Example 3: Transfer between related persons*—(A) *Facts.* The facts are the same as in paragraph (d)(4)(ii)(A) of this section (*Example 2*), except that USP and Individual A are related persons.

(B) *Analysis.* Paragraph (d)(1) of this section does not apply to the sale of stock of FC by USP to Individual A because the sale does not result in FC ceasing to be a controlled foreign corporation. Under paragraph (d)(2)(ii)(B) of this section, the sale of stock of FC by USP to Individual A is a specified transfer. Under paragraph (d)(2)(iii)(A) of this section, USP is a section 958(a) U.S. shareholder of FC prior to the sale. Under paragraph (f)(1) of this section, USP owns the stock of FC through June 30 of Year 1, and Individual A owns the stock of FC on July 1 of Year 1. Under paragraph (d)(2)(ii)(C) of this section, solely for purposes of applying paragraph (d)(2)(ii)(A) of this section, the total percentage of the outstanding stock of FC owned by one or more section 958(a) U.S. shareholders is not treated as decreasing as a result of the sale because Individual A is a United States person that is a related person, immediately following the sale, with respect to USP, and the sale results in an increase in Individual A's percentage of ownership of stock of FC by 100 percent (entirely offsetting the 100 percent decrease in USP's percentage of ownership of stock of FC). Therefore, the sale does not give rise to a significant ownership variance and USP may not elect to close the taxable year of FC.

(e) *Pro rata share of subpart F income defined*—(1) *Overview.* This paragraph (e) determines a United States shareholder's pro rata share of a controlled foreign corporation's subpart F income for a CFC year. Paragraph (e)(2) of this section contains the rules for determining a United States shareholder's pro rata share of subpart F income. Paragraph (e)(3) of this section sets forth an anti-abuse rule, and

paragraph (e)(4) of this section contains examples.

(2) *In general.* A United States shareholder's pro rata share of a controlled foreign corporation's subpart F income for a CFC year is the portion of the subpart F income attributable to the stock of the foreign corporation that the United States shareholder owns during the period of the CFC year in which the United States shareholder owns the stock, the shareholder is a United States shareholder of the foreign corporation, and the foreign corporation is a controlled foreign corporation, as determined under the rules of this paragraph (e)(2).

(i) *One class of stock with constant number of shares outstanding*—(A) *Daily proration.* Subject to paragraph (e)(2)(i)(B) of this section, if the controlled foreign corporation has only one class of stock outstanding at all times during the CFC year and there is no change in the number of outstanding shares of the controlled foreign corporation during the CFC year, a United States shareholder's pro rata share of the controlled foreign corporation's subpart F income is equal to the subpart F income of the controlled foreign corporation for the CFC year multiplied by the product of—

(*1*) A fraction, the numerator of which is the number of shares of the controlled foreign corporation the United States shareholder owned during the CFC year, and the denominator of which is the number of shares of the controlled foreign corporation outstanding for the CFC year, and

(*2*) A fraction, the numerator of which is the number of days the United States shareholder owned the shares of the controlled foreign corporation while a United States shareholder of the foreign corporation and while the foreign corporation was a controlled foreign corporation during the CFC year, and the denominator of which is the number of days in the CFC year.

(B) *Stock with different ownership periods during CFC year*—(*1*) In general. If a United States shareholder owns shares in more than one CFC year block during a CFC year (for example, because the United States shareholder acquires or disposes of a portion of its shares during the CFC year), paragraph (e)(2)(i)(A) of this section is applied separately to each CFC year block, and the United States shareholder's pro rata share of the controlled foreign corporation's subpart F income for the CFC year is equal to the total amount determined with respect to all of its CFC year blocks. *See* paragraph (e)(4)(iii) of this section (*Example 2*).

(*2*) *Definition of CFC year block.* The term CFC year block means a group of shares within a class of stock of a controlled foreign corporation that a United States shareholder owns for the same period during a CFC year.

(ii) *More than one class of stock with constant number of shares outstanding in each class.* If a controlled foreign corporation has more than one class of stock outstanding during a CFC year and there is no change in the number of outstanding shares in any class of the controlled foreign corporation's stock during the CFC year, paragraph (e)(2)(i) of this section is applied separately to each class of stock after first allocating the controlled foreign corporation's subpart F income for the CFC year among the classes of stock. For this purpose, the amount of subpart F income for the CFC year allocated to a class of stock of a controlled foreign corporation is the amount that bears the same ratio to the corporation's subpart F income for the CFC year as the amount of the corporation's allocable earnings and profits that would be distributed with respect to the class of stock bears to the total amount of the corporation's allocable earnings and profits that would be distributed with respect to all the stock of the corporation if all the allocable earnings and profits of the corporation for the CFC year (not reduced by actual distributions during the year) were distributed (hypothetical distribution) on the last day of the CFC year.

(A) *Definition of allocable earnings and profits.* The term allocable earnings and profits means, with respect to a controlled foreign corporation for a CFC year, the amount that is the greater of—

(*1*) The earnings and profits of the corporation for the CFC year determined under section 964, and

(*2*) The sum of the subpart F income (as determined under section 952 after the application of section 951A(b)(2)(B)(ii) and § 1.951A–6(b)) of the corporation for the CFC year and the tested income of the corporation for the CFC year.

(B) *Hypothetical distribution analysis.* The amount of the controlled foreign corporation's allocable earnings and profits distributed in the hypothetical distribution with respect to each class of stock is determined based on the distribution rights of the stock during the CFC year. Subject to paragraphs (e)(2)(ii)(C) and (D), and (e)(3), of this section, the distribution rights of a class of stock are determined taking into account all facts and circumstances related to the economic rights and interest in the allocable earnings and profits of the corporation of each class, including the terms of the class of stock, any agreement among the shareholders and, if and to the extent appropriate, the relative fair market value of shares of stock. For purposes of this paragraph (e)(2)(ii)(B), facts and circumstances do not include actual distributions (including distributions by redemption) or any amount treated as a dividend under any other provision of subtitle A of the Internal Revenue Code (for example, under section 78, 356(a)(2), 367(b), or 1248) made during the CFC year.

(C) *Special rules*—(*1*) *Redemptions, liquidations, and returns of capital.* No amount of allocable earnings and profits is distributed in the hypothetical distribution with respect to a particular class of stock based on the terms of the class of stock of the controlled foreign corporation or any agreement or arrangement with respect thereto that would result in a redemption (even if such redemption would be treated as a distribution of property to which section 301 applies pursuant to section 302(d)), a distribution in liquidation, or a return of capital.

(*2*) *Certain cumulative preferred stock.* If a controlled foreign corporation has outstanding a class of redeemable preferred stock with cumulative dividend rights and dividend arrearages on such stock do not compound at least annually at a rate that equals or exceeds the applicable Federal rate (as defined in section 1274(d)(1)) that applies on the date the stock is issued for the term from such issue date to the mandatory redemption date based on a comparable compounding assumption (the relevant AFR), the amount of the corporation's allocable earnings and profits distributed in the hypothetical distribution with respect to the class of stock may not exceed the amount of dividends actually paid during the CFC year with respect to the class of stock plus the present value at the end of the CFC year of the unpaid current dividends with respect to the class determined using the relevant AFR and assuming the dividends will be paid at the mandatory redemption date. For purposes of this paragraph (e)(2)(ii)(C)(*2*), if the class of preferred stock does not have a mandatory redemption date, the mandatory redemption date is the date that the class of preferred stock is expected to be redeemed based on all facts and circumstances.

(*3*) *Dividend arrearages.* If there is an arrearage in dividends for prior taxable years with respect to a class of preferred stock of a controlled foreign corporation, an amount of the corporation's allocable earnings and

profits is distributed in the hypothetical distribution to the class of preferred stock by reason of the arrearage only to the extent the arrearage exceeds the accumulated earnings and profits of the controlled foreign corporation remaining from prior CFC years beginning after December 31, 1962, as of the beginning of the CFC year, or the date on which such stock was issued, whichever is later (the applicable date). If there is an arrearage in dividends for prior CFC years with respect to more than one class of preferred stock, the previous sentence is applied to each class in order of priority, except that the accumulated earnings and profits remaining after the applicable date are reduced by the allocable earnings and profits necessary to satisfy arrearages with respect to classes of stock with a higher priority. For purposes of this paragraph (e)(2)(ii)(C)(*3*), the amount of any arrearage with respect to stock described in this paragraph (e)(2)(ii)(C)(*3*) is determined in the same manner as the present value of unpaid current dividends on such stock under paragraph (e)(2)(ii)(C)(*2*) of this section.

(D) *Restrictions or other limitations on distributions*—(*1*) *In general.* A restriction or other limitation on distributions of an amount of earnings and profits by a controlled foreign corporation is not taken into account in determining the amount of the corporation's allocable earnings and profits distributed in the hypothetical distribution to a class of stock of the controlled foreign corporation.

(*2*) *Definition of restriction or other limitation.* For purposes of paragraph (e)(2)(ii)(D)(*1*) of this section, a restriction or other limitation on distributions includes any limitation that has the effect of limiting the distribution of an amount of earnings and profits by a controlled foreign corporation with respect to a class of stock of the corporation, other than currency or other restrictions or limitations imposed under the laws of any foreign country as provided in section 964(b).

(*3*) *Exception for certain preferred distributions.* For purposes of paragraph (e)(2)(ii)(D)(*1*) of this section, the right to receive periodically a fixed amount (whether determined by a percentage of par value, a reference to a floating coupon rate, a stated return expressed in terms of a certain amount of U.S. dollars or foreign currency, or otherwise) with respect to a class of stock the distribution of which is a condition precedent to a further distribution of earnings and profits that year with respect to any class of stock (not including a distribution in partial or complete liquidation) is not a restriction or other limitation on the distribution of earnings and profits by a controlled foreign corporation.

(*4*) *Illustrative list of restrictions and limitations.* Except as provided in paragraph (e)(2)(ii)(D)(*3*) of this section, restrictions or other limitations on distributions include, but are not limited to—

(*i*) An arrangement that restricts the ability of a controlled foreign corporation to pay dividends on a class of stock of the corporation until a condition or conditions are satisfied (for example, until another class of stock is redeemed);

(*ii*) A loan agreement entered into by a controlled foreign corporation that restricts or otherwise affects the ability to make distributions on its stock until certain requirements are satisfied; or

(*iii*) An arrangement that conditions the ability of a controlled foreign corporation to pay dividends to its shareholders on the financial condition of the corporation.

(iii) *Changes in number of shares outstanding.* If the number of shares within any class of stock of a controlled foreign corporation outstanding on each day of a CFC year changes (for example, because of an issuance of new shares or a redemption of outstanding shares), a United States shareholder's pro rata share of subpart F income is determined under the rules provided in paragraphs (e)(2)(i) and (ii) of this section as modified by this paragraph (e)(2)(iii).

(A) *Weighted average share count.* For purposes of applying paragraph (e)(2)(i) of this section, a United States shareholder's pro rata share of subpart F income is determined by substituting a weighted average share count for the number of the controlled foreign corporation's shares outstanding during the CFC year, which is equal to the sum of the number of shares outstanding on each day of the CFC year divided by the number of days in the CFC year.

(B) *Multiple classes of stock.* For purposes of applying paragraph (e)(2)(ii) of this section, a controlled foreign corporation's subpart F income for the CFC year is allocated among classes of stock based on the allocable earnings and profits that would be distributed to a class of stock in the hypothetical distribution if a weighted average share count of the class was outstanding on each day of the CFC year and, thus, on the last day of the CFC year when the hypothetical distribution occurs.

(3) *Transactions and arrangements with a principal purpose of changing pro rata shares.* Appropriate adjustments must be made to the allocation of allocable earnings and profits that would be distributed (without regard to this paragraph (e)(3)) in a hypothetical distribution with respect to any share of stock to disregard the effect on the hypothetical distribution of any transaction or arrangement that is undertaken as part of a plan a principal purpose of which is the avoidance of Federal income taxation by changing the amount of allocable earnings and profits that would be distributed in any hypothetical distribution with respect to such share. This paragraph (e)(3) also applies for purposes of the pro rata share rules described in § 1.951A–1(d) that reference this paragraph (e).

(4) *Examples.* The following examples illustrate the application of this paragraph (e).

(i) *Facts.* Except as otherwise stated, the following facts are assumed for purposes of the examples:

(A) FC1 is a controlled foreign corporation.

(B) USP1 and USP2 are domestic corporations that are United States shareholders of FC1.

(C) Individual A is a nonresident alien individual, and FC2 is a foreign corporation that is not a controlled foreign corporation.

(D) All persons use the calendar year as their taxable year.

(E) Year 1 has 365 days.

(F) Any ownership of stock of FC1 by any shareholder is for all of Year 1.

(G) The common shareholders of FC1 are entitled to dividends when declared by FC1's board of directors.

(H) There are no accrued but unpaid dividends with respect to preferred shares, the preferred stock is not described in paragraph (e)(2)(ii)(C)(*2*) of this section, and common shares have positive liquidation value.

(I) There are no other facts and circumstances related to the economic rights and interest of any class of stock in the allocable earnings and profits of a foreign corporation, and no transaction or arrangement was entered into as part of a plan a principal purpose of which is the avoidance of Federal income taxation.

(J) FC1 has neither tested income nor tested loss.

(K) None of the transactions described constitute a status change event or a significant ownership variance.

(ii) *Example 1: One class of stock with constant number of shares outstanding*—(A) *Facts.* FC1 has outstanding 100 shares of one class of stock. USP1 owns 60 shares of FC1. USP2 owns 40 shares of FC1. For Year 1, FC1 earns $100x of subpart F income.

(B) *Analysis.* FC1 has one class of stock and the number of shares

outstanding does not change during Year 1, which is a CFC year. Therefore, USP1's and USP2's pro rata shares of FC1's subpart F income for the CFC year are determined under paragraph (e)(2)(i) of this section. For Year 1, USP1's pro rata share of FC1's subpart F income is $60x, which is equal to $100x of subpart F income multiplied by the product of two fractions. For the first fraction, the numerator is the number of shares that USP1 owned (60) and the denominator is the number of shares of FC1 outstanding (100) (60 percent). For the second fraction, the numerator is the number of days in the CFC year that USP1 owned the shares while USP1 was a United States shareholder of FC1 and FC1 was a controlled foreign corporation (365) and the denominator is the number of days in the CFC year of FC1 (365) (100 percent). For Year 1, USP2's pro rata share of FC1's subpart F income is $40x, which is equal to $100x of subpart F income multiplied by the product of two fractions. For the first fraction, the numerator is the number of shares that USP2 owned (40) and the denominator is the number of shares of FC1 outstanding (100) (40 percent). For the second fraction, the numerator is the number of days in the CFC year that USP2 owned the shares while USP2 was a United States shareholder of FC1 and FC1 was a controlled foreign corporation (365) and the denominator is the number of days in the CFC year of FC1 (365) (100 percent).

(iii) *Example 2: Single class of stock with constant number of shares outstanding during the CFC year, and a share transfer during the CFC Year*—(A) *Facts.* The facts are the same as in paragraph (e)(4)(ii)(A) of this section (*Example 1*), except that on June 30 of Year 1 USP2 sells 20 shares of FC1 to Individual A.

(B) *Analysis.* The determination of USP1's pro rata share of the subpart F income of FC1 is the same as in paragraph (e)(4)(ii)(B) of this section (the analysis in *Example 1*). Under paragraph (e)(2)(i)(B) of this section, USP2's pro rata share of FC1's subpart F income is determined by reference to the two separate CFC year blocks that USP2 owns during the CFC year. USP2 owns 40 shares of FC1 from January 1 through June 30 of the CFC year (the first CFC year block), and 20 shares of FC1 from July 1 through December 31 of the CFC year (the second CFC year block). USP2's pro rata share of subpart F income with respect to the first CFC year block is $19.84x, which is equal to $100x of subpart F income multiplied by the product of two fractions. For the first fraction, the numerator is the number of shares USP2 owned in the first CFC year block (40) and the denominator is the number of shares of FC1 outstanding (100) (40 percent). For the second fraction, the numerator is the number of days in the CFC year that USP2 owned the shares in the first CFC year block while USP2 was a United States shareholder of FC1 and FC1 was a controlled foreign corporation (181) and the denominator is the number of days in the CFC year (365) (49.6 percent). USP2's pro rata share of subpart F income with respect to the second CFC year block is $10.08x, which is equal to $100x of subpart F income multiplied by the product of two fractions. For the first fraction, the numerator is the number of shares USP2 owned in the second CFC year block (20) and the denominator is the number of shares of FC1 outstanding (100) (20 percent). For the second fraction, the numerator is the number of days in the CFC year that USP2 owned the shares in the second CFC year block while USP2 was a United States shareholder of FC1 and FC1 was a controlled foreign corporation (184) and the denominator is the number of days in the CFC year (365) (50.4 percent). Accordingly, for Year 1, USP2's pro rata share of the subpart F income of FC1 is $29.92x ($19.84x + $10.08x).

(iv) *Example 3: Common and preferred stock*—(A) *Facts.* FC1 has outstanding 70 shares of common stock and 30 shares of 4% nonparticipating, voting preferred stock with a par value of $10x per share. USP1 owns all the common shares. Individual A owns all the preferred shares. For Year 1, FC1 has $100x of earnings and profits and $50x of subpart F income.

(B) *Analysis.* FC1 has more than one class of stock and the number of shares outstanding in each class does not change during Year 1, which is a CFC year. Therefore, USP1's pro rata share of FC1's subpart F income for the CFC year is determined under paragraph (e)(2)(i) of this section after applying the hypothetical distribution in paragraph (e)(2)(ii) of this section to determine the amount of subpart F income allocated to the common and preferred stock of FC1. The distribution rights of the preferred shares are not a restriction or other limitation within the meaning of paragraph (e)(2)(ii)(D) of this section. Under paragraph (e)(2)(ii) of this section, the amount of FC1's allocable earnings and profits distributed in the hypothetical distribution with respect to Individual A's preferred shares is $12x ($0.04 \times \$10x \times 30$) and with respect to USP1's common shares is $88x ($100x − $12x). Accordingly, under paragraph (e)(2)(ii) of this section, $6x of FC1's subpart F income is allocated to the preferred shares ($50x \times ($12x/$100x)), and $44x of FC1's subpart F income is allocated to the common shares ($50x \times ($88x/$100x)) for Year 1. As a result, under paragraph (e)(2)(i) of this section, because USP1 owned all the common shares, USP1's pro rata share of FC1's subpart F income is $44x for Year 1.

(v) *Example 4: Mid-year redemption of preferred stock*—(A) *Facts.* The facts are the same as in paragraph (e)(4)(iv)(A) of this section (*Example 3*), except on June 30 of Year 1, FC1 redeems 15 shares of the preferred stock owned by Individual A.

(B) *Analysis.* The redemption of the 15 shares of preferred stock of FC1 owned by Individual A is not taken into account in determining the distribution rights of the preferred stock under paragraph (e)(2)(ii)(B) of this section, and the distribution rights of the preferred shares are not a restriction or other limitation within the meaning of paragraph (e)(2)(ii)(D) of this section. Under paragraph (e)(2)(ii) of this section, the amount of FC1's allocable earnings and profits distributed in the hypothetical distribution is determined based on the allocable earnings and profits that would be distributed with respect to the preferred shares if a weighted average share count of preferred shares was outstanding on each day of the CFC year and, thus, on the last day of the CFC year. The weighted average share count of the preferred shares is 22.44 ($(15 \times 365 + 15 \times 181)/365$). The allocable earnings and profits that would be distributed to Individual A's preferred shares based on the weighted average share count is $8.98x ($0.04 \times \$10x \times 22.44$). The allocable earnings and profits that would be distributed with respect to USP1's common shares is $91.02x ($100x − $8.98x). Accordingly, under paragraph (e)(2)(ii) of this section, $45.51x of FC1's subpart F income is allocated to USP1's common shares ($50x \times ($91.02x/$100x)), and USP1's pro rata share of FC1's subpart F income under paragraph (e)(2)(i) of this section is $45.51 for Year 1.

(vi) *Example 5: Restriction based on cumulative income*—(A) *Facts.* FC1 has outstanding 10 shares of common stock and 400 shares of 2% nonparticipating, voting preferred stock with a par value of $1x per share. USP1 owns all the common shares. FC2 owns all the preferred shares. USP1 and FC2 cause the governing documents of FC1 to provide that no dividends may be paid to the common shareholders until FC1 cumulatively earns $100,000x of income. For Year 1, FC1 has $50x of

earnings and profits and $50x of subpart F income.

(B) *Analysis.* The agreement restricting FC1's ability to pay dividends to common shareholders until FC1 cumulatively earns $100,000x of income is a restriction or other limitation within the meaning of paragraph (e)(2)(ii)(D) of this section. Therefore, the restriction is disregarded for purposes of determining the amount of FC1's allocable earnings and profits distributed in the hypothetical distribution to a class of stock. The distribution rights of the preferred shares are not a restriction or other limitation within the meaning of paragraph (e)(2)(ii)(D) of this section. Under paragraph (e)(2)(ii) of this section, the amount of FC1's allocable earnings and profits distributed in the hypothetical distribution with respect to FC2's preferred shares is $8x ($0.02 \times $1x \times 400$) and with respect to USP1's common shares is $42x ($50x − $8x). Accordingly, under paragraphs (e)(2)(i) and (ii) of this section, USP1's pro rata share of FC1's subpart F income is $42x for Year 1 ($50x × ($42x/$50x)).

(vii) *Example 6: Redemption rights*—(A) *Facts.* FC1 has outstanding 40 shares of common stock and 10 shares of 4% nonparticipating, preferred stock with a par value of $50x per share. Pursuant to the terms of the preferred stock, FC1 has the right to redeem the preferred stock at any time, in whole or in part. FC2 owns all the preferred shares. USP1, wholly owned by FC2, owns all the common shares. Pursuant to the governing documents of FC1, no dividends may be paid to the common shareholders while the preferred stock is outstanding. For Year 1, FC1 has $100x of earnings and profits and $100x of subpart F income.

(B) *Analysis.* The agreement restricting FC1's ability to pay dividends to common shareholders while the preferred stock is outstanding is a restriction or other limitation within the meaning of paragraph (e)(2)(ii)(D) of this section. Therefore, the restriction is disregarded for purposes of determining the amount of FC1's allocable earnings and profits distributed in the hypothetical distribution to a class of stock. Under paragraph (e)(2)(ii)(C)(*1*) of this section, no amount of allocable earnings and profits is distributed in the hypothetical distribution to the preferred shareholders in respect of FC1's right to redeem the preferred shares. This is the case regardless of the restriction on paying dividends to the common shareholders while the preferred stock is outstanding, and regardless of the fact that a redemption of FC2's preferred shares would be treated as a distribution to which section 301 applies under section 302(d) (due to FC2's constructive ownership of the common shares). Thus, neither the restriction on paying dividends to the common shareholders while the preferred stock is outstanding nor FC1's redemption rights with respect to the preferred shares affects the distribution of allocable earnings and profits in the hypothetical distribution to FC1's shareholders. However, the distribution rights of the preferred shares are not a restriction or other limitation within the meaning of paragraph (e)(2)(ii)(D) of this section. As a result, the amount of FC1's allocable earnings and profits distributed in the hypothetical distribution with respect to FC2's preferred shares is $20x ($0.04 \times $50x \times 10$) and with respect to USP1's common shares is $80x ($100x − $20x). Accordingly, under paragraphs (e)(2)(i) and (ii) of this section, USP1's pro rata share of FC1's subpart F income is $80x for Year 1 ($100x × ($80x/$100x)).

(viii) *Example 7: Shareholder owns common and preferred stock*—(A) *Facts.* FC1 has outstanding 40 shares of common stock and 60 shares of 6% nonparticipating, nonvoting preferred stock with a par value of $100x per share. USP1 owns 30 shares of the common stock and 15 shares of the preferred stock during Year 1. The remaining 10 shares of common stock and 45 shares of preferred stock of FC1 are owned by Individual A. For Year 1, FC1 has $1,000x of earnings and profits and $500x of subpart F income.

(B) *Analysis.* The right of the holder of the preferred stock to receive 6% of par value is not a restriction or other limitation within the meaning of paragraph (e)(2)(ii)(D) of this section. The amount of FC1's allocable earnings and profits distributed in the hypothetical distribution with respect to FC1's preferred shares is $360x ($0.06 \times $100x \times 60$) and with respect to its common shares is $640x ($1,000x − $360x). As a result, under paragraph (e)(2)(ii) of this section, $180x of FC1's subpart F income is allocated to the preferred shares ($500x × ($360x/$1,000x)) and $320x of FC1's subpart F income is allocated to the common shares ($500x × ($640x/$1,000x)). Under paragraph (e)(2)(i) of this section, USP1's pro rata share of the subpart F income of FC1 is $285x, of which $45x is attributable to USP1's preferred shares ($180x × 15/60 × 365/365) and $240x is attributable to USP1's common shares ($320x × 30/40 × 365/365).

(ix) *Example 8: Subpart F income and tested income*—(A) *Facts.* FC1 has outstanding 700 shares of common stock and 300 shares of 4% nonparticipating, voting preferred stock with a par value of $100x per share. USP1 owns all the common shares. USP2 owns all the preferred shares. For Year 1, FC1 has $10,000x of earnings and profits, $2,000x of subpart F income, and $9,000x of tested income.

(B) *Analysis*—(*1*) *Hypothetical distribution.* The allocable earnings and profits of FC1 determined under paragraph (e)(2)(ii)(A) of this section are $11,000x, the greater of FC1's earnings and profits as determined under section 964 ($10,000x) or the sum of FC1's subpart F income and tested income ($2,000x + $9,000x). The amount of FC1's allocable earnings and profits distributed in the hypothetical distribution with respect to USP2's preferred shares is $1,200x ($0.04 \times $100x \times 300$) and with respect to USP1's common shares is $9,800x ($11,000x − $1,200x).

(*2*) *Pro rata share of subpart F income.* Under paragraph (e)(2)(ii) of this section, $1,782x of FC1's subpart F income is allocated to the common shares ($2,000x × ($9,800x/$11,000x)) and $218x of FC1's subpart F income is allocated to the preferred shares ($2,000x × ($1,200x/$11,000x)). Accordingly, under paragraph (e)(2)(i) of this section, for Year 1, USP1's pro rata share of FC1's subpart F income is $1,782x ($1,782x × 700/700 × 365/365), and USP2's pro rata share of FC1's subpart F income is $218x ($218x 300/300 × 365/365).

(*3*) *Pro rata share of tested income.* Under § 1.951A–1(d)(2)(i) and paragraph (e)(2)(ii) of this section, $8,018x of FC1's tested income is allocated to the common shares ($9,000x × ($9,800x/$11,000x)) and $982x of FC1's tested income is allocated to the preferred shares ($9,000x × ($1,200x/$11,000x)). Accordingly, under § 1.951A–1(d)(2)(i) and paragraph (e)(2)(i) of this section, for Year 1, USP1's pro rata share of FC1's tested income is $8,018x ($8,018x × 700/700 × 365/365), and USP2's pro rata share of FC1's tested income is $982x ($982x × 300/300 × 365/365).

(x) *Example 9: Subpart F income and tested loss*—(A) *Facts.* The facts are the same as in paragraph (e)(4)(ix)(A) of this section (*Example 8*), except that for Year 1, FC1 has $8,000x of earnings and profits, $10,000x of subpart F income (without regard to the limitation in section 952(c)(1)(A)), and $2,000x of tested loss. Under section 951A(b)(2)(B)(ii) and § 1.951A–6(b), the earnings and profits of FC1 are increased for purposes of section 952(c)(1)(A) by the amount of FC1's tested loss. Accordingly, after the application of section 951A(b)(2)(B)(ii)

and § 1.951A–6(b), the subpart F income of FC1 is $10,000x.

(B) *Analysis*—(*1*) *Pro rata share of subpart F income.* The allocable earnings and profits determined under paragraph (e)(2)(ii) of this section are $10,000x, the greater of the earnings and profits of FC1 determined under section 964 ($8,000x) or the sum of FC1's subpart F income and tested income ($10,000x + $0). The amount of FC1's allocable earnings and profits distributed in the hypothetical distribution with respect to USP2's preferred shares is $1,200x ($0.04 \times $100x \times 300$) and with respect to USP1's common shares is $8,800x ($10,000x − $1,200x). Under paragraph (e)(2)(ii) of this section, $1,200x of FC1's subpart F income is allocated to the preferred shares ($10,000x × ($1,200x/$10,000x)) and $8,800x of FC1's subpart F income is allocated to the common shares ($10,000x × ($8,800x/$10,000x)). Accordingly, under paragraph (e)(2)(i) of this section, for Year 1, USP1's pro rata share of FC1's subpart F income is $8,800x ($8,800x × 700/700 × 365/365) and USP2's pro rata share of FC1's subpart F income is $1,200x ($1,200x × 300/300 × 365/365).

(*2*) *Pro rata share of tested loss.* For purposes of paragraph (e)(2)(ii) of this section, the allocable earnings and profits determined under § 1.951A–1(d)(3)(i)(B) are $2,000x, the amount of FC1's tested loss. Under § 1.951A–1(d)(3)(i)(C), the entire $2,000x of tested loss is allocated in the hypothetical distribution to USP1's common shares. Accordingly, under § 1.951A–1(d)(3)(i)(A) and paragraph (e)(2)(i) of this section, USP1's pro rata share of the tested loss is $2,000x.

(f) *Determination of holding period*—(1) *In general.* For purposes of sections 951 through 964, the holding period of an asset (including stock of a controlled foreign corporation) is determined by excluding the day on which the asset is acquired and including the day on which the asset is disposed of. Thus, for example, in determining the period that stock of a controlled foreign corporation is owned, the day on which the stock is directly or indirectly acquired is excluded and the day on which the stock is directly or indirectly disposed of is included.

(2) *Example: Period of stock ownership*—(i) *Facts.* On June 30 of Year 1, USP, a domestic corporation, acquires 70 of the 100 shares of the only class of stock of FC, a foreign corporation, from Individual B, a nonresident alien individual who until such time owns all 100 shares of FC. USP sells 10 shares and 60 shares of stock of FC on November 30 and December 31 of Year 1, respectively, to Individual B, a nonresident alien individual.

(ii) *Analysis.* Under paragraph (f)(1) of this section, FC is a controlled foreign corporation for the period beginning July 1 of Year 1 and extending through December 31 of Year 1. As to the 10 shares of stock sold on November 30 of Year 1, USP owns the shares from July 1 of Year 1 through November 30 of Year 1. As to the remaining 60 shares of stock, USP owns the shares beginning July 1 of Year 1 through December 31 of Year 1.

* * * * *

(h) *Definitions.* The following definitions apply for purposes of this section.

Allocable earnings and profits. The term *allocable earnings and profits* has the meaning provided in paragraph (e)(2)(ii)(A) of this section.

CFC year. The term *CFC year* means a taxable year of a foreign corporation in which the foreign corporation is a controlled foreign corporation at any time during the taxable year.

CFC year block. The term *CFC year block* has the meaning provided in paragraph (e)(2)(i)(B)(*2*) of this section.

Controlled foreign corporation. The term *controlled foreign corporation* has the meaning provided in section 957(a) (or, if applicable, section 957(b)).

Controlling section 958(a) U.S. shareholders. The term *controlling section 958(a) U.S. shareholders* has the meaning provided in paragraph (d)(2)(iii)(B) of this section.

Hypothetical distribution. The term *hypothetical distribution* has the meaning provided in paragraph (e)(2)(ii) of this section.

Own. The term *own* (or ownership or owned), when used with respect to stock of a foreign corporation, means to own the stock directly or indirectly within the meaning of section 958(a) and § 1.958–1(a). *See also* § 1.958–1(d) (except as provided in § 1.958–1(d)(2), a domestic partnership is not treated as owning stock of a foreign corporation within the meaning of section 958(a) for purposes of section 951 and for purposes of any provision that specifically applies by reference to section 951 or the regulations in this part under section 951, and the domestic partnership is treated as a foreign partnership under section 958(a)(2) in determining the persons that own stock of the foreign corporation within the meaning of section 958(a)).

Related persons. The term *related persons* means persons that are related within the meaning of section 267(b), as applied without regard to section 267(c)(3).

Section 958(a) U.S. shareholders. The term *section 958(a) U.S. shareholders* has the meaning provided in paragraph (d)(2)(iii)(A) of this section.

Significant ownership variance. The term *significant ownership variance* has the meaning provided in paragraph (d)(2)(ii) of this section.

Specified transfer. The term *specified transfer* has the meaning provided in paragraph (d)(2)(ii)(B) of this section.

Status change event. The term *status change event* has the meaning provided in paragraph (d)(1)(ii) of this section.

Subpart F income. The term *subpart F income* has the meaning provided in section 952.

Tested income. The term *tested income* has the meaning provided in section 951A(b)(2)(A).

Tested loss. The term *tested loss* has the meaning provided in section 951A(b)(2)(B)(i).

United States shareholder. The term *United States shareholder* has the meaning provided in paragraph (g) of this section.

(i) *Applicability date.* This section applies to taxable years of foreign corporations beginning after December 31, 2025, and to taxable years of United States shareholders for which such taxable years of those foreign corporations are relevant. For rules applicable to taxable years of foreign corporations beginning on or before December 31, 2025, and to taxable years of United States shareholders in which or with which such taxable years end, see 26 CFR 1.951–1 as contained in 26 CFR part 1 edition revised as of April 1, 2026.

■ **Par. 5.** Section 1.951–4 is added to read as follows:

§ 1.951–4 Transition rule for dividends.

(a) *Scope.* This section sets forth the rules for applying the transition rule for dividends in section 70354(c)(2) of Public Law 119–21, 139 Stat. 72 (July 4, 2025) (OBBBA). Paragraph (b) of this section provides the general rule for dividends subject to the transition rule. Paragraph (c) of this section provides the meaning of dividend paid or deemed paid. Paragraph (d) of this section provides the meaning of United States person subject to Federal income tax. Paragraph (e) of this section provides the meaning of taxable income. Paragraph (f) of this section provides rules for determining whether a dividend increases taxable income. Paragraph (g) of this section provides rules for the application of this section to dividends paid or deemed paid to partnerships. Paragraph (h) of this

section provides certain substantiation requirements for establishing that a dividend increases the taxable income of a United States person subject to Federal income tax. Paragraph (i) of this section provides the applicability date for this section.

(b) *Transition rule.* For purposes of this section, the term *transition rule* means the rule provided in section 70354(c)(2) of the OBBBA and this paragraph (b). Under the transition rule, for purposes of applying section 951(a)(2)(B), as in effect before amendment by the OBBBA, a dividend paid or deemed paid by a controlled foreign corporation with respect to stock of the controlled foreign corporation is not treated as a dividend to the extent that—

(1) Either—

(i) The dividend was paid or deemed paid on or before June 28, 2025, during the controlled foreign corporation's taxable year that includes June 28, 2025, and the United States shareholder that owned (within the meaning of section 958(a)) that stock on the last day of that taxable year did not own (within the meaning of section 958(a)) that stock during the portion of the taxable year ending on June 28, 2025; or

(ii) The dividend was paid or deemed paid after June 28, 2025, and before the controlled foreign corporation's first taxable year beginning after December 31, 2025; and

(2) The dividend does not increase the taxable income of a United States person subject to Federal income tax.

(c) *Dividend paid or deemed paid.* For purposes of this section, any amount that would be treated, without regard to this section, as a distribution received by a person as a dividend under section 951(a)(2)(B), as in effect before the amendments to section 951(a) made by the OBBBA, is treated as a dividend paid or deemed paid.

(d) *United States person subject to Federal income tax.* For purposes of this section, a United States person subject to Federal income tax means—

(1) Any United States person (as defined in section 7701(a)(30)), except for a domestic partnership, an S corporation (as defined in section 1361), a trust that is a United States person described in section 7701(a)(30)(E) and treated as owned by a person under sections 671 through 678, or a bona fide resident (as defined in section 937(a)) of Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands; and

(2) Any nonresident alien individual who elects to be treated as a resident of the United States under section 6013(g) or (h).

(e) *Meaning of taxable income*—(1) *In general.* Except as provided in paragraph (e)(2) of this section, for purposes of this section, taxable income means taxable income as defined in section 63.

(2) *Exceptions*—(i) *Regulated investment companies.* In the case of a regulated investment company (RIC) (as defined in section 851) that satisfies the requirements of section 852(a) for a taxable year in which the RIC receives, or is deemed to receive, a dividend described in paragraph (b)(1) of this section, taxable income means investment company taxable income (as defined in section 852(b)).

(ii) *Real estate investment trusts.* In the case of a real estate investment trust (REIT) (as defined in section 856) that satisfies the requirements of section 857(a) for a taxable year in which the REIT receives, or is deemed to receive, a dividend described in paragraph (b)(1) of this section, taxable income means real estate investment trust taxable income (as defined in section 857(b)(2)).

(iii) *Exempt organizations.* In the case of an organization exempt from taxation under section 501(a), taxable income means unrelated business taxable income (as defined in section 512).

(f) *Determining whether a dividend increases taxable income*—(1) *In general.* For purposes of determining whether a dividend paid or deemed paid increases the taxable income of a United States person subject to Federal income tax, all applicable provisions of the Internal Revenue Code, and the regulations thereunder, are applied before applying, and without regard to, the transition rule. Therefore, the determination of whether a dividend paid or deemed paid increases the taxable income of a United States person subject to Federal income tax is made after the application of any exclusion that results in the dividend not being included in the person's gross income or taxable income and any dividends received deduction that reduces the amount of the dividend included in the person's taxable income.

(2) *Section 245A coordination example.* The following example illustrates the application of the rule in paragraph (f)(1) of this section.

(i) *Facts.* US1, a domestic corporation that is not a RIC, REIT, S corporation, or organization exempt from taxation under section 501(a), owns all the stock of CFC, a foreign corporation. On March 1, 2025, CFC pays a dividend of $100x to US1, which, absent the application of § 1.245A–5(b), qualifies for the deduction under section 245A(a). On July 1, 2025, USP1 sells all its stock of CFC to US2, a domestic corporation, which results in an extraordinary reduction with respect to US1's ownership of CFC, within the meaning of § 1.245A–5(e)(1). If § 1.245A–5 were applied before and without regard to the transition rule, US1's pre-reduction pro rata share under § 1.245A–5(e)(2)(ii) would be $100x and the entire dividend of $100x to US1 would be an extraordinary reduction amount with respect to US1, within the meaning of § 1.245A–5(e)(1). Additionally, the ineligible amount with respect to US1 within the meaning of § 1.245A–5(b)(2), would be $100x. US1, US2, and CFC all use a calendar taxable year. US1's reporting for Federal income tax purposes is consistent with § 1.245A–5(e).

(ii) *Analysis.* Under paragraph (f)(1) of this section, the determination of whether the dividend of $100x increases the taxable income of US1, a United States person subject to Federal income tax, is made after the application of any exclusion that results in the dividend not being included in the person's gross income or taxable income and any dividends received deduction that reduces the amount of the dividend included in the person's taxable income. Additionally, in determining US1's pre-reduction pro rata share under § 1.245A–5(e)(2)(ii), any decrease for amounts taken into account by a U.S. tax resident under § 1.245A–5(e)(2)(ii)(B) is determined by applying section 951(a)(2)(B), as in effect before amendment by the OBBBA, without regard to the transition rule. Therefore, because the ineligible amount with respect to US1 and the dividend paid to US1 would be $100x before applying, and without regard to, the transition rule, the ineligible amount is $100x and none of the dividend paid to US1 is eligible for a section 245A deduction after applying § 1.245A–5(b). Accordingly, the entire dividend of $100x is treated as increasing the taxable income of a United States person subject to Federal income tax for purposes of this section. Additionally, the election to close CFC's taxable year pursuant to § 1.245A–5(e)(3)(i)(A) is available to US1, provided the other conditions described in § 1.245A–5(e)(3)(i)(A) are met.

(3) *Generally applicable deductions.* The determination of the amount by which a dividend paid or deemed paid increases the taxable income of a United States person subject to Federal income tax is made without regard to decreases to taxable income resulting from generally applicable deductions of the United States person that are not particular to the receipt of a dividend, including deductions for—

(i) Depreciation under section 167;

(ii) Net operating losses under section 172;

(iii) Distributions under sections 651 and 661; and

(iv) Dividends paid under sections 852(b)(2)(D) and 857(b)(2)(B).

(4) *Dividends paid to controlled foreign corporations*—(i) *In general.* In the case of a dividend paid or deemed paid by a controlled foreign corporation to another controlled foreign corporation, for purposes of this section, the dividend is treated as increasing the taxable income of a United States person subject to Federal income tax to the extent the dividend is taken into account in determining a United States shareholder's inclusion under section 951(a)(1)(A) or 951A(a).

(ii) *Inclusions under section 951(a)(1)(A).* For purposes of this paragraph (f)(4), a dividend is taken into account in determining a United States shareholder's inclusion under section 951(a)(1)(A) if the dividend would give rise to an amount includible in gross income by the United States shareholder under section 951(a)(1)(A), determined without regard to properly allocable deductions of the controlled foreign corporation that received or is deemed to receive the dividend (except as provided in paragraph (f)(4)(iv) of this section), the current earnings and profits limitation under section 952(c)(1)(A), qualified deficits under section 952(c)(1)(B), or chain deficits under section 952(c)(1)(A).

(iii) *Inclusions under section 951A(a).* For purposes of this paragraph (f)(4), a dividend is taken into account in determining a United States shareholder's inclusion under section 951A(a) if the dividend would give rise to an amount includible in gross income by the United States shareholder under section 951A, determined without regard to properly allocable deductions of the controlled foreign corporation that received or is deemed to receive the dividend (except as provided in paragraph (f)(4)(iv) of this section), tested losses (as defined in section 951A(c)(2)(B) before amendment by the OBBBA) of any other controlled foreign corporation, or the net deemed tangible income return of the United States shareholder (as defined in section 951A(b)(2) before amendment by the OBBBA).

(iv) *High-taxed amounts.* For purposes of this paragraph (f)(4), any dividend paid or deemed paid to a controlled foreign corporation that is excluded from the controlled foreign corporation's subpart F income or tested income under the high-tax exception or the high-tax exclusion (see section 954(b)(4) and § 1.951A–2(c)(1)(iii)), is treated as not taken into account in determining a United States shareholder's inclusion under section 951(a)(1)(A) or 951A(a).

(g) *Application to partnerships*—(1) *In general.* In the case of a dividend paid or deemed paid to a partnership, the determination of whether the dividend increases the taxable income of a United States person subject to Federal income tax is made by reference to the partners of the partnership. Further, to the extent the dividend is included in the distributive share of a partner that is itself a partnership, the determination of whether the dividend increases the taxable income of a United States person subject to Federal income tax is made by reference to the partners of that partnership.

(2) *Safe harbor for publicly held partnership interests*—(i) *In general.* To the extent a dividend paid or deemed paid by a controlled foreign corporation is allocated to a de minimis owner by reason of owning an interest in a class of publicly held interests in a domestic partnership, the dividend is treated as increasing the taxable income of a United States person subject to Federal income tax.

(ii) *Exception.* Paragraph (g)(2)(i) of this section does not apply if the domestic partnership has actual knowledge of facts that allow the partnership to determine that the de minimis owner is not a United States person subject to Federal income tax within the meaning of paragraph (d) of this section or that the dividend paid by the controlled foreign corporation does not increase the de minimis owner's taxable income within the meaning of paragraphs (e) and (f) of this section.

(iii) *Meaning of de minimis owner.* For purposes of this paragraph (g)(2), the term *de minimis owner* means any person that owns no more than 5 percent of a class of publicly held interests in a domestic partnership on each day of the taxable year of the domestic partnership. In determining whether a person is a de minimis owner, a person is treated as owning an interest in a class of publicly held interests if the person owns the interest directly or by applying the rules of section 318(a), except that section 318(a)(2)(C) and (a)(3)(C) are applied for this purpose by substituting ''5 percent'' for ''50 percent.''

(iv) *Meaning of publicly held interest.* For purposes of this paragraph (g)(2), *publicly held interest* means any class of interests in a domestic partnership that is regularly traded on an established securities market as defined in § 1.7704–1(b), but without regard to § 1.7704–1(b)(3).

(h) *Establishing extent to which a dividend increases taxable income of a United States person subject to Federal income tax.* A United States shareholder that claims a reduction of its pro rata share of subpart F income or tested income under section 951(a)(2)(B), as a result of a dividend that is described in paragraph (b)(1) of this section, must substantiate such claim by attaching to Form 5471, *Information Return of U.S. Persons With Respect To Certain Foreign Corporations* (or successors), a statement titled ''Pro Rata Share Transition Rule Statement'' that—

(1) Provides the amount of each dividend paid by the controlled foreign corporation (with respect to the stock owned by the United States shareholder filing the return) that is described in paragraph (b)(1) of this section but treated as a dividend for purposes of applying section 951(a)(2)(B),

(2) Describes why the United States shareholder filing the return is entitled to treat each such amount as a dividend for purposes of section 951(a)(2)(B), and

(3) Describes how the United States shareholder determined such amount increased the taxable income of a United States person subject to Federal income tax under the rules of this section.

(i) *Applicability date.* This section applies to taxable years of a foreign corporation that either include June 28, 2025, or begin after June 28, 2025, and before the foreign corporation's first taxable year beginning after December 31, 2025.

■ **Par. 6.** Section 1.951A–1 is amended by:

■ 1. Revising paragraphs (a)(2) through (e); and

■ 2. Removing paragraph (f).

The revisions read as follows:

§ 1.951A–1 General provisions.

(a) * * *

(2) *Scope.* Paragraph (b) of this section provides the general rule requiring a United States shareholder to include in gross income its net CFC tested income for a U.S. shareholder inclusion year. Paragraph (c) of this section provides rules for determining the amount of a United States shareholder's net CFC tested income for the U.S. shareholder inclusion year, including a rule for the application of section 951A and the section 951A regulations to consolidated groups. Paragraph (d) of this section provides rules for determining a United States shareholder's pro rata share of tested income and tested loss for purposes of determining the United States

shareholder's net CFC tested income. Paragraph (e) of this section provides additional definitions for purposes of this section and the section 951A regulations. For rules applying this section to foreign controlled United States shareholders and foreign controlled foreign corporations, see section 951B (generally treating references in this section to the term ''United States shareholder'' as including the term ''foreign controlled United States shareholder'' and the term ''controlled foreign corporation'' as including the term ''foreign controlled foreign corporation'').

(b) *Inclusion of net CFC tested income.* Each person who is a United States shareholder of any controlled foreign corporation and owns stock of any such controlled foreign corporation includes in gross income in the U.S. shareholder inclusion year the shareholder's net CFC tested income inclusion amount, if any, for the U.S. shareholder inclusion year.

(c) *Determination of net CFC tested income inclusion amount*—(1) *In general.* Except as provided in paragraph (c)(2) of this section, the term net CFC tested income inclusion amount means, with respect to a United States shareholder and a U.S. shareholder inclusion year, the excess (if any) of—

(i) The aggregate of the shareholder's pro rata share of the tested income of each tested income CFC (as defined in § 1.951A–2(b)(1)) for a CFC inclusion year, over

(ii) The aggregate of the shareholder's pro rata share of the tested loss of each tested loss CFC (as defined in § 1.951A–2(b)(2)) for a CFC inclusion year.

(2) [Reserved]

(d) *Determination of pro rata share*—(1) *In general.* For purposes of paragraph (c)(1) of this section, each United States shareholder that owns stock of a controlled foreign corporation on any day during a CFC inclusion year determines its pro rata share (if any) of tested income or tested loss of the controlled foreign corporation for the U.S. shareholder inclusion year that includes the last day on which the United States shareholder owns stock in the controlled foreign corporation during the CFC inclusion year. In no case may the sum of the pro rata share of tested income or tested loss of a controlled foreign corporation for a CFC inclusion year allocated to stock under this paragraph (d) exceed the amount of the tested income or tested loss of the controlled foreign corporation for the CFC inclusion year. Except as modified in this paragraph (d), a United States shareholder's pro rata share of tested income or tested loss is determined under the rules of section 951(a)(2) and § 1.951–1(b) and (e) in the same manner as those provisions apply to subpart F income. *See also* § 1.951–1(d), which requires or permits the closing of the taxable year of a foreign corporation in specified circumstances. Under section 951(a)(2) and § 1.951–1(b) and (e), as modified by this paragraph (d), a United States shareholder's pro rata share of tested income or tested loss for a U.S. shareholder inclusion year is determined with respect to the stock of the controlled foreign corporation owned by the U.S. shareholder during a CFC inclusion year. A United States shareholder's pro rata share of tested income or tested loss is translated into United States dollars using the average exchange rate for the CFC inclusion year of the controlled foreign corporation. Paragraphs (d)(2) and (3) of this section provide rules for determining a United States shareholder's pro rata share of tested income or tested loss of a controlled foreign corporation.

(2) *Tested income*—(i) *In general.* Except as provided in paragraph (d)(2)(ii) of this section, a United States shareholder's pro rata share of the tested income of each tested income CFC for a U.S. shareholder inclusion year is determined under section 951(a)(2) and § 1.951–1(b) and (e), substituting ''tested income'' for ''subpart F income'' each place it appears, other than in § 1.951–1(e)(2)(ii)(A).

(ii) *Special rule for prior allocation of tested loss.* In any case in which tested loss has been allocated to any class of stock in a prior CFC inclusion year under paragraph (d)(3)(iii) of this section (or under § 1.951A–1(d)(4)(iii), as contained in 26 CFR part 1 edition revised as of April 1, 2026), tested income is first allocated to each such class of stock in the order of its liquidation priority to the extent of the excess (if any) of the sum of the tested loss allocated to each such class of stock for each prior CFC inclusion year under paragraph (d)(3)(iii) of this section (or under § 1.951A–1(d)(4)(iii), as contained in 26 CFR part 1 edition revised as of April 1, 2026), over the sum of the tested income allocated to each such class of stock for each prior CFC inclusion year under this paragraph (d)(2)(ii). Paragraph (d)(2)(i) of this section applies for purposes of determining a United States shareholder's pro rata share of the remainder of the tested income, except that, for purposes of the hypothetical distribution in § 1.951–1(e)(2)(ii), the amount of allocable earnings and profits of the tested income CFC is reduced by the amount of tested income allocated under the first sentence of this paragraph (d)(2)(ii). For an example of the application of this paragraph (d)(2), see paragraph (d)(3)(iv)(B) of this section (*Example 2*).

(iii) *Examples.* The following examples illustrate the application of paragraph (d)(2) of this section. *See also* § 1.951–1(e)(4)(ix) (*Example 8*) (illustrating a United States shareholder's pro rata share of tested income).

(A) *Example 1*—(*1*) *Facts.* FS, a controlled foreign corporation, has outstanding 70 shares of common stock and 30 shares of 4% nonparticipating, cumulative preferred stock with a par value of $10x per share. P Corp, a domestic corporation and a United States shareholder of FS, owns all of the common shares. Individual A, a United States citizen and a United States shareholder of FS, owns all of the preferred shares. Individual A, FS, and P Corp use the calendar year as their taxable year. Individual A and P Corp are shareholders of FS for all of Year 1. At the beginning of Year 1, FS had no dividend arrearages with respect to its preferred stock. For Year 1, FS has $100x of earnings and profits, $120x of tested income, and no subpart F income within the meaning of section 952.

(*2*) *Analysis—Determination of pro rata share of tested income.* For purposes of determining P Corp's pro rata share of FS's tested income under this paragraph (d)(2) the amount of FS's allocable earnings and profits for purposes of the hypothetical distribution described in § 1.951–1(e)(2)(ii) is $120x, the greater of its earnings and profits as determined under section 964 ($100x) and the sum of its subpart F income and tested income ($0 + $120x). Under this paragraph (d)(2) and § 1.951–1(e)(2)(ii), the amount of FS's allocable earnings and profits distributed in the hypothetical distribution with respect to the preferred shares of FS is $12x (0.04 × $10x × 30) and the amount distributed with respect to the common shares of FS is $108x ($120x − $12x), which results in $12x of tested income being allocated to the preferred shares and $108x being allocated to the common shares. Accordingly, under this paragraph (d)(2) and § 1.951–1(e)(2), Individual A's pro rata share of FS's tested income is $12x, and P Corp's pro rata share of FS's tested income is $108x for Year 1.

(B) *Example 2*—(*1*) *Facts.* P Corp, a domestic corporation and a United States shareholder, owns all 100 shares of the only class of stock of FS, a controlled foreign corporation, from January 1 of Year 1, until May 26 of Year 1. On May 26 of Year 1, P Corp

sells all its FS stock to R Corp, a domestic corporation that is not related to P Corp, and recognizes no gain or loss on the sale. P Corp does not make an election to close the taxable year of FS under § 1.951–1(d)(2). R Corp, a United States shareholder of FS, owns the stock of FS from May 27 through December 31 of Year 1. For Year 1, FS has $50x of earnings and profits, $50x of tested income, and no subpart F income within the meaning of section 952. P Corp, R Corp, and FS all use the calendar year as their taxable year, and Year 1 has 365 days.

(*2*) *Analysis—Determination of pro rata share of tested income.* Under this paragraph (d)(2) and § 1.951–1(e)(2)(i), P Corp's pro rata share of the tested income of FS is $20x, which is equal to $50x of tested income multiplied by the product of two fractions. For the first fraction, the numerator is the number of shares P Corp owned (100) and the denominator is the number of shares of FS outstanding (100) (100 percent). For the second fraction, the numerator is the number of days in Year 1 that P Corp owned the shares while P Corp was a United States shareholder of FS and FS was a CFC (146) and the denominator is the number of days in the CFC inclusion year of FS (365) (40 percent). R Corp's pro rata share of the tested income of FS is $30x, which is equal to $50x of tested income multiplied by the product of two fractions. For the first fraction, the numerator is the number of shares R Corp owned (100) and the denominator is the number of shares of FS outstanding (100) (100 percent). For the second fraction, the numerator is the number of days in Year 1 that R Corp owned the shares while R Corp was a United States shareholder of FS and FS was a CFC (219) and the denominator is the number of days in the CFC inclusion year of FS (365) (60 percent).

(3) *Tested loss*—(i) *In general.* A United States shareholder's pro rata share of the tested loss of each tested loss CFC for a U.S. shareholder inclusion year is determined under section 951(a)(2) and § 1.951–1(b) and (e) with the following modifications—

(A) ''Tested loss'' is substituted for ''subpart F income'' each place it appears;

(B) For purposes of the hypothetical distribution described in § 1.951–1(e)(2)(ii), the amount of allocable earnings and profits of a controlled foreign corporation for a CFC inclusion year is treated as being equal to the tested loss of the tested loss CFC for the CFC inclusion year; and

(C) Except as provided in paragraphs (d)(3)(ii) and (iii) of this section, the hypothetical distribution described in § 1.951–1(e)(2)(ii) is treated as made solely with respect to the common stock of the tested loss CFC.

(ii) *Special rule in case of accrued but unpaid dividends.* If a tested loss CFC's earnings and profits that have accumulated since the issuance of preferred shares are reduced below the amount necessary to satisfy any accrued but unpaid dividends with respect to such preferred shares, then the amount by which the tested loss reduces the earnings and profits below the amount necessary to satisfy the accrued but unpaid dividends is allocated in the hypothetical distribution described in § 1.951–1(e)(2)(ii) to the preferred stock of the tested loss CFC and the remainder of the tested loss is allocated in the hypothetical distribution to the common stock of the tested loss CFC.

(iii) *Special rule for stock with no liquidation value.* If a tested loss CFC's common stock has a liquidation value of zero and there is at least one other class of equity with a liquidation preference relative to the common stock, then the tested loss is allocated in the hypothetical distribution described in § 1.951–1(e)(2)(ii) to the most junior class of equity with a positive liquidation value to the extent of such liquidation value. Thereafter, tested loss is allocated to the next most junior class of equity to the extent of its liquidation value and so on. All determinations of liquidation value are to be made as of the beginning of the CFC inclusion year of the tested loss CFC.

(iv) *Examples.* The following examples illustrate the application of this paragraph (d)(3). *See also* § 1.951–1(e)(4)(x) (*Example 9*) (illustrating a United States shareholder's pro rata share of subpart F income and tested loss).

(A) *Example 1*—(*1*) *Facts.* FS, a controlled foreign corporation, has outstanding 70 shares of common stock and 30 shares of 4% nonparticipating, cumulative preferred stock with a par value of $10x per share. P Corp, a domestic corporation and a United States shareholder of FS, owns all the common shares. Individual A, a United States citizen and a United States shareholder, owns all the preferred shares. FS, Individual A, and P Corp all use the calendar year as their taxable year. Individual A and P Corp are shareholders of FS for all of Year 5. At the beginning of Year 5, FS had earnings and profits of $120x, which accumulated after the issuance of the preferred stock. At the end of Year 5, the accrued but unpaid dividends with respect to the preferred stock are $36x. For Year 5, FS has a $100x tested loss, and no other items of income, gain, deduction or loss. At the end of Year 5, FS has earnings and profits of $20x.

(*2*) *Analysis.* FS is a tested loss CFC for Year 5. Before taking into account the tested loss in Year 5, FS had sufficient earnings and profits to satisfy the accrued but unpaid dividends of $36x. The amount of the reduction in earnings below the amount necessary to satisfy the accrued but unpaid dividends attributable to the tested loss is $16x ($36x − ($120x − $100x)). Accordingly, under paragraph (d)(3)(ii) of this section, $16x of the tested loss is allocated to the preferred stock of FS in the hypothetical distribution described in § 1.951–1(e)(2)(ii), and $84x ($100x − $16x) of the tested loss is allocated to the common shares of FS in the hypothetical distribution.

(B) *Example 2*—(*1*) *Facts.* FS, a controlled foreign corporation, has outstanding 100 shares of common stock and 50 shares of 4% nonparticipating, cumulative preferred stock with a par value of $100x per share. P Corp, a domestic corporation and a United States shareholder of FS, owns all the common shares. Individual A, a United States citizen and a United States shareholder, owns all the preferred shares. FS, Individual A, and P Corp all use the calendar year as their taxable year. Individual A and P Corp are shareholders of FS for all of Year 1 and Year 2. At the beginning of Year 1, the common stock has no liquidation value and the preferred stock has a liquidation value of $5,000x and no accrued but unpaid dividends. In Year 1, FS has a tested loss of $1,000x and no other items of income, gain, deduction, or loss. In Year 2, FS has tested income of $3,000x and no other items of income, gain, deduction, or loss. FS has earnings and profits of $3,000x for Year 2. At the end of Year 2, FS has accrued but unpaid dividends of $400x with respect to the preferred stock, the sum of $200x for Year 1 ($0.04 \times \$100x \times 50$) and $200x for Year 2 ($0.04 \times \$100x \times 50$).

(*2*) *Analysis*—(*i*) *Year 1.* FS is a tested loss CFC in Year 1. The common stock of FS has a liquidation value of zero, and the preferred stock has a liquidation preference relative to the common stock. The tested loss ($1,000x) does not exceed the liquidation value of the preferred stock ($5,000x). Accordingly, under paragraph (d)(3)(iii) of this section, the tested loss is allocated to the preferred stock in the hypothetical distribution described in § 1.951–1(e)(2)(ii). Individual A's pro rata share of the tested loss is $1,000x, and P Corp's pro rata share of the tested loss is $0.

(*ii*) *Year 2.* FS is a tested income CFC in Year 2. Because $1,000x of tested loss

was allocated to the preferred stock in Year 1 under paragraph (d)(3)(iii) of this section, the first $1,000x of tested income in Year 2 is allocated to the preferred stock under paragraph (d)(2)(ii) of this section. P Corp's and Individual A's pro rata shares of the remaining $2,000x of tested income are determined under the general rule of paragraph (d)(2)(i) of this section, except that for purposes of the hypothetical distribution the amount of FS's allocable earnings and profits is reduced by the tested income allocated under paragraph (d)(2)(ii) of this section to $2,000x ($3,000x − $1,000x). Accordingly, under paragraph (d)(2)(i) of this section and § 1.951–1(e)(2)(ii), the amount of FS's allocable earnings and profits distributed in the hypothetical distribution with respect to the preferred stock of FS is $400x ($400x of accrued but unpaid dividends) and with respect to the common stock of FS is $1,600x ($2,000x − $400x), which results in $400x of tested income being allocated to the preferred stock and $1,600x of tested income being allocated to the common stock. Under paragraph (d)(2)(i) of this section and § 1.951–1(e)(2)(i), Individual A's pro rata share of the tested income is $1,400x ($1,000x + $400x), and P Corp's pro rata share of the tested income is $1,600x.

(e) *Definitions.* This paragraph (e) provides additional definitions that apply for purposes of this section and the section 951A regulations. Other definitions relevant to the section 951A regulations are included in §§ 1.951A–2 through 1.951A–4.

(1) *CFC inclusion year.* The term *CFC inclusion year* means a taxable year of a foreign corporation in which the foreign corporation is a controlled foreign corporation at any time during the taxable year.

(2) *Controlled foreign corporation.* The term *controlled foreign corporation* has the meaning provided in section 957(a).

(3) *Own.* The term *own* (or ownership or owned), when used with respect to stock of a foreign corporation, means to own the stock directly or indirectly within the meaning of section 958(a) and § 1.958–1(a). *See also* § 1.958–1(d) (except as provided in § 1.958–1(d)(2), a domestic partnership is not treated as owning stock of a foreign corporation within the meaning of section 958(a) for purposes of section 951A and for purposes of any provision that specifically applies by reference to section 951A or the section 951A regulations, and the domestic partnership is treated as a foreign partnership under section 958(a)(2) in determining the persons that own stock of the foreign corporation within the meaning of section 958(a)).

(4) *United States shareholder.* The term *United States shareholder* has the meaning set forth in section 951(b).

(5) *U.S. shareholder inclusion year.* The term *U.S. shareholder inclusion year* means a United States shareholder's taxable year that includes the last day on which the United States shareholder owns stock in a controlled foreign corporation during a CFC inclusion year of the controlled foreign corporation.

■ **Par. 7.** Section 1.951A–7 is amended by:

■ 1. Revising paragraph (a); and

■ 2. Adding paragraph (c).

The revision and addition read as follows:

§ 1.951A–7 Applicability dates.

(a) *In general.* Except as otherwise provided in this section, § 1.951A–1 applies to taxable years of foreign corporations beginning after December 31, 2025, and to taxable years of United States shareholders for which such taxable years of those foreign corporations are relevant. For rules applicable to taxable years of foreign corporations beginning on or before such date, and to taxable years of United States shareholders in which or with which such taxable years end, see 26 CFR 1.951A–1 as contained in 26 CFR part 1 edition revised as of April 1, 2026. Except as otherwise provided in this section, §§ 1.951A–2 through 1.951A–6 apply to taxable years of foreign corporations beginning after December 31, 2017, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

* * * * *

(c) *Transition rule for global intangible low-taxed income.* In the case of a taxable year of a foreign corporation beginning after December 31, 2025, that ends with or within a taxable year of a United States shareholder beginning on or before December 31, 2025, 26 CFR 1.951A–1 as contained in 26 CFR part 1 edition revised as of April 1, 2026 applies with respect to such United States shareholder, taking into account the amendments to section 951(a)(2) made by section 70354(a) of Public Law 119–21, 139 Stat. 72 (July 4, 2025) when determining the United States shareholder's pro rata share of any tested item.

■ **Par. 8.** Section 1.1502–80 is amended by revising paragraph (j)(3) to read as follows:

§ 1.1502–80 Applicability of other provisions of law.

* * * * *

(j) * * *

(3) *Applicability date.* This paragraph (j) applies to consolidated return years—

(i) For which the original consolidated return is due (without extensions) after February 23, 2023; and

(ii) That include the last day of a taxable year beginning before January 1, 2026, of a controlled foreign corporation owned by a member of the consolidated group.

■ **Par. 9.** Section 1.6038–2 is amended by revising paragraphs (f) and (m) to read as follows:

§ 1.6038–2 Information returns required of United States persons with respect to annual accounting periods of certain foreign corporations.

* * * * *

(f) *Contents of return.* Returns on Form 5471 (or successor form) must contain information prescribed by Form 5471 (or successor form). Such information may include (but is not limited to) the following:

* * * * *

(8) With respect to the outstanding stock of the foreign corporation—

(i) A description of each class of stock,

(ii) The first day of the foreign corporation's annual accounting period and the number of shares of each class of stock outstanding on the first day of the annual accounting period,

(iii) The date and a description of any issuance, redemption, or any other change to the number of shares of any class of stock during the annual accounting period, including the number of shares issued, redeemed, or otherwise changed,

(iv) The balance of each class of stock outstanding during the annual accounting period immediately following any such issuance, redemption, or other change, and

(v) For each person that directly owns (within the meaning of section 958(a)) stock in the foreign corporation and each United States shareholder (as defined in section 951(b), taking into account section 953(c)) that indirectly owns (as described in section 958(a)(2) and determined by treating a domestic partnership in the same manner as a foreign partnership pursuant to § 1.958–1(d)) stock in the foreign corporation, at any time during the annual accounting period:

(A) A description of each class of stock held by each such person (in the case of direct owners) or indirectly owned by each such person (in the case of United States shareholders) at any

time during the annual accounting period,

(B) The number of shares of each class of stock held on the first day of the annual accounting period by each such person (in the case of direct owners) or indirectly owned on the first day of the annual accounting period by each such person (in the case of United States shareholders),

(C) The date and a description of any acquisition, receipt, redemption, disposition, or any other change to the number of any shares of stock held by each such person (in the case of direct owners) or indirectly owned by each such person (in the case of United States shareholders) at any time during the annual accounting period, including the number of shares acquired, received, redeemed, disposed, or otherwise changed, and

(D) The balance of each class of stock held by each such person (in the case of direct owners) or indirectly owned by each such person (in the case of United States shareholders) during the annual accounting period immediately following any such acquisition, receipt, redemption, disposition, or other change.

* * * * *

(m) *Applicability dates.* This section applies to taxable years of foreign corporations beginning after December 31, 2025. For rules applicable to taxable years of foreign corporations beginning on or before such date, see 26 CFR 1.6038–2 as contained in 26 CFR part 1 edition revised as of April 1, 2026.

Frank J. Bisignano,

Chief Executive Officer.

[FR Doc. 2026–17365 Filed 8–25–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG–2026–0035]

RIN 1625–AA01

Anchorage Regulation; San Juan Bay, San Juan, PR

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend the special anchorage regulation in the Bahía de San Juan, PR, known as Anchorage D, by revising the anchorage boundaries. The current boundaries of Anchorage D overlap with deep draft commercial vessel traffic routes within the San Antonio Channel, causing a hazard to navigation. The proposed amendment to the special anchorage regulation is necessary to protect personnel, vessels, and the marine environment from hazards associated with vessel traffic transiting the San Antonio Channel. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before September 25, 2026.

ADDRESSES: To submit comments and view available documents, go to *https://www.regulations.gov* and search for USCG–2026–0035.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rule, contact Lieutenant Commander Rachel Thomas, Sector San Juan Waterways Management Division, U.S. Coast Guard; telephone 571–613–1417, or email *Rachel.E.Thomas@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 special anchorage area within for the Bahía de San Juan, commonly referred to as Anchorage D, is codified in 33 CFR 110.74c. The current boundaries of Anchorage D overlap with deep draft commercial vessel traffic routes within the San Antonio Channel, causing a hazard to navigation. While Anchorage D and the deep draft channel were originally segregated, an Army Corps of Engineering project expanded the federally maintained deep draft segment of the San Antonio Channel to the east by approximately 1,000 feet, creating a substantial overlap with Anchorage D. The situation has been exacerbated by increased use of the Pan-American Pier by larger commercial vessels, especially cruise ships. This has created emerging operational challenges, resulting in frequent reports of safety hazards from cruise lines, the San Juan Bay Harbor Pilots, the Port Authority, and the San Juan Maritime Police, regarding the proximity of recreational vessels anchored within the portion of Anchorage Delta which overlaps with the deep draft shipping channel. Consequently, there is a persistent and recurring risk of collisions and maritime incidents.

Commercial cruise ships, cargo ships, and ferries calling at the Pan-American Pier have limited maneuvering space, jeopardizing safe navigation when recreational vessels are anchored in the deep draft channel. These safety hazards are compounded by complex environmental and meteorological conditions within the Bahía de San Juan. Wind and sea states in the harbor are primarily driven by the tropical trade wind system, which causes continuous diurnal shifts between onshore and offshore breezes. Furthermore, while interior waters are generally calm, heavy northern seas frequently generate a significant surge and undertow that propagates as far inland as the San Antonio Channel. These dynamic conditions, combined with unpredictable seasonal hazards such as winter swells and the Atlantic hurricane season, severely restrict vessel maneuverability.

Vessel operators and the San Juan Bay Pilots must make a professional decision to either accept additional risk, or when the risks are unacceptably high, delay commercial vessel transits until the recreational vessels at Anchorage D can be relocated. However, anchored recreational vessels are typically within the existing designated and charted Anchorage D boundaries, making interventions tenuous. A recent case included the transit of a cruise ship almost 1,100 feet in length, with northeasterly winds of 20 knots, necessitating passing a recreational anchored vessel at a distance of 25 feet, adding evolution complexity and posing an unnecessary and avoidable navigation risk.

The proposed revisions are necessary to establish a designated safe anchorage for recreational vessels and while mitigating the ongoing and imminent risk of collisions between recreational vessels and deep draft commercial ships using the federally maintained deep draft channel.

Based on these findings, the Southeast District Commander has determined that amendments to the existing anchorage regulation is necessary. Specifically, the Coast Guard proposes to shift the Anchorage D boundary eastward so that it does not conflict with the deep draft navigation channel. The Anchorage D boundaries will be defined by four coordinates to further reduce confusion. The District Commander is proposing this rule under the authority in 33 U.S.C. 2071 and 46 U.S.C. 70006 and 70034.

III. Discussion of the Rule

This proposed rule would amend the special anchorage regulation in 33 CFR

110.74c for the San Juan Harbor waters, shifting the western boundary of Anchorage D to the east to segregate the boundaries of the federally maintained deep draft San Antonio Channel from Anchorage D. It would define Anchorage D as follows: all waters encompassed within the following coordinates, starting at position 18°27′37.94″ N, 066°05′33.44″ W, then south to position 18°27′31.53″ N, 066°05′34.14″ W, then east to position 18°27′30.52″ N, 066°05′25.53″ W, then north to position 18°27′36.30″ N, 066°05′25.21″ W, then west, returning to position 18°27′37.94″ N, 066°05′33.44″ W. A chartlet depicting the proposed location is included in the docket.

Additionally, the Coast Guard is proposing that vessels transiting through Anchorage D would need to operate at a no-wake speed. We are proposing a no-wake speed at the anchorage to enhance safety by reducing vessel wake that can cause anchored vessels to surge, strain mooring equipment, and create hazardous conditions for personnel and small craft in the area. In addition, this restriction is intended to help protect endangered species present in the anchorage, such as the West Indian Manatee, by minimizing the risk of vessel strikes and disturbance to their habitat.

Finally, the Coast Guard is proposing to redesignate Anchorage D as § 110.76. The current section number, § 110.74c, reflects a type of section numbering that is inconsistent with current section numbering practices followed by the Office of the Federal Register. This redesignation would move Anchorage D to the next available section number within part 110.

IV. Regulatory Analyses

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

A. Impact on Small Entities

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

While some owners or operators of vessels intending to use these anchorages may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

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. 4321–4370 *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 an anchorage regulation. It is categorically excluded from further review under paragraph L59(b) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Memorandum for Record supporting this determination is available in the docket.

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–2026–0035 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 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 2071; 46 U.S.C. 70006, 70034; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4.

■ 2. Redesignate § 110.74c as § 110.76.
■ 3. Revise § 110.76 to read as follows:

§ 110.76 San Juan Harbor, San Juan, PR.

(a) *Location:* The waters of Bahía de San Juan, termed Anchorage D, including all waters encompassed within the following coordinates, starting at position 18°27′37.94″ N, 066°05′33.44″ W, then south to position 18°27′31.53″ N, 066°05′34.14″ W, then east to position 18°27′30.52″ N, 066°05′25.53″ W, then north to position 18°27′36.30″ N, 066°05′25.21″ W, then west, returning to position 18°27′37.94″ N, 066°05′33.44″ W.

(b) *Regulation:* Vessels transiting through Anchorage D shall operate at a no-wake speed.

* * * * *

Dated: August 24, 2026.

Adam A. Chamie,

Rear Admiral, U.S. Coast Guard, Commander, Coast Guard Southeast District.

[FR Doc. 2026–17419 Filed 8–25–26; 8:45 am]

BILLING CODE 9110–04–P

Notices

Federal Register
Vol. 91, No. 164
Wednesday, August 26, 2026

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–LP–26–1354]

Notice of Request for Extension of a Currently Approved Information Collection for Commodities Covered by the Livestock Mandatory Reporting Act of 1999

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget (OMB) for an extension of the currently approved information collection used to compile and generate cattle, swine, lamb, boxed beef, and wholesale pork Market News reports under the Livestock Mandatory Reporting Act of 1999 (1999 Act) (OMB 0581–0186).

DATES: Comments on this notice must be received by October 26, 2026 to be assured of consideration.

Additional Information or Comments: Interested persons are invited to submit comments concerning this information collection document. Comments should be submitted online at *www.regulations.gov* or sent to Russell Avalos, Assistant to the Director; Livestock, Poultry, and Grain Market News Division; Livestock and Poultry Program; Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW, Room 2619–S, STOP 0252; Washington, DC 20250–0252; telephone: (812) 240–0694; or email: *Russell.Avalos@usda.gov.* All comments should reference the docket number (AMS–LP–26–1354), the date, and page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, online at *www.regulations.gov* and will be made available for public inspection at the above physical address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Russell Avalos at the above physical address, by telephone at (202) 738–2112, or by email at *Russell.Avalos@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Livestock Mandatory Reporting Act of 1999.

OMB Number: 0581–0186.

Expiration Date of Approval: October 31, 2026.

Type of Request: Request for extension of currently approved information collection.

Abstract: The 1999 Act was enacted into law on October 22, 1999 (Pub. L. 106–78; 113 Stat. 1188; 7 U.S.C. 1635–1636(i)), as an amendment to the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*). On April 2, 2001, AMS, the Livestock and Poultry Program (LP), and the Livestock, Poultry, and Grain Market News Division (LPGMN) implemented the Livestock Mandatory Reporting (LMR) program as required by the 1999 Act. The purpose was to establish a program of easily understood information regarding the marketing of cattle, swine, lambs, and livestock products; improve the price and supply reporting services of the United States Department of Agriculture (USDA); and encourage competition in the marketplace for livestock and livestock products. The LMR regulations (7 CFR part 59) set the requirements for certain packers and importers to submit purchase and sales information of livestock and livestock products to meet this purpose.

The statutory authority for the program lapsed on September 30, 2005. In October 2006, Congress passed the Livestock Mandatory Reporting Reauthorization Act (2006 Reauthorization Act) (Pub. L. 109–296). The 2006 Reauthorization Act re-established the regulatory authority for the continued operation of LMR through September 30, 2010, and separated the reporting requirements for sows and boars from barrows and gilts, among other changes. On July 15, 2008, the LMR final rule became effective (73 FR 28606, May 16, 2008).

On September 27, 2010, Congress passed the Mandatory Price Reporting Act of 2010 (2010 Reauthorization Act) (Pub. L. 111–239). The 2010 Reauthorization Act reauthorized LMR for an additional 5 years through September 30, 2015, and required the addition of wholesale pork through negotiated rulemaking. On January 7, 2013, the LMR final rule became effective (77 FR 50561, August 22, 2012).

The Agriculture Reauthorizations Act of 2015 (2015 Reauthorization Act) (Pub. L. 114–54), enacted on September 30, 2015, reauthorized the LMR program for an additional 5 years through September 30, 2020, and amended certain lamb and swine reporting requirements.

Following this 5-year reauthorization, and since the program's expiration in 2020, authority for LMR has been maintained through a series of Continuing Resolutions rather than new multi-year statutory reauthorizations. The program has continued under these stopgap measures, with the most recent extension provided by Public Law 119–37, which extended LMR authority to September 30, 2026.

For lamb, the definitions of a packer and importer were modified to lower the reporting thresholds of each, from a processing average of 75,000 lambs to 35,000 lambs, and from an import average of at least 2,500 metric tons of lamb meat products to an average of 1,000 metric tons of lamb meat. On May 31, 2016, a direct final rule to implement these reporting changes became effective (81 FR 10057, February 29, 2016). For swine, the 2015 Reauthorization Act added a definition and reporting requirements for negotiated formula and late day purchases. On October 11, 2016, a final rule became effective (81 FR 52969, August 11, 2016) to implement these changes as well as a lamb reporting change requested by industry stakeholders amending the term ''packer-owned lambs'' and requiring packers to report lambs owned by a packer for at least 28 days immediately before slaughter.

The reports generated by the 1999 Act are used by other Government agencies to evaluate market conditions and calculate price levels, including USDA's Economic Research Service and World Agricultural Outlook Board. Economists at most major agricultural colleges and universities use the reports to make

short and long-term market projections. Also, the Government is a large purchaser of livestock related products. Therefore, a system to monitor the collection and reporting of data is needed.

In order to comply with the 1999 Act's goal of encouraging competition in the marketplace for livestock and livestock products, section 251 of the Act directs USDA to make available to the public information and statistics obtained from, or submitted by, respondents covered by the Act in a manner that ensures that the confidentiality of the reporting entities is preserved. AMS is in the best position to provide this service.

Estimate of Burden: Public reporting burden for this collection is estimated to average 0.16 hours per response.

Respondents: Business or other for-profit entities, individuals or households, farms, and the Federal Government.

Estimated Number of Respondents: 118 respondents.

Estimated Number of Responses: 149,084 responses.

Estimated Number of Responses per Respondent: 1,263 responses (rounded).

Estimated Total Annual Burden on Respondents: 23,712 hours (rounded).

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this document will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2026–17376 Filed 8–25–26; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by September 25, 2026 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal & Plant Health Inspection Service

Title: Spongy Moth Identification Worksheet.

OMB Control Number: 0579–0104.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture either independently or in cooperation with the States, is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pest new to the United States or not widely distributed throughout the United States. The Plant Protection and Quarantine (PPQ), a program within the Animal and Plant Health Inspection Service (APHIS), is responsible for implementing the intent of this Act, and does so through the enforcement of its Domestic Quarantine Regulations contained in Title 7 of the Code of Federal Regulations (CFR) Part 301. The European spongy moth is one of the most destructive pests of fruit and ornamental trees as well as hardwood forests. The Asian spongy moth is an exotic strain of spongy moth that is closely related to the European variety already established in the United States. Due to significant behavioral differences, this strain is considered to pose an even greater threat to trees and forested areas. In order to determine the presence and extent of a European spongy moth or an Asian spongy moth infestation, APHIS sets traps in high-risk areas to collect specimens.

Need and Use of the Information: APHIS will collect information from the Specimens for Determination, PPQ Form 391, to identify and track specific specimens that are sent to the Otis Development Center for identification tests based on DNA analysis. This information collected is vital to APHIS' ability to monitor, detect, and eradicate spongy moth infestations and the worksheet is completed only when traps are found to contain specimens. Information on the worksheet includes the name of the submitter, the submitter's agency, the date collected, the trap number, the trap's location (including the nearest port of entry), the number of specimens in the trap, and the date the specimen was sent to the laboratory.

APHIS will also use the spongy Moth Checklist and Record Your Self-Inspection, PPQ Form 377 or PPQ Form 377A to collect information on required inspection of outdoor household articles that are to be moved from a spongy moth quarantined area to a non-quarantined area to ensure that they are free of all life stages of gypsy moth.

Description of Respondents: Individuals or households; State, Local or Tribal Government; and Businesses.

Number of Respondents: 2,500,100.

Frequency of Responses: Recordkeeping; Reporting; On occasion.

Total Burden Hours: 2,711,543.

Rachelle Ragland-Greene,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026–17373 Filed 8–25–26; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by September 25, 2026 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Animal Disease Traceability.

OMB Control Number: 0579–0327.

Summary of Collection: The Animal Health Protection Act of 2002 (7 U.S.C. 8301–8317) is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The Veterinary Services unit (VS) of the Animal and Plant Health Inspection Service (APHIS) uses disease control to safeguard U.S. animal health. One important part of disease control is animal disease traceability. Animal disease traceability means being able to document the movement history of an animal throughout its life. Knowing where diseased and at-risk animals have been and are located, as well as when they have been there, is indispensable during an emergency response and important for ongoing disease programs. Traceability helps document the movement history of an animal throughout its life, including during an emergency response or for ongoing animal disease programs.

Need and Use of the Information: APHIS uses the following information collection activities and forms to facilitate Animal Disease Traceability (ADT) and support disease control, eradication, and surveillance activities. Within the ADT framework, official animal identification devices give a nationally unique identification number for livestock animals that require official identification. The distribution and use of official identification devices require some information collection activities. If this information was not collected, APHIS' ability to address traceability needs would be significantly hampered.

Description of Respondents: State, Local, or Tribal Government; Businesses.

Number of Respondents: 80,302.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 536,211.

Rachelle Ragland-Greene,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026–17427 Filed 8–25–26; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by September 25, 2026 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Special Need Request Under the Plant Protection Act.

OMB Control Number: 0579–0291.

Summary of Collection: The Plant Protection Act (PPA) (7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. This authority has been delegated to the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture, which administers regulations to implement the PPA. Regulations governing the interstate movement of plants, plant products, and other articles are contained in 7 CFR part 301, ''Domestic Quarantine Notices.'' These regulations in ''Subpart-Preemption and Special Need Requests'' allow States or political subdivisions of States to request approval from APHIS to impose prohibitions or restrictions on the movement in interstate commerce of specific articles that pose a plant health risk that are in addition to the prohibitions and restrictions imposed by APHIS.

Need and Use of the Information: APHIS believes that specific information—such as a pest data detection survey with a pest risk analysis that shows that a pest is not present in a State, or if already present, the current distribution in the State, and

that the pest would harm or injure the environment and/or agricultural resources of the State or political subdivision—is needed and would be considered along with more general information available to APHIS for the Administrator to be able to determine whether to grant or deny a request for a special need exemption.

The special needs request is submitted with the required information and cover letter from a requesting State to the Deputy Administrator of Plant Protection and Quarantine (PPQ). The required information includes Survey. The results of a scientifically sound survey that show that the pest of concern is not in the State or subdivision of the State, or that shows the distribution of the pest, Risk of entry. A pest risk assessment or scientific data that shows that the pest could enter the area, Harm, or injury. Information shows that if pests entered or spread in the State, it would harm agricultural or environmental resources. Quantitative estimates of the potential injury are preferred, Special basis. Evidence that the area has special or unique characteristics that make it more vulnerable to harm or injury, such as unique fauna or flora, special historical or cultural interest, etc., Requested restrictions; and Details about what specifically is requested, why it is necessary, why it will work and how it will help.

The administrator's determination would be based upon his or her review of the information submitted by the State or political subdivision in support of its request and would consider any comments received. If this information was not collected or collected less frequently, it would create vulnerabilities which would cripple APHIS' ability to prevent the introduction or spread of plant pests and diseases in the United States.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 1.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 160.

Rachelle Ragland-Greene,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026–17370 Filed 8–25–26; 8:45 am]

BILLING CODE 3410–34–P

CIVIL RIGHTS COLD CASE RECORDS REVIEW BOARD

[Agency Docket Number: CRCCRRB–2026–00017–N]

Notice of Formal Determination on Records Release

AGENCY: Civil Rights Cold Case Records Review Board.

ACTION: Notice.

SUMMARY: The Civil Rights Cold Case Records Review Board received 5,617 pages of records from the National Archives and Records Administration (NARA) and the Federal Bureau of Investigation (FBI) related to three civil rights cold case incidents to which the Review Board assigned the unique identifiers 2023–002–005, 2024–003–029, and 2024–003–052. The agencies proposed 3,691 postponements including postponements of sealed federal grand jury information in the records. On August 7, 2026, the Review Board approved 1,086 postponements and portions of 71 additional postponements and determined that 5,104 pages in full and 513 pages in part should be publicly disclosed in the Civil Rights Cold Case Records Collection. The Review Board has requested that the Attorney General petition the relevant court to unseal federal grand jury information in the records. By issuing this notice, the Review Board complies with the Civil Rights Cold Case Records Collection Act of 2018 that requires the Review Board to publish in the **Federal Register** its determinations on the disclosure or postponement of records in the Collection no more than 14 days after the date of its decision.

FOR FURTHER INFORMATION CONTACT: Stephannie Oriabure, Chief of Staff, Civil Rights Cold Case Records Review Board, 1800 F Street NW, Washington, DC 20405, (771) 221–0014, *info@coldcaserecords.gov.*

SUPPLEMENTARY INFORMATION:

Incident identifier	Postponement identifier	Review board decision
2023–002–005	2025–FBI–02–0001	Reject.
2023–002–005	2025–FBI–02–0002	Approve.
2023–002–005	2025–FBI–02–0003	Reject.
2023–002–005	2025–FBI–02–0004 and 2025–FBI–02–0005	Approve.
2023–002–005	2025–FBI–02–0006	Reject.
2023–002–005	2025–FBI–02–0007 through 2025–FBI–02–0013	Approve.
2023–002–005	2025–FBI–02–0014 and 2025–FBI–02–0015	Reject.
2023–002–005	2025–FBI–02–0016	Approve.
2023–002–005	2025–FBI–02–0017	Reject.
2023–002–005	2025–FBI–02–0018	Approve.
2023–002–005	2025–FBI–02–0019	Reject.
2023–002–005	2025–FBI–02–0020 and 2025–FBI–02–0021	Approve.
2023–002–005	2025–FBI–02–0022 through 2025–FBI–02–0027	Reject.
2023–002–005	2025–FBI–02–0028 and 2025–FBI–02–0029	Approve.
2023–002–005	2025–FBI–02–0030	Reject.
2023–002–005	2025–FBI–02–0031	Approve.
2023–002–005	2025–FBI–02–0032 through 2025–FBI–02–0034	Reject.
2023–002–005	2025–FBI–02–0035	Withdrawn by agency.
2023–002–005	2025–FBI–02–0036	Reject.
2023–002–005	2025–FBI–02–0037 and 2025–FBI–02–0038	Withdrawn by agency.
2023–002–005	2025–FBI–02–0039 through 2025–FBI–02–0045	Reject.
2023–002–005	2025–FBI–02–0046	Approve with changes.
2023–002–005	2025–FBI–02–0047 through 2025–FBI–02–0051	Approve.
2023–002–005	2025–FBI–02–0052	Reject.
2023–002–005	2025–FBI–02–0053 and 2025–FBI–02–0054	Approve.
2023–002–005	2025–FBI–02–0055	Withdrawn by agency.
2023–002–005	2025–FBI–02–0056	Reject.
2023–002–005	2025–FBI–02–0057 through 2025–FBI–02–0063	Withdrawn by agency.
2023–002–005	2025–FBI–02–0064 and 2025–FBI–02–0065	Approve with changes.
2023–002–005	2025–FBI–02–0066 through 2025–FBI–02–0071	Approve.

Incident identifier	Postponement identifier	Review board decision
2023–002–005	2025–FBI–02–0072 and 2025–FBI–02–0073	Approve with changes.
2023–002–005	2025–FBI–02–0074 through 2025–FBI–02–0078	Approve.
2023–002–005	2025–FBI–02–0079 and 2025–FBI–02–0080	Approve with changes.
2023–002–005	2025–FBI–02–0081 through 2025–FBI–02–0091	Approve.
2023–002–005	2025–FBI–02–0092	Approve with changes.
2023–002–005	2025–FBI–02–0093 through 2025–FBI–02–0095	Approve.
2023–002–005	2025–FBI–02–0096	Approve with changes.
2023–002–005	2025–FBI–02–0097 and 2025–FBI–02–0098	Approve.
2023–002–005	2025–FBI–02–0099	Approve with changes.
2023–002–005	2025–FBI–02–0100 through 2025–FBI–02–0115	Approve.
2023–002–005	2025–FBI–02–0116	Approve with changes.
2023–002–005	2025–FBI–02–0117 and 2025–FBI–02–0118	Approve.
2023–002–005	2025–FBI–02–0119	Approve with changes.
2023–002–005	2025–FBI–02–0120 through 2025–FBI–02–0126	Approve.
2023–002–005	2025–FBI–02–0127	Withdrawn by agency.
2023–002–005	2025–FBI–02–0128 through 2025–FBI–02–0130	Approve.
2023–002–005	2025–FBI–02–0131 through 2025–FBI–02–0144	Withdrawn by agency.
2023–002–005	2025–FBI–02–0145	Approve with changes.
2023–002–005	2025–FBI–02–0146 through 2025–FBI–02–0149	Approve.
2023–002–005	2025–FBI–02–0150 and 2025–FBI–02–0151	Reject.
2023–002–005	2025–FBI–02–0152 and 2025–FBI–02–0153	Approve.
2023–002–005	2025–FBI–02–0154 and 2025–FBI–02–0155	Reject.
2023–002–005	2025–FBI–02–0156 through 2025–FBI–02–0160	Approve.
2023–002–005	2025–FBI–02–0161 through 2025–FBI–02–0163	Reject.
2023–002–005	2025–FBI–02–0164	Withdrawn by agency.
2023–002–005	2025–FBI–02–0165	Reject.
2023–002–005	2025–FBI–02–0166 and 2025–FBI–02–0167	Withdrawn by agency.
2023–002–005	2025–FBI–02–0168 through 2025–FBI–02–0175	Reject.
2023–002–005	2025–FBI–02–0176	Approve with changes.
2023–002–005	2025–FBI–02–0177 through 2025–FBI–02–0180	Approve.
2023–002–005	2025–FBI–02–0181	Reject.
2023–002–005	2025–FBI–02–0182 and 2025–FBI–02–0183	Approve.
2023–002–005	2025–FBI–02–0184 through 2025–FBI–02–0192	Withdrawn by agency.
2023–002–005	2025–FBI–02–0193 and 2025–FBI–02–0194	Approve with changes.
2023–002–005	2025–FBI–02–0195 through 2025–FBI–02–0200	Approve.
2023–002–005	2025–FBI–02–0201 and 2025–FBI–02–0202	Approve with changes.
2023–002–005	2025–FBI–02–0203 through 2025–FBI–02–0218	Approve.
2023–002–005	2025–FBI–02–0219	Approve with changes.
2023–002–005	2025–FBI–02–0220 through 2025–FBI–02–0222	Approve.
2023–002–005	2025–FBI–02–0223	Approve with changes.
2023–002–005	2025–FBI–02–0224 and 2025–FBI–02–0225	Approve.
2023–002–005	2025–FBI–02–0226	Approve with changes.
2023–002–005	2025–FBI–02–0227 through 2025–FBI–02–0242	Approve.
2023–002–005	2025–FBI–02–0243	Approve with changes.
2023–002–005	2025–FBI–02–0244 and 2025–FBI–02–0245	Approve.
2023–002–005	2025–FBI–02–0246	Approve with changes.
2023–002–005	2025–FBI–02–0247 through 2025–FBI–02–0253	Approve.
2023–002–005	2025–FBI–02–0254	Withdrawn by agency.
2023–002–005	2025–FBI–02–0255 through 2025–FBI–02–0257	Approve.
2023–002–005	2025–FBI–02–0258 through 2025–FBI–02–0271	Withdrawn by agency.
2023–002–005	2025–FBI–02–0272	Approve with changes.
2023–002–005	2025–FBI–02–0273 through 2025–FBI–02–0276	Approve.
2023–002–005	2025–FBI–02–0277	Withdrawn by agency.
2023–002–005	2025–FBI–02–0278 through 2025–FBI–02–0284	Reject.
2023–002–005	2025–FBI–02–0285 through 2025–FBI–02–0288	Withdrawn by agency.
2023–002–005	2025–FBI–02–0289	Approve.
2023–002–005	2025–FBI–02–0290	Reject.
2023–002–005	2025–FBI–02–0291	Approve with changes.
2023–002–005	2025–FBI–02–0292 through 2025–FBI–02–0298	Reject.
2023–002–005	2025–FBI–02–0299	Withdrawn by agency.
2023–002–005	2025–FBI–02–0300 through 2025–FBI–02–0306	Reject.
2023–002–005	2025–FBI–02–0307	Approve with changes.
2023–002–005	2025–FBI–02–0308 through 2025–FBI–02–0311	Reject.
2023–002–005	2025–FBI–02–0312 through 2025–FBI–02–0314	Approve.
2023–002–005	2025–FBI–02–0315 through 2025–FBI–02–0325	Withdrawn by agency.
2023–002–005	2025–FBI–02–0326 through 2025–FBI–02–0329	Approve.
2023–002–005	2025–FBI–02–0330 through 2025–FBI–02–0335	Withdrawn by agency.
2023–002–005	2025–FBI–02–0336 and 2025–FBI–02–0337	Approve.
2023–002–005	2025–FBI–02–0338 through 2025–FBI–02–0344	Withdrawn by agency.
2023–002–005	2025–FBI–02–0345 through 2025–FBI–02–0348	Reject.
2023–002–005	2025–FBI–02–0349 and 2025–FBI–02–0350	Withdrawn by agency.
2023–002–005	2025–FBI–02–0351 through 2025–FBI–02–0353	Reject.
2023–002–005	2025–FBI–02–0354	Approve.
2023–002–005	2025–FBI–02–0355 through 2025–FBI–02–0365	Reject.

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2023–002–005	2025–FBI–02–0366 through 2025–FBI–02–0369	Approve.
2023–002–005	2025–FBI–02–0370 through 2025–FBI–02–0380	Reject.
2023–002–005	2025–FBI–02–0381 and 2025–FBI–02–0382	Withdrawn by agency.
2023–002–005	2025–FBI–02–0383 through 2025–FBI–02–0387	Approve with changes.
2023–002–005	2025–FBI–02–0388 through 2025–FBI–02–0411	Reject.
2023–002–005	2025–FBI–02–0412	Approve.
2023–002–005	2025–FBI–02–0413	Withdrawn by agency.
2023–002–005	2025–FBI–02–0414	Reject.
2023–002–005	2025–FBI–02–0415 through 2025–FBI–02–0419	Approve with changes.
2023–002–005	2025–FBI–02–0420 through 2025–FBI–02–0443	Reject.
2023–002–005	2025–FBI–02–0444	Approve.
2023–002–005	2025–FBI–02–0445	Withdrawn by agency.
2023–002–005	2025–FBI–02–0446 through 2025–FBI–02–0448	Reject.
2023–002–005	2025–FBI–02–0449 through 2025–FBI–02–0456	Withdrawn by agency.
2023–002–005	2025–FBI–02–0457 and 2025–FBI–02–0458	Reject.
2023–002–005	2025–FBI–02–0459	Withdrawn by agency.
2023–002–005	2025–FBI–02–0460	Reject.
2023–002–005	2025–FBI–02–0461	Withdrawn by agency.
2023–002–005	2025–FBI–02–0462 through 2025–FBI–02–0471	Reject.
2023–002–005	2025–FBI–02–0472	Approve with changes.
2023–002–005	2025–FBI–02–0473 through 2025–FBI–02–0476	Reject.
2023–002–005	2025–FBI–02–0477	Approve.
2023–002–005	2025–FBI–02–0478 and 2025–FBI–02–0479	Reject.
2023–002–005	2025–FBI–02–0480	Approve.
2023–002–005	2025–FBI–02–0481	Reject.
2023–002–005	2025–FBI–02–0482 through 2025–FBI–02–0486	Approve.
2023–002–005	2025–FBI–02–0487	Reject.
2023–002–005	2025–FBI–02–0488	Approve.
2023–002–005	2025–FBI–02–0489 and 2025–FBI–02–0490	Withdrawn by agency.
2023–002–005	2025–FBI–02–0491 through 2025–FBI–02–0511	Reject.
2023–002–005	2025–FBI–02–0512	Approve with changes.
2023–002–005	2025–FBI–02–0513 through 2025–FBI–02–0520	Reject.
2023–002–005	2025–FBI–02–0521 through 2025–FBI–02–0523	Withdrawn by agency.
2023–002–005	2025–FBI–02–0524 through 2025–FBI–02–0526	Reject.
2023–002–005	2025–FBI–02–0527	Approve.
2023–002–005	2025–FBI–02–0528 through 2025–FBI–02–0534	Withdrawn by agency.
2023–002–005	2025–FBI–02–0535	Reject.
2023–002–005	2025–FBI–02–0536	Approve.
2023–002–005	2025–FBI–02–0537 through 2025–FBI–02–0540	Withdrawn by agency.
2023–002–005	2025–FBI–02–0541 through 2025–FBI–02–0549	Reject.
2023–002–005	2025–FBI–02–0550	Approve with changes.
2023–002–005	2025–FBI–02–0551 through 2025–FBI–02–0570	Reject.
2023–002–005	2025–FBI–02–0571 through 2025–FBI–02–0573	Approve.
2023–002–005	2025–FBI–02–0574 through 2025–FBI–02–0583	Reject.
2023–002–005	2025–FBI–02–0584 and 2025–FBI–02–0585	Withdrawn by agency.
2023–002–005	2025–FBI–02–0586	Approve.
2023–002–005	2025–FBI–02–0587	Approve with changes.
2023–002–005	2025–FBI–02–0588 through 2025–FBI–02–0612	Withdrawn by agency.
2023–002–005	2025–FBI–02–0613	Approve with changes.
2023–002–005	2025–FBI–02–0614	Withdrawn by agency.
2023–002–005	2025–FBI–02–0615	Approve.
2023–002–005	2025–FBI–02–0616	Approve with changes.
2023–002–005	2025–FBI–02–0617	Withdrawn by agency.
2023–002–005	2025–FBI–02–0618 and 2025–FBI–02–0619	Reject.
2023–002–005	2025–FBI–02–0620 through 2025–FBI–02–0670	Withdrawn by agency.
2023–002–005	2025–FBI–02–0671 through 2025–FBI–02–0673	Reject.
2023–002–005	2025–FBI–02–0674 and 2025–FBI–02–0675	Withdrawn by agency.
2023–002–005	2025–FBI–02–0676 through 2025–FBI–02–0682	Reject.
2023–002–005	2025–FBI–02–0683 and 2025–FBI–02–0684	Withdrawn by agency.
2023–002–005	2025–FBI–02–0685 through 2025–FBI–02–0689	Reject.
2023–002–005	2025–FBI–02–0690	Withdrawn by agency.
2023–002–005	2025–FBI–02–0691	Reject.
2023–002–005	2025–FBI–02–0692 through 2025–FBI–02–0698	Withdrawn by agency.
2023–002–005	2025–FBI–02–0699 through 2025–FBI–02–0771	Reject.
2023–002–005	2025–FBI–02–0772 through 2025–FBI–02–0777	Withdrawn by agency.
2023–002–005	2025–FBI–02–0778	Approve.
2023–002–005	2025–FBI–02–0779 through 2025–FBI–02–0784	Withdrawn by agency.
2023–002–005	2025–FBI–02–0785	Approve with changes.
2023–002–005	2025–FBI–02–0786 through 2025–FBI–02–0813	Withdrawn by agency.
2023–002–005	2025–FBI–02–0814 and 2025–FBI–02–0815	Approve.
2023–002–005	2025–FBI–02–0816 and 2025–FBI–02–0817	Withdrawn by agency.
2023–002–005	2025–FBI–02–0818 through 2025–FBI–02–0820	Reject.
2023–002–005	2025–FBI–02–0821	Approve.
2023–002–005	2025–FBI–02–0822 through 2025–FBI–02–0828	Reject.

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2023–002–005	2025–FBI–02–0829 and 2025–FBI–02–0830	Withdrawn by agency.
2023–002–005	2025–FBI–02–0831	Approve with changes.
2023–002–005	2025–FBI–02–0832 through 2025–FBI–02–0862	Withdrawn by agency.
2023–002–005	2025–FBI–02–0863 and 2025–FBI–02–0864	Approve.
2023–002–005	2025–FBI–02–0865 and 2025–FBI–02–0866	Withdrawn by agency.
2023–002–005	2025–FBI–02–0867 through 2025–FBI–02–0869	Reject.
2023–002–005	2025–FBI–02–0870	Approve.
2023–002–005	2025–FBI–02–0871 through 2025–FBI–02–0877	Reject.
2023–002–005	2025–FBI–02–0878 and 2025–FBI–02–0879	Withdrawn by agency.
2023–002–005	2025–FBI–02–0880 through 2025–FBI–02–0897	Reject.
2023–002–005	2025–FBI–02–0898 and 2025–FBI–02–0899	Withdrawn by agency.
2023–002–005	2025–FBI–02–0900 through 2025–FBI–02–0902	Reject.
2023–002–005	2025–FBI–02–0903 through 2025–FBI–02–0912	Withdrawn by agency.
2023–002–005	2025–FBI–02–0913 through 2025–FBI–02–0926	Reject.
2023–002–005	2025–FBI–02–0927	Approve.
2023–002–005	2025–FBI–02–0928	Reject.
2023–002–005	2025–FBI–02–0929	Approve with changes.
2023–002–005	2025–FBI–02–0930	Reject.
2023–002–005	2025–FBI–02–0931 and 2025–FBI–02–0932	Withdrawn by agency.
2023–002–005	2025–FBI–02–0933	Approve.
2023–002–005	2025–FBI–02–0934 and 2025–FBI–02–0935	Withdrawn by agency.
2023–002–005	2025–FBI–02–0936	Reject.
2023–002–005	2025–FBI–02–0937	Approve.
2023–002–005	2025–FBI–02–0938 through 2025–FBI–02–0942	Reject.
2023–002–005	2025–FBI–02–0943	Approve.
2023–002–005	2025–FBI–02–0944	Reject.
2023–002–005	2025–FBI–02–0945	Approve with changes.
2023–002–005	2025–FBI–02–0946	Reject.
2023–002–005	2025–FBI–02–0947 and 2025–FBI–02–0948	Withdrawn by agency.
2023–002–005	2025–FBI–02–0949	Approve.
2023–002–005	2025–FBI–02–0950 and 2025–FBI–02–0951	Withdrawn by agency.
2023–002–005	2025–FBI–02–0952	Reject.
2023–002–005	2025–FBI–02–0953	Approve.
2023–002–005	2025–FBI–02–0954 through 2025–FBI–02–0960	Reject.
2023–002–005	2025–FBI–02–0961	Approve.
2023–002–005	2025–FBI–02–0962 through 2025–FBI–02–0967	Reject.
2023–002–005	2025–FBI–02–0968 through 2025–FBI–02–0975	Withdrawn by agency.
2023–002–005	2025–FBI–02–0976 through 2025–FBI–02–0986	Reject.
2023–002–005	2025–FBI–02–0987 through 2025–FBI–02–0990	Withdrawn by agency.
2023–002–005	2025–FBI–02–0991	Approve.
2023–002–005	2025–FBI–02–0992 and 2025–FBI–02–0993	Reject.
2023–002–005	2025–FBI–02–0994 and 2025–FBI–02–0995	Withdrawn by agency.
2023–002–005	2025–FBI–02–0996 through 2025–FBI–02–1015	Reject.
2023–002–005	2025–FBI–02–1016	Approve.
2023–002–005	2025–FBI–02–1017 through 2025–FBI–02–1086	Reject.
2023–002–005	2025–FBI–02–1087 and 2025–FBI–02–1088	Approve.
2023–002–005	2025–FBI–02–1089	Approve with changes.
2023–002–005	2025–FBI–02–1090 through 2025–FBI–02–1093	Reject.
2023–002–005	2025–FBI–02–1094 through 2025–FBI–02–1097	Withdrawn by agency.
2023–002–005	2025–FBI–02–1098 and 2025–FBI–02–1099	Reject.
2023–002–005	2025–FBI–02–1100 and 2025–FBI–02–1101	Withdrawn by agency.
2023–002–005	2025–FBI–02–1102	Approve.
2023–002–005	2025–FBI–02–1103 through 2025–FBI–02–1107	Reject.
2023–002–005	2025–FBI–02–1108 through 2025–FBI–02–1113	Withdrawn by agency.
2023–002–005	2025–FBI–02–1114	Reject.
2023–002–005	2025–FBI–02–1115 and 2025–FBI–02–1116	Withdrawn by agency.
2023–002–005	2025–FBI–02–1117	Approve.
2023–002–005	2025–FBI–02–1118 and 2025–FBI–02–1119	Withdrawn by agency.
2023–002–005	2025–FBI–02–1120 through 2025–FBI–02–1123	Approve.
2023–002–005	2025–FBI–02–1124 through 2025–FBI–02–1127	Withdrawn by agency.
2023–002–005	2025–FBI–02–1128	Approve.
2023–002–005	2025–FBI–02–1129 through 2025–FBI–02–1189	Reject.
2023–002–005	2025–FBI–02–1190	Approve with changes.
2023–002–005	2025–FBI–02–1191 through 2025–FBI–02–1193	Reject.
2023–002–005	2025–FBI–02–1194 through 2025–FBI–02–1197	Approve.
2023–002–005	2025–FBI–02–1198 through 2025–FBI–02–1200	Reject.
2023–002–005	2025–FBI–02–1200a	Approve.
2023–002–005	2025–FBI–02–1201	Approve with changes.
2023–002–005	2025–FBI–02–1202 through 2025–FBI–02–1206	Approve.
2023–002–005	2025–FBI–02–1207	Reject.
2023–002–005	2025–FBI–02–1208	Approve.
2023–002–005	2025–FBI–02–1209	Reject.
2023–002–005	2025–FBI–02–1210 through 2025–FBI–02–1212	Approve.
2023–002–005	2025–FBI–02–1213	Reject.

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2023–002–005	2025–FBI–02–1213a through 2025–FBI–02–1238a	Approve.
2023–002–005	2025–FBI–02–1239 and 2025–FBI–02–1240	Reject.
2023–002–005	2025–FBI–02–1240a through 2025–FBI–02–1317	Approve.
2023–002–005	2025–FBI–02–1318	Withdrawn by agency.
2023–002–005	2025–FBI–02–1318a through 2025–FBI–02–1323	Approve.
2023–002–005	2025–FBI–02–1324	Reject.
2023–002–005	2025–FBI–02–1325 through 2025–FBI–02–1372	Approve.
2023–002–005	2025–FBI–02–1373 through 2025–FBI–02–1378	Withdrawn by agency.
2023–002–005	2025–FBI–02–1379	Approve.
2023–002–005	2025–FBI–02–1380 and 2025–FBI–02–1381	Withdrawn by agency.
2023–002–005	2025–FBI–02–1382 and 2025–FBI–02–1383	Approve.
2023–002–005	2025–FBI–02–1384 through 2025–FBI–02–1387	Reject.
2023–002–005	2025–FBI–02–1388	Approve with changes.
2023–002–005	2025–FBI–02–1389 through 2025–FBI–02–1392	Approve.
2023–002–005	2025–FBI–02–1393	Approve with changes.
2023–002–005	2025–FBI–02–1394 through 2025–FBI–02–1404	Reject.
2023–002–005	2025–FBI–02–1405	Approve.
2023–002–005	2025–FBI–02–1406 through 2025–FBI–02–1409	Reject.
2023–002–005	2025–FBI–02–1410 through 2025–FBI–02–1414	Approve.
2023–002–005	2025–FBI–02–1415 through 2025–FBI–02–1424	Reject.
2023–002–005	2025–FBI–02–1425 through 2025–FBI–02–1428	Approve.
2023–002–005	2025–FBI–02–1429 through 2025–FBI–02–1435	Reject.
2023–002–005	2025–FBI–02–1436	Approve.
2023–002–005	2025–FBI–02–1437	Withdrawn by agency.
2023–002–005	2025–FBI–02–1438	Reject.
2023–002–005	2025–FBI–02–1439 and 2025–FBI–02–1440	Approve.
2023–002–005	2025–FBI–02–1441 and 2025–FBI–02–1442	Reject.
2023–002–005	2025–FBI–02–1443	Approve.
2023–002–005	2025–FBI–02–1444	Reject.
2023–002–005	2025–FBI–02–1445	Approve.
2023–002–005	2025–FBI–02–1446 through 2025–FBI–02–1451	Reject.
2023–002–005	2025–FBI–02–1452	Approve.
2023–002–005	2025–FBI–02–1453 through 2025–FBI–02–1457	Withdrawn by agency.
2023–002–005	2025–FBI–02–1458	Reject.
2023–002–005	2025–FBI–02–1459	Withdrawn by agency.
2023–002–005	2025–FBI–02–1460 and 2025–FBI–02–1461	Reject.
2023–002–005	2025–FBI–02–1462 through 2025–FBI–02–1470	Withdrawn by agency.
2023–002–005	2025–FBI–02–1471	Approve.
2023–002–005	2025–FBI–02–1472 and 2025–FBI–02–1473	Reject.
2023–002–005	2025–FBI–02–1474	Approve.
2023–002–005	2025–FBI–02–1475 through 2025–FBI–02–1505	Withdrawn by agency.
2023–002–005	2025–FBI–02–1506 through 2025–FBI–02–1508	Reject.
2023–002–005	2025–FBI–02–1509 through 2025–FBI–02–1525	Withdrawn by agency.
2023–002–005	2025–FBI–02–1526 through 2025–FBI–02–1528	Reject.
2023–002–005	2025–FBI–02–1529 and 2025–FBI–02–1530	Withdrawn by agency.
2023–002–005	2025–FBI–02–1531 through 2025–FBI–02–1596	Reject.
2023–002–005	2025–FBI–02–1597	Approve.
2023–002–005	2025–FBI–02–1598 and 2025–FBI–02–1599	Reject.
2023–002–005	2025–FBI–02–1600	Approve.
2023–002–005	2025–FBI–02–1601 through 2025–FBI–02–1608	Reject.
2023–002–005	2025–FBI–02–1609	Withdrawn by agency.
2023–002–005	2025–FBI–02–1610	Approve.
2023–002–005	2025–FBI–02–1611 through 2025–FBI–02–1628	Reject.
2023–002–005	2025–FBI–02–1629	Approve.
2023–002–005	2025–FBI–02–1630 through 2025–FBI–02–1642	Reject.
2023–002–005	2025–FBI–02–1643	Approve.
2023–002–005	2025–FBI–02–1644 through 2025–FBI–02–1652	Reject.
2023–002–005	2025–FBI–02–1653 and 2025–FBI–02–1654	Approve.
2023–002–005	2025–FBI–02–1655 through 2025–FBI–02–1673	Withdrawn by agency.
2023–002–005	2025–FBI–02–1674 through 2025–FBI–02–1683	Reject.
2023–002–005	2025–FBI–02–1684	Approve.
2023–002–005	2025–FBI–02–1685 and 2025–FBI–02–1686	Reject.
2023–002–005	2025–FBI–02–1687 through 2025–FBI–02–1735	Withdrawn by agency.
2023–002–005	2025–FBI–02–1736	Approve.
2023–002–005	2025–FBI–02–1737	Withdrawn by agency.
2023–002–005	2025–FBI–02–1738	Approve.
2023–002–005	2025–FBI–02–1739 through 2025–FBI–02–1753	Reject.
2023–002–005	2025–FBI–02–1754	Approve.
2023–002–005	2025–FBI–02–1755 through 2025–FBI–02–1782	Reject.
2023–002–005	2025–FBI–02–1783	Approve with changes.
2023–002–005	2025–FBI–02–1784 through 2025–FBI–02–1790	Reject.
2023–002–005	2025–FBI–02–1791 and 2025–FBI–02–1792	Withdrawn by agency.
2023–002–005	2025–FBI–02–1793 through 2025–FBI–02–1863	Reject.
2023–002–005	2025–FBI–02–1864	Approve.

Incident identifier	Postponement identifier	Review board decision
2023–002–005	2025–FBI–02–1865 through 2025–FBI–02–1888	Reject.
2023–002–005	2025–FBI–02–1889	Withdrawn by agency.
2023–002–005	2025–FBI–02–1890 through 2025–FBI–02–1911	Reject.
2023–002–005	2025–FBI–02–1912	Approve with changes.
2023–002–005	2025–FBI–02–1913 through 2025–FBI–02–1915	Reject.
2023–002–005	2025–FBI–02–1916 through 2025–FBI–02–1919	Withdrawn by agency.
2023–002–005	2025–FBI–02–1920 through 2025–FBI–02–1922	Approve.
2023–002–005	2025–FBI–02–1923 and 2025–FBI–02–1924	Reject.
2023–002–005	2025–FBI–02–1925 through 2025–FBI–02–1948	Approve.
2023–002–005	2025–FBI–02–1949	Approve with changes.
2023–002–005	2025–FBI–02–1950 through 2025–FBI–02–1955	Approve.
2023–002–005	2025–FBI–02–1956 through 2025–FBI–02–1963	Withdrawn by agency.
2023–002–005	2025–FBI–02–1964	Approve.
2023–002–005	2025–FBI–02–1965 through 2025–FBI–02–1967	Reject.
2023–002–005	2025–FBI–02–1968 through 2025–FBI–02–1978	Approve.
2023–002–005	2025–FBI–02–1979 through 2025–FBI–02–1981	Reject.
2023–002–005	2025–FBI–02–1982	Approve.
2023–002–005	2025–FBI–02–1983 and 2025–FBI–02–1984	Reject.
2023–002–005	2025–FBI–02–1985	Approve.
2023–002–005	2025–FBI–02–1986	Approve with changes.
2023–002–005	2025–FBI–02–1987 and 2025–FBI–02–1988	Withdrawn by agency.
2023–002–005	2025–FBI–02–1989 through 2025–FBI–02–2002	Reject.
2023–002–005	2025–FBI–02–2003	Withdrawn by agency.
2023–002–005	2025–FBI–02–2004 through 2025–FBI–02–2006	Reject.
2023–002–005	2025–FBI–02–2007	Withdrawn by agency.
2023–002–005	2025–FBI–02–2008	Reject.
2023–002–005	2025–FBI–02–2009	Withdrawn by agency.
2023–002–005	2025–FBI–02–2010	Reject.
2023–002–005	2025–FBI–02–2011 through 2025–FBI–02–2013	Withdrawn by agency.
2023–002–005	2025–FBI–02–2014 through 2025–FBI–02–2016	Reject.
2023–002–005	2025–FBI–02–2017 through 2025–FBI–02–2020	Withdrawn by agency.
2023–002–005	2025–FBI–02–2021	Reject.
2023–002–005	2025–FBI–02–2022	Withdrawn by agency.
2023–002–005	2025–FBI–02–2023 through 2025–FBI–02–2026	Reject.
2023–002–005	2025–FBI–02–2027	Approve.
2023–002–005	2025–FBI–02–2028 through 2025–FBI–02–2030	Reject.
2023–002–005	2025–FBI–02–2031 through 2025–FBI–02–2033	Approve.
2023–002–005	2025–FBI–02–2034 and 2025–FBI–02–2035	Reject.
2023–002–005	2025–FBI–02–2036 through 2025–FBI–02–2043	Withdrawn by agency.
2023–002–005	2025–FBI–02–2044 and 2025–FBI–02–2045	Reject.
2023–002–005	2025–FBI–02–2046 through 2025–FBI–02–2048	Withdrawn by agency.
2023–002–005	2025–FBI–02–2049	Reject.
2023–002–005	2025–FBI–02–2050 through 2025–FBI–02–2053	Withdrawn by agency.
2023–002–005	2025–FBI–02–2054 through 2025–FBI–02–2057	Reject.
2023–002–005	2025–FBI–02–2058	Approve.
2023–002–005	2025–FBI–02–2059 and 2025–FBI–02–2060	Withdrawn by agency.
2023–002–005	2025–FBI–02–2061	Approve.
2023–002–005	2025–FBI–02–2062	Withdrawn by agency.
2023–002–005	2025–FBI–02–2063	Reject.
2023–002–005	2025–FBI–02–2064 and 2025–FBI–02–2065	Approve.
2023–002–005	2025–FBI–02–2066	Reject.
2023–002–005	2025–FBI–02–2067	Approve.
2023–002–005	2025–FBI–02–2068 through 2025–FBI–02–2084	Reject.
2023–002–005	2025–FBI–02–2085 and 2025–FBI–02–2086	Approve.
2023–002–005	2025–FBI–02–2087 and 2025–FBI–02–2088	Withdrawn by agency.
2023–002–005	2025–FBI–02–2089 through 2025–FBI–02–2107	Reject.
2023–002–005	2025–FBI–02–2108 and 2025–FBI–02–2109	Withdrawn by agency.
2023–002–005	2025–FBI–02–2110 through 2025–FBI–02–2114	Reject.
2023–002–005	2025–FBI–02–2115	Approve.
2023–002–005	2025–FBI–02–2116 and 2025–FBI–02–2117	Reject.
2023–002–005	2025–FBI–02–2118	Approve.
2023–002–005	2025–FBI–02–2119 through 2025–FBI–02–2130	Reject.
2023–002–005	2025–FBI–02–2131 and 2025–FBI–02–2132	Withdrawn by agency.
2023–002–005	2025–FBI–02–2133 through 2025–FBI–02–2137	Reject.
2023–002–005	2025–FBI–02–2138 and 2025–FBI–02–2139	Withdrawn by agency.
2023–002–005	2025–FBI–02–2140 through 2025–FBI–02–2148	Reject.
2023–002–005	2025–FBI–02–2149	Approve.
2023–002–005	2025–FBI–02–2150 through 2025–FBI–02–2155	Reject.
2023–002–005	2025–FBI–02–2156 through 2025–FBI–02–2159	Approve.
2023–002–005	2025–FBI–02–2160 through 2025–FBI–02–2163	Reject.
2023–002–005	2025–FBI–02–2164 through 2025–FBI–02–2167	Approve.
2023–002–005	2025–FBI–02–2168 and 2025–FBI–02–2169	Reject.
2023–002–005	2025–FBI–02–2170 through 2025–FBI–02–2172	Approve.
2023–002–005	2025–FBI–02–2173 through 2025–FBI–02–2178	Reject.

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2023–002–005	2025–FBI–02–2179 and 2025–FBI–02–2180	Approve.
2023–002–005	2025–FBI–02–2181 through 2025–FBI–02–2207	Reject.
2023–002–005	2025–FBI–02–2208 and 2025–FBI–02–2209	Withdrawn by agency.
2023–002–005	2025–FBI–02–2210 through 2025–FBI–02–2249	Reject.
2023–002–005	2025–FBI–02–2250 and 2025–FBI–02–2251	Approve.
2023–002–005	2025–FBI–02–2252 through 2025–FBI–02–2275	Reject.
2023–002–005	2025–FBI–02–2276 and 2025–FBI–02–2277	Approve.
2023–002–005	2025–FBI–02–2278 through 2025–FBI–02–2284	Reject.
2023–002–005	2025–FBI–02–2285	Withdrawn by agency.
2023–002–005	2025–FBI–02–2286 and 2025–FBI–02–2287	Reject.
2023–002–005	2025–FBI–02–2288	Approve.
2023–002–005	2025–FBI–02–2289 through 2025–FBI–02–2298	Reject.
2023–002–005	2025–FBI–02–2299	Approve.
2023–002–005	2025–FBI–02–2300 through 2025–FBI–02–2306	Reject.
	2025–FBI–02–2307	Approve.
2023–002–005	2025–FBI–02–2308 through 2025–FBI–02–2315	Reject.
2023–002–005	2025–FBI–02–2316 through 2025–FBI–02–2319	Approve.
2023–002–005	2025–FBI–02–2320 through 2025–FBI–02–2324	Reject.
2023–002–005	2025–FBI–02–2325 through 2025–FBI–02–2327	Approve.
2023–002–005	2025–FBI–02–2328 through 2025–FBI–02–2333	Reject.
2023–002–005	2025–FBI–02–2334 through 2025–FBI–02–2342	Withdrawn by agency.
2023–002–005	2025–FBI–02–2343 through 2025–FBI–02–2351	Reject.
2023–002–005	2025–FBI–02–2352 through 2025–FBI–02–2373	Withdrawn by agency.
2023–002–005	2025–FBI–02–2374 through 2025–FBI–02–2386	Reject.
2023–002–005	2025–FBI–02–2387	Withdrawn by agency.
2023–002–005	2025–FBI–02–2388 through 2025–FBI–02–2401	Reject.
2023–002–005	2025–FBI–02–2402	Approve.
2023–002–005	2025–FBI–02–2403 through 2025–FBI–02–2413	Withdrawn by agency.
2023–002–005	2025–FBI–02–2414	Approve.
2023–002–005	2025–FBI–02–2415 and 2025–FBI–02–2416	Reject.
2023–002–005	2025–FBI–02–2417	Withdrawn by agency.
2023–002–005	2025–FBI–02–2418 and 2025–FBI–02–2419	Reject.
2023–002–005	2025–FBI–02–2420	Withdrawn by agency.
2023–002–005	2025–FBI–02–2421 through 2025–FBI–02–2423	Reject.
2023–002–005	2025–FBI–02–2424	Withdrawn by agency.
2023–002–005	2025–FBI–02–2425 through 2025–FBI–02–2434	Reject.
2023–002–005	2025–FBI–02–2435	Approve.
2023–002–005	2025–FBI–02–2436 through 2025–FBI–02–2438	Reject.
2023–002–005	2025–FBI–02–2439	Approve.
2023–002–005	2025–FBI–02–2440 through 2025–FBI–02–2442	Reject.
2023–002–005	2025–FBI–02–2443	Approve.
2023–002–005	2025–FBI–02–2444 through 2025–FBI–02–2446	Reject.
2023–002–005	2025–FBI–02–2447	Approve.
2023–002–005	2025–FBI–02–2448 and 2025–FBI–02–2449	Reject.
2023–002–005	2025–FBI–02–2450 and 2025–FBI–02–2451	Approve.
2023–002–005	2025–FBI–02–2452 and 2025–FBI–02–2453	Reject.
2023–002–005	2025–FBI–02–2454	Withdrawn by agency.
2023–002–005	2025–FBI–02–2455 through 2025–FBI–02–2467	Reject.
2023–002–005	2025–FBI–02–2468	Approve.
2023–002–005	2025–FBI–02–2469 through 2025–FBI–02–2471	Reject.
2023–002–005	2025–FBI–02–2472	Approve.
2023–002–005	2025–FBI–02–2473 through 2025–FBI–02–2475	Reject.
2023–002–005	2025–FBI–02–2476	Approve.
2023–002–005	2025–FBI–02–2477 and 2025–FBI–02–2478	Reject.
2023–002–005	2025–FBI–02–2479	Approve.
2023–002–005	2025–FBI–02–2480 and 2025–FBI–02–2481	Reject.
2023–002–005	2025–FBI–02–2482	Approve.
2023–002–005	2025–FBI–02–2483 through 2025–FBI–02–2497	Reject.
2023–002–005	2025–FBI–02–2498	Approve.
2023–002–005	2025–FBI–02–2499 through 2025–FBI–02–2501	Reject.
2023–002–005	2025–FBI–02–2502	Approve.
2023–002–005	2025–FBI–02–2503 through 2025–FBI–02–2505	Reject.
2023–002–005	2025–FBI–02–2506	Approve.
2023–002–005	2025–FBI–02–2507 and 2025–FBI–02–2508	Reject.
2023–002–005	2025–FBI–02–2509	Approve.
2023–002–005	2025–FBI–02–2510 and 2025–FBI–02–2511	Reject.
2023–002–005	2025–FBI–02–2512	Approve.
2023–002–005	2025–FBI–02–2513 through 2025–FBI–02–2515	Reject.
2023–002–005	2025–FBI–02–2516 through 2025–FBI–02–2519	Approve.
2023–002–005	2025–FBI–02–2520 and 2025–FBI–02–2521	Withdrawn by agency.
2023–002–005	2025–FBI–02–2522 and 2025–FBI–02–2523	Reject.
2023–002–005	2025–FBI–02–2524	Approve.
2023–002–005	2025–FBI–02–2525	Reject.
2023–002–005	2025–FBI–02–2526 and 2025–FBI–02–2527	Approve.

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2023–002–005	2025–FBI–02–2528	Reject.
2023–002–005	2025–FBI–02–2529 and 2025–FBI–02–2530	Approve with changes.
2023–002–005	2025–FBI–02–2531 through 2025–FBI–02–2536	Withdrawn by agency.
2023–002–005	2025–FBI–02–2537	Reject.
2023–002–005	2025–FBI–02–2538	Withdrawn by agency.
2023–002–005	2025–FBI–02–2539 and 2025–FBI–02–2540	Reject.
2023–002–005	2025–FBI–02–2541 through 2025–FBI–02–2543	Withdrawn by agency.
2023–002–005	2025–FBI–02–2544	Reject.
2023–002–005	2025–FBI–02–2545 through 2025–FBI–02–2558	Withdrawn by agency.
2023–002–005	2025–FBI–02–2559 and 2025–FBI–02–2560	Reject.
2023–002–005	2025–FBI–02–2561 through 2025–FBI–02–2572	Withdrawn by agency.
2023–002–005	2025–FBI–02–2573	Reject.
2023–002–005	2025–FBI–02–2574 through 2025–FBI–02–2580	Withdrawn by agency.
2023–002–005	2025–FBI–02–2581 and 2025–FBI–02–2582	Reject.
2023–002–005	2025–FBI–02–2583 through 2025–FBI–02–2600	Withdrawn by agency.
2023–002–005	2025–FBI–02–2601 through 2025–FBI–02–2603	Reject.
2023–002–005	2025–FBI–02–2604 through 2025–FBI–02–2614	Withdrawn by agency.
2023–002–005	2025–FBI–02–2615 and 2025–FBI–02–2616	Reject.
2023–002–005	2025–FBI–02–2617	Approve.
2023–002–005	2025–FBI–02–2618	Reject.
2023–002–005	2025–FBI–02–2619 through 2025–FBI–02–2622	Approve.
2023–002–005	2025–FBI–02–2623	Reject.
2023–002–005	2025–FBI–02–2624 and 2025–FBI–02–2625	Approve.
2023–002–005	2025–FBI–02–2626	Reject.
2023–002–005	2025–FBI–02–2627 through 2025–FBI–02–2629	Approve.
2023–002–005	2025–FBI–02–2630 through 2025–FBI–02–2632	Reject.
2023–002–005	2025–FBI–02–2633	Approve.
2023–002–005	2025–FBI–02–2634 through 2025–FBI–02–2650	Reject.
2023–002–005	2025–FBI–02–2651 through 2025–FBI–02–2662	Withdrawn by agency.
2023–002–005	2025–FBI–02–2663 and 2025–FBI–02–2664	Reject.
2023–002–005	2025–FBI–02–2665 through 2025–FBI–02–2676	Withdrawn by agency.
2023–002–005	2025–FBI–02–2677 through 2025–FBI–02–2685	Reject.
2023–002–005	2025–FBI–02–2686	Approve.
2023–002–005	2025–FBI–02–2687 through 2025–FBI–02–2691	Reject.
2023–002–005	2025–FBI–02–2692	Approve.
2023–002–005	2025–FBI–02–2693	Reject.
2023–002–005	2025–FBI–02–2694 through 2025–FBI–02–2701	Withdrawn by agency.
2023–002–005	2025–FBI–02–2702 and 2025–FBI–02–2703	Reject.
2023–002–005	2025–FBI–02–2704 through 2025–FBI–02–2721	Withdrawn by agency.
2023–002–005	2025–FBI–02–2722 and 2025–FBI–02–2723	Reject.
2023–002–005	2025–FBI–02–2724 through 2025–FBI–02–2735	Withdrawn by agency.
2023–002–005	2025–FBI–02–2736 through 2025–FBI–02–2738	Reject.
2023–002–005	2025–FBI–02–2739	Approve.
2023–002–005	2025–FBI–02–2740	Reject.
2023–002–005	2025–FBI–02–2741 and 2025–FBI–02–2742	Approve.
2023–002–005	2025–FBI–02–2743 through 2025–FBI–02–2745	Withdrawn by agency.
2023–002–005	2025–FBI–02–2746 through 2025–FBI–02–2762	Approve.
2023–002–005	2025–FBI–02–2763 and 2025–FBI–02–2764	Reject.
2023–002–005	2025–FBI–02–2765 through 2025–FBI–02–2773	Approve.
2023–002–005	2025–FBI–02–2774	Approve with changes.
2023–002–005	2025–FBI–02–2775	Reject.
2023–002–005	2025–FBI–02–2776 through 2025–FBI–02–2967	Approve.
2023–002–005	2025–FBI–02–2968 and 2025–FBI–02–2969	Reject.
2023–002–005	2025–FBI–02–2970 and 2025–FBI–02–2971	Approve.
2023–002–005	2025–FBI–02–2972 and 2025–FBI–02–2973	Reject.
2023–002–005	2025–FBI–02–2974	Approve.
2023–002–005	2025–FBI–02–2975	Reject.
2023–002–005	2025–FBI–02–2976 through 2025–FBI–02–2982	Approve.
2023–002–005	2025–FBI–02–2983	Reject.
2023–002–005	2025–FBI–02–2984 through 2025–FBI–02–3154	Approve.
2023–002–005	2025–FBI–02–3155	Approve with changes.
2023–002–005	2025–FBI–02–3156	Reject.
2023–002–005	2025–FBI–02–3157	Approve.
2024–003–029	2025–NARA–03–0578 through 2025–NARA–03–0633	Approve.
2024–003–052	2026–FBI–03–0001 through 2026–FBI–03–0003	Approve.
2024–003–052	2026–FBI–03–0004 through 2026–FBI–03–0014	Withdrawn by agency.
2024–003–052	2026–FBI–03–0015 through 2026–FBI–03–0018	Approve.
2024–003–052	2026–FBI–03–0019 through 2026–FBI–03–0024	Withdrawn by agency.
2024–003–052	2026–FBI–03–0025 and 2026–FBI–03–0026	Approve.
2024–003–052	2026–FBI–03–0027 through 2026–FBI–03–0033	Withdrawn by agency.
2024–003–052	2026–FBI–03–0034 through 2026–FBI–03–0037	Reject.
2024–003–052	2026–FBI–03–0038 and 2026–FBI–03–0039	Withdrawn by agency.
2024–003–052	2026–FBI–03–0040 through 2026–FBI–03–0042	Reject.
2024–003–052	2026–FBI–03–0043	Approve.

Incident identifier	Postponement identifier	Review board decision
2024–003–052	2026–FBI–03–0044 through 2026–FBI–03–0054	Reject.
2024–003–052	2026–FBI–03–0055 through 2026–FBI–03–0058	Approve.
2024–003–052	2026–FBI–03–0059 through 2026–FBI–03–0069	Reject.
2024–003–052	2026–FBI–03–0070 and 2026–FBI–03–0071	Withdrawn by agency.
2024–003–052	2026–FBI–03–0072 through 2026–FBI–03–0076	Approve with changes.
2024–003–052	2026–FBI–03–0077 through 2026–FBI–03–0100	Reject.
2024–003–052	2026–FBI–03–0101	Approve.
2024–003–052	2026–FBI–03–0102	Withdrawn by agency.
2024–003–052	2026–FBI–03–0103	Reject.
2024–003–052	2026–FBI–03–0104 through 2026–FBI–03–0108	Approve with changes.
2024–003–052	2026–FBI–03–0109 through 2026–FBI–03–0132	Reject.
2024–003–052	2026–FBI–03–0133	Approve.
2024–003–052	2026–FBI–03–0134	Withdrawn by agency.
2024–003–052	2026–FBI–03–0135 through 2026–FBI–03–0137	Reject.
2024–003–052	2026–FBI–03–0138 through 2026–FBI–03–0145	Withdrawn by agency.
2024–003–052	2026–FBI–03–0146 and 2026–FBI–03–0147	Reject.
2024–003–052	2026–FBI–03–0148	Withdrawn by agency.
2024–003–052	2026–FBI–03–0149	Reject.
2024–003–052	2026–FBI–03–0150	Withdrawn by agency.
2024–003–052	2026–FBI–03–0151 through 2026–FBI–03–0153	Reject.
2024–003–052	2026–FBI–03–0154 through 2026–FBI–03–0158	Approve.
2024–003–052	2026–FBI–03–0159	Reject.
2024–003–052	2026–FBI–03–0160	Approve.
2024–003–052	2026–FBI–03–0161 and 2026–FBI–03–0162	Withdrawn by agency.
2024–003–052	2026–FBI–03–0163 through 2026–FBI–03–0183	Reject.
2024–003–052	2026–FBI–03–0184	Approve with changes.
2024–003–052	2026–FBI–03–0185 through 2026–FBI–03–0192	Reject.
2024–003–052	2026–FBI–03–0193 through 2026–FBI–03–0195	Withdrawn by agency.
2024–003–052	2026–FBI–03–0196 through 2026–FBI–03–0198	Reject.
2024–003–052	2026–FBI–03–0199	Approve.
2024–003–052	2026–FBI–03–0200 through 2026–FBI–03–0206	Withdrawn by agency.
2024–003–052	2026–FBI–03–0207	Reject.
2024–003–052	2026–FBI–03–0208	Approve.
2024–003–052	2026–FBI–03–0209 through 2026–FBI–03–0212	Withdrawn by agency.
2024–003–052	2026–FBI–03–0213 through 2026–FBI–03–0221	Reject.
2024–003–052	2026–FBI–03–0222	Approve with changes.
2024–003–052	2026–FBI–03–0223 through 2026–FBI–03–0242	Reject.
2024–003–052	2026–FBI–03–0243 through 2026–FBI–03–0245	Approve.
2024–003–052	2026–FBI–03–0246 through 2026–FBI–03–0255	Reject.
2024–003–052	2026–FBI–03–0256 through 2026–FBI–03–0308	Withdrawn by agency.
2024–003–052	2026–FBI–03–0309 through 2026–FBI–03–0311	Reject.
2024–003–052	2026–FBI–03–0312 and 2026–FBI–03–0313	Withdrawn by agency.
2024–003–052	2026–FBI–03–0314 through 2026–FBI–03–0320	Reject.
2024–003–052	2026–FBI–03–0321 and 2026–FBI–03–0322	Withdrawn by agency.
2024–003–052	2026–FBI–03–0323 through 2026–FBI–03–0327	Reject.
2024–003–052	2026–FBI–03–0328	Withdrawn by agency.
2024–003–052	2026–FBI–03–0329	Reject.
2024–003–052	2026–FBI–03–0330 through 2026–FBI–03–0336	Withdrawn by agency.
2024–003–052	2026–FBI–03–0337 through 2026–FBI–03–0409	Reject.
2024–003–052	2026–FBI–03–0410 through 2026–FBI–03–0415	Withdrawn by agency.
2024–003–052	2026–FBI–03–0416	Approve.
2024–003–052	2026–FBI–03–0417 through 2026–FBI–03–0422	Withdrawn by agency.

Authority: Pub. L. 115–426, 132 Stat. 5489 (44 U.S.C. 2107).

Dated: August 21, 2026.

Stephannie Oriabure,

Chief of Staff.

[FR Doc. 2026–17368 Filed 8–25–26; 8:45 am]

BILLING CODE 6820–SY–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the New York Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: Commission on Civil Rights.

ACTION: Announcement of public meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that the New York Advisory Committee to the Commission will hold a public meeting via Zoom. The purpose of the meeting is to discuss the committee's project, Discrimination Against Jews on College and University Campuses Since October 7, 2023.

DATES: Wednesday, September 9, 2026, at 10:00 a.m. Eastern Time.

ADDRESSES: The meeting will be held via Zoom.

Registration Link (Audio/Visual): https://www.zoomgov.com/webinar/register/WN_qhX91dZET2aj7CyTLtEmIA.

Join by Phone (Audio Only): 1–833–435–1820 USA Toll Free; Webinar ID: 165 943 1634 #.

Agenda: https://usccr.box.com/s/puqle9w2200rs4ej0m3m1fqtrw4w89x3 (note: a final briefing agenda will be available prior to the briefing date).

FOR FURTHER INFORMATION CONTACT: David Barreras, Designated Federal Officer at *dbarreras@usccr.gov,* or 202–656–8937.

SUPPLEMENTARY INFORMATION: This virtual committee meeting is available to the public through the registration link above. Any interested member of the public may join at the link to listen to this meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Pursuant to the Federal Advisory Committee Act, public minutes of the meeting will include a list of people who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any charges incurred. Callers will incur no charge for calls when they initiate over land-line connections to the toll-free telephone number. Closed captioning is available by selecting ''CC'' in the Zoom meeting platform. To request additional accommodation, please email *ebohor@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to *dbarreras@usccr.gov* or may be submitted via the following form: *https://wkf.ms/4el1dOG.* People who desire additional information may contact the Designated Federal Officer at (202) 656–8937.

Records generated from this briefing may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the briefing. Records of meetings will be available via the file sharing website: *https://usccr.box.com/s/l8pa4elkskan98fyqjcc50736l8dakq6* as well as at: *www.facadatabase.gov* under the Commission on Civil Rights, selecting the Advisory Committee of interest. People interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Designated Federal Officer at 202–656–8937.

Dated: August 24, 2026.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2026–17424 Filed 8–25–26; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Oregon Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: Commission on Civil Rights.

ACTION: Announcement of business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a business meeting of the Oregon Advisory Committee to the U.S. Commission on Civil Rights will hold a business meeting via Zoom. The purpose of the meeting is to plan briefings on their topic ''Religious Freedom within Correctional Institutions in Oregon.''

DATES: Thursday, September 3, 2026, from 11:00 a.m.–12:00 p.m. Pacific Time.

ADDRESSES: The meeting will be held via Zoom.

September 3rd—Registration Link (Audio/Visual): *https://www.zoomgov.com/j/1654440584.*

Join by Phone (Audio Only): 1–833–435–1820 USA Toll Free; Webinar ID: 165 444 0584

Agenda: https://usccr.box.com/s/2x0rmdx2coz4x2g83zq9j9obgwbcl9oc (Note: a final meeting agenda will be available prior to the meeting date).

FOR FURTHER INFORMATION CONTACT: Kayla Fajota, Designated Federal Officer at *kfajota@usccr.gov,* or (434) 515–2395.

SUPPLEMENTARY INFORMATION: This virtual committee meeting is available to the public through the registration link above. Any interested member of the public may join at the link to listen to this meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Pursuant to the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning is available by selecting ''CC'' in the Zoom meeting platform. To request additional accommodations, please email Angelica Trevino, Support Services Specialist at *atrevino@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received within 30 days following the meeting. Written comments may be emailed to Kayla Fajota, Designated Federal Officer at *kfajota@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (434) 515–2395.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via the file sharing website: *https://usccr.app.box.com/folder/271061562007?s=r6h92j9j27b78vvft9voq7b6kzdphlbl* as well as at: *www.facadatabase.gov* under the Commission on Civil Rights, selecting the Advisory Committee of interest. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above phone number.

Dated: August 24, 2026.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2026–17425 Filed 8–25–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–105–2026]

Foreign-Trade Zone (FTZ) 126, Notification of Proposed Production Activity; Panasonic Energy Corporation of North America; (Lithium-Ion Battery Cells); Sparks, Nevada

Panasonic Energy Corporation of North America submitted a notification of proposed production activity to the FTZ Board (the Board) for its facilities in Sparks, Nevada within Subzone 126H. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on August 6, 2026.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.*

The proposed finished products include: Finished Lithium-Ion Battery Cells (duty rate ranges from 3.4%).

The proposed foreign-status materials/components include: Natural Graphite; Sealants (Ingredients: Conjugated diene type polymer, Carbon Black, Xylene [Dimethyl benzene], Ethyl benzene); Sealants; SiC (Silicon Carbide); N-methyl-2-pyrrolidone (NMP); NMP Conductive Paste (FT6810, NMP, Polyvinylpyrrolidone); Artificial Graphite; NCMA (Aluminum- and yttrium- and zirconium-doped, Cobalt lithium manganese nickel oxide); NCMA (Cobalt lithium manganese nickel oxide, Aluminum- and titanium- and zirconium-doped); Silicon Composite Material (Silicate Glass, Silicon, Iron, Zirconium Oxide, Carbon); Silicon Monoxide; P Binder (1-Methyl-2-pyrrolidinone, Polyvinylidene Fluoride); PVDF: Polymer of 1, 1-difluoroethene; Acrylic acid-based Salt; Sodium carboxymethyl cellulose thickener; Polyimide Adhesive Tape; Polypropylene Film with Acrylic Adhesive Tape; Polyethylene Separators; Polypropylene Gaskets; Latex Rubber Binder (Water, Butadiene-styrene type copolymer); Copper Foil; Nickel Clad Copper Negative Tabs; Aluminum Rolls; Aluminum Foil; Aluminum Rupture Discs; and Aluminum Cathode Tab (duty rate ranges from duty-free to 6.5%).

The request indicates that certain materials/components are subject to duties under section 232 of the Trade Expansion Act of 1962 (section 232) or section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 232 and section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is October 5, 2026.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact John Frye at *John.Frye@trade.gov.*

Dated: August 21, 2026.

Juanita Chen,

Acting Executive Secretary.

[FR Doc. 2026–17358 Filed 8–25–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–106–2026]

Foreign-Trade Zone (FTZ) 138, Notification of Proposed Production Activity; Fluid Quip KS, LLC; (Separation and Grinding Equipment); Springfield, Ohio

Fluid Quip KS, LLC submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Springfield, Ohio within Subzone 138L. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on August 10, 2026.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.*

The proposed finished products include: centrifuge; impact mill; grind mill; volute assembly; impact mill bearing housing assembly; centrifuge bearing assembly; bowl and hub assembly; pressure screen assembly; impact mill assembly; quill assembly; rotating assembly; rotor stand assembly; radial matrix cartridge; stone cyclone; centrifuge frame; germ separation unit; rotary strainer lid lifter; auto plate adjustment; gravity screen; rotating brush strainer; starch washing unit; multi zone screening apparatus; and paddle screens (duty rate ranges from duty-free to 1.3%).

The proposed foreign-status materials/components include: paddle arm key stainless steel; swivel bolt coupling assembly; bent stainless steel bolts; centrifuge cylinder carbon steel; paddle filter machine; pressure screen stainless steel; retaining rod stainless steel; volute adapter stainless steel; stainless steel paddle arm for paddle screen; centrifuge radial arm carbon steel; torque arm carbon steel; coupling nut wrench assembly; stainless steel baffle limiter for gravity; screen; stainless steel paddle bar for paddle screen; centrifuge base carbon steel; bearings base for paddle screen; machine base for grindmill and centrifuge; carbon steel sheave puller base for; centrifuge; centrifuge bend return stainless steel; carbon steel mounting block; upper stone cyclone stainless steel body for; germ separation; rotary strainer stainless steel body; centrifuge adjustment bracket carbon steel; lubrication pump bracket structural steel; for centrifuge; thrust compensator bracket hot rolled steel; for grind mill; feed tube filter bracket carbon steel; housing adjustment bracket for centrifuge; carbon steel; directional valve bracket for centrifuge; carbon steel; screen cage for multi-zone screen apparatus; stainless steel; stainless steel housing cap; stainless steel adjustable valve cap; stainless steel radial matrix cap; stainless steel rotary strainer top cap; centrifuge rotor carriage carbon steel; stainless steel multi zone screen apparatus; discharge chute; stainless steel circlip; stainless steel cyclone cone; radial matrix piping connector stainless; steel; stainless steel coupling; stainless steel housing cover for centrifuge; single matrix unit cover stainless steel; stainless steel casting inspection cover; carbon steel bearing housing casting; back up flange stainless steel; stainless steel overflow and under flow disc; for single matrix unit or dual matrix unit; stainless steel pressure screen door; differential drive; flanged elbow stainless steel; stainless steel centrifuge feedwell; top and bottom screen flange stainless steel; stainless steel gasket flange; stainless steel packing gland for paddle; screens; stainless steel seal gland for multi zone; separation apparatus; belt guard sheet metal; coupling shaft guard sheet metal; quill guard sheet metal (carbon) for grind; mill; stainless steel cover handle; disc holder stainless steel casting; strainer brush holder stainless steel for; rotary strainer; paddle screen hood stainless steel; centrifuge housing stainless steel; single matrix unit housing stainless steel; carbon steel bearing housing casting; oil seal housing stainless steel; stainless steel feed impeller for centrifuge; feed inlet stainless steel; keyway stainless steel; door and cover latch stainless steel for; screen separator; torque lever stainless steel for centrifuge; stainless steel locknut for multi zone screen; apparatus; adjustable valve nozzle stainless steel; gland nut bronze casting for rotary strainer; adjusting torque nut carbon steel; lifting nut carbon steel; centrifuge spill outlet stainless steel; support wear pad brass alloy for rotor stand; connecting pipe stainless steel; mounting pipe stainless steel; mounting case plate carbon steel for grind; mill; contact plate bronze for centrifuge; motor adjusting plate carbon steel for; centrifuge; clamp plate carbon steel for centrifuge; insulator anchor plate carbon steel for; centrifuge; motor mount plate

carbon steel for; centrifuge; cyclonette mounting plate stainless steel; vibration isolators mounting plate carbon; steel; reject pot stainless steel for grit system; return pump stainless steel for centrifuge; refiner quill carbon steel for grind mill; long screw receiver stainless steel for; centrifuge; oil seal retainer carbon steel for centrifuge; seal ring stainless steel for impact mill; screw shaft stainless steel; shell housing stainless steel; outer shell stainless steel; shaft sleeve stainless steel; bearing spacer carbon steel for multi zone; screen apparatus; center spider stainless steel casting; support bowl carbon steel for rotor stand; strainer bottom support stainless steel; casting for rotary strainer; inlet feed support aluminum casting; radial arm safety support aluminum alloy for; centrifuge; inlet feed tube stainless steel for centrifuge; volute stainless steel casting for centrifuge; spacer washer stainless steel; disc yoke carbon steel; dam ring stainless steel for centrifuge; cover adapter stainless steel for centrifuge; hydraulic cylinder assembly for centrifuge; carbon steel; coupling assembly stainless steel; grind mill base carbon steel; spacer block carbon steel; gear box bronze alloy; stuffing box stainless steel; motor support bracket carbon steel; cylinder hoist bumper carbon steel for; centrifuge; bearing cap casting for grind mill; case weldment carbon steel; bearing casting; motor support clamp carbon steel; support cleaner stainless steel for grit; separation; bearing collar carbon steel plate; cyclone cone stainless steel; radial matrix piping connector stainless; steel; inspection cover stainless steel casting; cross support stainless steel for germ; separation; door casting stainless steel; housing casting stainless steel; impact ring casting stainless steel; refiner quill casting; bearing retainer casting; spring washer casting; feed cone screen stainless steel; door weldment stainless steel for grindmill; connection flange stainless steel; mounting foot stainless steel; mill frame weldment carbon steel; gear actuator scoop stainless steel for; centrifuge; arm gear stainless steel for centrifuge; belt guard sheet metal hot rolled steel; locking handle stainless steel; overflow and underflow head stainless; steel for grit system; feed header stainless steel for germ; separation; brush holder stainless steel for rotary; strainer; hopper hook stainless steel for impact mill; discharge hopper stainless steel for impact; mill; bearing housing stainless steel; return impeller stainless steel for; centrifuge; shaft key stainless steel; leg support carbon steel; rotor lid stainless steel for rotary strainer; case liner stainless steel for grind mill; linkage jack carbon steel; motor mount carbon steel weldment; nozzle stainless steel; long spacer nut stainless steel; bearing housing pedestal carbon steel; spacer pin stainless steel; connecting pipe stainless steel; grind plate alloy casting; motor plate carbon steel; bearing retainer heat treated 4140; tie rod stainless steel for centrifuge; motor support roller stainless steel; gear scoop stainless steel; screen stainless steel; snap coupling seal stainless steel; ball valve seat stainless steel; gear shaft stainless steel; paddle screen shaft stainless steel; upper shell stainless steel; bearing housing shield sheet metal; spring socket carbon steel; bearing spacer carbon steel; bearing spider stainless steel; grind mill spout stainless steel; stuffing box shaft guard sheet metal; manifold carbon steel; disc removal and installation tool carbon; steel for centrifuge; upright support stainless steel; overflow and underflow volute stainless; steel for centrifuge; wear plate casting; disc yoke wrench carbon steel; yoke plate carbon steel; ball valve handle stainless steel; fullport valve stainless steel; strainer cap stainless steel; casting; end cap stainless steel; actuator adapter stainless steel; hose adapter stainless steel; volute adapter stainless steel; adjustment bracket carbon steel; thrust compensator bracket; carbon steel; mouting bracket carbon steel; locking collar carbon steel; shaft end cover stainless steel; for paddle screens; handle cover stainless steel; sheave guard sheet metal; shaft guard sheet metal; coupling guard sheet metal; quill guard sheet metal for; grind mills; support header stainless steel; for pressure screens; stuffing box plate stainless; steel for grindmills; anchor plate stainless steel; contact plate bronze; center plate stainless steel; adjusting plate casting; roller plate carbon steel; spring plate carbon steel; housing scoop stainless steel; feed housing stainless steel; support housing stainless steel; bottom housing stainless steel; for centrifuge; carbon steel split bearing; housing casting; housing shell stainless steel; inlet housing stainless steel; cap shell housing stainless steel; ring seal housing stainless steel; and ring feed housing stainless steel (duty rate ranges from duty-free to 5.6%).

The request indicates that certain materials/components are subject to duties under section 232 of the Trade Expansion Act of 1962 (section 232) or section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 232 and section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov*. The closing period for their receipt is October 5, 2026.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact John Frye at *John.Frye@trade.gov*.

Dated: August 21, 2026.

Juanita Chen,

Acting Executive Secretary.

[FR Doc. 2026–17359 Filed 8–25–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–107–2026]

Foreign-Trade Zone (FTZ) 30, Notification of Proposed Production Activity; Beauty Industry Group; (Hair Extension Kits); Salt Lake City, Utah

Beauty Industry Group submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Salt Lake City, Utah within FTZ 30. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on July 27, 2026.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.*

The proposed finished products include; Babe Welcome Kit for new stylists, includes student brochure, color ring, brush and tape-in extension; Babe Starter Kit for I-Tip extensions, includes synthetic hair, color ring, education manual, brush, Velcro hair grippers, quick change anchor, beads, extension tool, quick pick; Babe Deluxe Education kit for all types of extensions, includes all synthetic practice hair types, education manual, brush, tapes, bond removers, color rings, shears, melting tool, adhesive; Babe Fusion Extension Starter Kit, includes synthetic hair, color ring, stainless steel finger

pick, keratin bond remover, bead tool, protector disc, rebond squares, melting connector, fusion cutter w/case, hair brush, education manual, Velcro hair grippers; Babe Mastery Folder, includes Itinerary Sheet, Notepad, Pen, Name Card, Maintenance Card; Babe PR Mailer Kit, includes PR mailer insert cards, Flip Book, Color Ring, Hair clips, Hair brush, Hybrid Weft Straight Hair; Babe Quick Fit Tape Weft Kit, includes Tape Weft Synthetic Hair, Color Ring, stainless steel finger pick, Tape Bond remover, double sided and single sided replacement tape, Education Manual, Velcro hair grippers, hair brush, backpack; Babe Student Starter Kit, includes backpack, color ring, bead tool, bead anchor, silicone beads, curved weaving needle, fusion bond cutter, fusion melting tool, protector disc, mini clips, stainless steel finger pick, stork shears, weaving thread, weft adhesive, Velcro hair grippers, single and double sided replacement tape, keratin bond remover, tape bond remover, express bond remover, tape in practice hair, fusion practice hair, hybrid weft practice hair, education manual; Babe Tape-In Starter Kit, includes practice hair, color ring, stainless steel finger pick, tape bond remover, single and double sided replacement tape, discount card, Velcro hair grippers, express bond remover; Babe Weft extension starter kit, includes mini clips, stork shears, deluxe bead tool, weft adhesive, curved weaving needles, stainless steel finger pick, education manual, discount card, color ring, Velcro hair grippers, hair brush, weft practice hair, hybrid weft practice hair, silicone beads, weaving thread, quick change anchor; Donna Bella Public Relations Kit includes brand awareness insert card, color ring, kera-link straight hair, hybrid weft straight hair, tape weft straight hair, tape in straight hair; Donna Bella Ultimate Hair extension Kit includes color ring, replacement tape, silicone beads on thread, single and double sided tape, bond remover, tape in practice hair, curved weaving needles, hybrid weft practice hair, thread ripper, metal mini clips, kera-link practice hair, fusion melting tool, rebond squares, protector disc, I-link practice hair straight, multifunction hair tool, keratin bond cutter, bead remover pliers, metal circle weight, weaving thread; Bellami Pro Master Kit with Trolley USA includes Single Method Base Kit, Release Spray, Single Method I-tip kit, Single Method K-tip kit, Single Method Tape-in kit, luggage trolley, Single Method Weft Kit, Color Ring; Bellami Professional Single Method Base Kit includes base kit inner pack, acrylic head chart, mannequin tripod, mannequin head; Single Method Base Kit inner pack, includes hair brush, boar bristle hair brush, black cape, certification manual, consultation card, client card, phone tripod, metal mini clips, tool pouch, snipping scissors, Velcro hair grippers, pliers, canvas pouch, pro clippers, comb, alligator clips; Bellami Professional Single Method I-tip kit, includes metal loop tool, silicone beads, I-tip practice straight hair, canvas pouch; Bellami Professional Single Method K-tip kit, includes round plastic heat shield, metal table clamp, K-tip straight hair, fusion tool, canvas pouch; Bellami Professional Single Method Tape-In Kit includes single and double sided replacement tape, stainless steel hair press for tape, Tape-In hair straight, canvas pouch; Bellami Professional Single Method Weft Kit includes metal loop tool, weaving thread, curved weaving needle, Flex Weft hair straight, pouch; Advanced Education Tool Kit includes hairbrush, Infinity Weft Straight Hair, alligator clips, weaving thread, snipping scissors, tool pouch, metal mini clips, curved weaving needle, bead pliers, Velcro hair grippers, wood hair extension hanger, Flex Weft straight hair, color ring, silicone beads, volume weft straight hair, hand tied straight hair, consultation card, client card, comb, bead loop tool, duck bill clips, boar brush, canvas pouch; Bellami Master Kit with Trolley or EU includes Single method base kit, color ring, single method weft kit, single method I-tip kit, K-tip Kit for EU, single method Tape-In kit, luggage trolley, release spray; Bellami Bridal Kit includes heatless flex rod curler, acetate clips, metal mini clips, silk pillowcase, satin robe, silk eye mask, silk scrunchie set, acetate comb in vegan leather pouch, comb in vegan leather pouch, canvas extension holder bag with wooden hanger; Bellami Pro K-Tip Kit for EU includes K-tip inner pack, K-tip fusion tool UK adapter, K-tip fusion tool EU version; Bellami Pro K-Tip inner pack includes table clamp, k-tip tester hair, canvas pouch, plastic heat shield; Babe Welcome Box includes Color Ring, hairbrush, Tape-In straight hair, Student brochure, client card; Babe Starter Strand Intro kit includes color ring, hairbrush, mirror cling; Babe Gaining Inches Intro Kit includes color ring, hairbrush, mirror cling, babe poster, heatless curler, wooden extension hanger, stylist apron, stylist cape; Babe Mastered Mane Intro Kit includes color ring, hairbrush, mirror cling, hair organizer, hair organizer stand, babe poster, sild scrunchie, heatless curler, wooden extension hanger, stylist apron, stylist cape; Babe DSC Sales Tool Kit includes babe booklet, tools and method bag, machine sewn weft straight hair, Quick Fit tape weft straight hair, tape-in straight hair, ideal hybrid weft straight hair, I-tip straight hair, Fusion Curly hair; Babe Total Tapes Starter Kit includes Tape-In synthetic practice hair, Quick Fit Tape Weft Synthetic Hair, color ring, stainless steel finger pick, tape-in bond remover, express bond remover, single- and double-sided replacement tape, hairbrush, education manual, discount card, Velcro hair grippers; Hotheads Establish Intro kit includes color ring, hairbrush, window cling; Hotheads Expand intro kit includes color rings, hairbrush, window cling, wooden hair extension holder, salon cape, hotheads poster, heatless curler, stylist apron; AKEDA00003 Hotheads Elevate Intro kit includes color ring, hairbrush, window cling, salon cape, counter display, counter display hanger, counter display sample hair, hot heads poster, heatless curler, scrunchie set, wooden extension hanger, stylist apron; Donna Bella Signature Tape Collection kit includes Velcro hair grippers, single- and double-sided replacement tape, extension bond remover, keratin bond cutter, residue remover, Tape-in synthetic straight hair, finger pick, education manual, color ring; Donna Bella Hybrid Weft Collection kit includes Education manual, weaving thread, mini clips, thread ripper, finger pick, curved weaving needles, hybrid weft synthetic practice hair, multifunction tool, silicone beads on a string, rescue tool, base weight, keratin bond cutter, color ring; and CosmoProf Education Materials kits includes consultation form, price sheet, Aftercare card, Intro Sales Sheet, Hybrid weft method sheet, tape in method sheet (duty rate ranges from duty-free to 4.4%).

The proposed foreign-status materials/components include; hair extension brush; starter kit empty box; pens; bead extension pliers in black case; polished steel crimping tool; 11x14x4 mailer empty box; color swatch sample ring; flip book; fusion bond cutter with black case; plastic hair clips; hybrid weft straight hair; hybrid weft modacrylic fiber synthetic practice hair; keratin bond remover liquid; kit inner box; fusion modacrylic fiber synthetic practice hair; maintenance card; melting connector to fuse keratin bonds; metal mini clips for holding hair; folder for paper material; discount index card; machine sewn weft modacrylic fiber synthetic practice hair; I-tip modacrylic fiber synthetic practice hair; hard plastic hair protector disk; anchor loop tool for

bead changes; stringed micro-lock beads on metal ring; quick fit tape weft modacrylic fiber synthetic practice hair; stainless steel finger pick; keratin protein rebond squares; tape-in straight hair; stork shaped hair shears; backpack; tape-in modacrylic fiber synthetic practice hair; nylon spool of weaving thread; velcro hair grippers; curved weaving needles; hand tied weft adhesive; rescue tool to fix broken beads; I-link modacrylic fiber synthetic hair straight; kera-link straight hair; kera-link modacrylic fiber synthetic hair straight; tape-in weft hair straight; tape-in modacrylic fiber synthetic hair; tape-in curly hair; black box, empty; keratin bond cutter & vinyl pouch; metal circle weight; 11x14x4 mailer box; rebond squares for keratin fusions; pre-loaded extension beads on a string; stainless steel pliers for installing beads; plastic thread ripper with metal tip; modacrylic fiber synthetic hair flex weft; modacrylic fibers synthetic hair hand-tied weft; practice hair human volume weft; aluminum beads colored silicone-lined; plastic styling comb; plastic hairbrush; boar hairbrush with plastic handle; paper client information cards; index card for consultation information; wooden clip extension holder with metal hook and clips; luggage trolley with plastic handle and wheels; hair stylist cape; acrylic head storage chart; adjustable mannequin metal tripod; canvas pouch with plastic window; duck bill plastic clips; hard plastic round heat shield; metal loop tool to pull hair through beads; mannequin head with real human hair; master class certification manual; plastic phone tripod; stainless steel hair press for tape; Bellami professional single method tape-in kit; snipping scissors; table clamp mannequin holder; hair extension tool pouch; flex weft straight hair; infinity weft straight hair; I-tip straight hair; K-tip straight hair; tape bond remover liquid; hair extension release spray; express bond remover; hair extension brush; starter kit empty box; pens; bead extension pliers in black case; polished steel crimping tool; 11x14x4 mailer empty box; color swatch sample ring; flip book; fusion bond cutter with black case; plastic hair clips; hybrid weft straight hair; hybrid weft modacrylic fiber synthetic practice hair; keratin bond remover liquid; kit inner box; fusion modacrylic fiber synthetic practice hair; maintenance card; melting connector to fuse keratin bonds; metal mini clips for holding hair; folder for paper material; discount index card; machine sewn weft modacrylic fiber synthetic practice hair; I-tip modacrylic fiber synthetic practice hair; hard plastic hair protector disk; and anchor loop tool for bead changes (duty rate ranges from duty-free to 18.3%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to; *ftz@trade.gov.* The closing period for their receipt is October 5, 2026.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact John Frye at *John.Frye@trade.gov.*

Dated: August 21, 2026.

Juanita Chen,

Acting Executive Secretary.

[FR Doc. 2026–17357 Filed 8–25–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–877]

Citric Acid and Certain Citrate Salts From Canada: Preliminary Negative Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that citric acid and certain citrate salts (citric acid) from Canada is not being, or is not likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2025, through December 31, 2025. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable August 26, 2026.

FOR FURTHER INFORMATION CONTACT: Amber Hodak, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–8034.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on February 17, 2026.[1] On May 26, 2026, Commerce postponed the preliminary determination of this investigation, and the revised deadline is now August 19, 2026.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Scope of the Investigation

The product covered by this investigation is citric acid and certain citrate salts from Canada. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice.* Commerce is preliminarily not modifying the scope language as it appeared in the *Initiation Notice.*

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

[1] *See Citric Acid and Certain Citrate Salts from Canada and India: Initiation of Less-Than-Fair-Value Investigations,* 91 FR 7252 (February 17, 2026) (*Initiation Notice*).

[2] *See Citric Acid and Certain Citrate Salts from Canada and India: Postponement of Preliminary Determinations of Less-Than-Fair-Value Investigations,* 91 FR 30620 (May 26, 2026).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Citric Acid and Certain Citrate Salts from Canada dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

Preliminary Determination

For this preliminary determination, Commerce calculated a zero estimated weighted-average dumping margin for the individually examined producer and/or exporter of the subject merchandise. Consistent with section 733(b)(3) of the Act, Commerce disregards zero and *de minimis* rates and preliminarily determines that the individually examined respondent with a zero or *de minimis* rate has not made sales of subject merchandise at LTFV.

Exporter/Producer	Weighted-average dumping margin (percent)
Jungbunzlauer Canada Inc	0.00

Consistent with section 733(d) of the Act, Commerce has not calculated an estimated weighted-average dumping margin for all other producers and exporters because it has not made an affirmative preliminary determination of sales at LTFV.

Suspension of Liquidation

Because Commerce has made a negative preliminary determination of sales at LTFV with regard to subject merchandise, Commerce will not direct U.S. Customs and Border Protection to suspend liquidation or to require a cash deposit of estimated antidumping duties for any such entries.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[6] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[7]

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[8] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[9]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of a negative preliminary determination, a request for such postponement is made by the petitioner(s). On July 14, 2026, pursuant to 19 CFR 351.210(e), the petitioners[10] requested that Commerce postpone the final determination.[11] In accordance with section 735(a)(2)(B) of the Act, because the preliminary determination is negative, and the petitioner has requested the postponement of the final determination, Commerce is postponing the final determination. Accordingly, Commerce will make its final determination by no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine 75 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: August 19, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate, as well as

[6] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

[7] *See* 19 CFR 351.309(c)(2) and (d)(2).

[8] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[9] *See APO and Service Procedures.*

[10] The petitioners are Archer-Daniels-Midland Company; Cargill, Incorporated; and Primary Ingredients Americas LLC.

[11] *See* Petitioners' Letter, ''Petitioners' Request for Postponement of the Final Determination,'' dated July 14, 2026.

blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend.

The scope also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate. The scope includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively.

The scope includes merchandise matching the above description that has been processed in a third country, including by commingling, diluting, introducing or removing additives, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the subject country. The scope also includes merchandise matching the above description that is commingled or blended with citric acid, sodium citrate, and potassium citrate from sources not subject to these investigations. Only the subject component of such commingled products is covered by the scope of this investigation.

The scope does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least two percent, by weight, of the product.

Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and, if included in a mixture or blend, 3824.99.9397 of the HTSUS. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.99.9397 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Affiliation
V. Discussion of the Methodology
VI. Particular Market Situation
VII. Multinational Corporation Provision
VIII. Currency Conversion
IX. Recommendation

[FR Doc. 2026–17417 Filed 8–25–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–946]

Citric Acid and Certain Citrate Salts From India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that citric acid and certain citrate salts (citric acid) from India are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2025, through December 31, 2025. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable August 26, 2026.

FOR FURTHER INFORMATION CONTACT: Bryan Hansen, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3683.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on February 17, 2026.[1] On May 26, 2026, Commerce postponed the preliminary determination of this investigation. The revised deadline is now August 19, 2026.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Scope of the Investigation

The products covered by this investigation are citric acid and certain citrate salts from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice.* Accordingly, Commerce is preliminarily not modifying the scope language as it appeared in the *Initiation Notice.*

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Pursuant to section 776(a) and (b) of the Act, Commerce has preliminarily relied upon facts otherwise available with adverse inferences for Daffodil Pharmachem Private Limited (Daffodil), because Daffodil withdrew from participation in this investigation, and Commerce applied to Daffodil the highest dumping margin alleged in the Petition.[6] For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that, in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

[1] *See Citric Acid and Certain Citrate Salts from Canada and India: Initiation of Less-Than-Fair-Value Investigations,* 91 FR 7252 (February 17, 2026) (*Initiation Notice*).

[2] *See Citric Acid and Certain Citrate Salts from Canada and India: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 91 FR 30620 (May 26, 2026).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Citric Acid and Certain Citrate Salts from India,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[5] *See Initiation Notice,* 91 FR at 7253.

[6] *See* Daffodil's Letter, ''Withdrawal from the Investigations'' dated June 29, 2026.

Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely on facts otherwise available, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters.

Commerce has preliminarily determined the estimated weighted-average dumping margin for Daffodil under section 776 of the Act. Consequently, Commerce has applied to all other producers and exporters of subject merchandise the lowest dumping margin alleged in the Petition. For a full description of the methodology underlying Commerce's analysis, *see* the Preliminary Decision Memorandum.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/Producer	Weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset)[7] (percent)
Daffodil Pharmachem Private Limited	151.73*	149.74
All Others	100.21	98.22

* Rate based on facts available with adverse inferences.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of melamine, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied adverse facts available (AFA) to the sole mandatory respondent in this investigation, and applied an AFA rate based on the Petition, there are no calculations to disclose.

Verification

Because the mandatory respondent in this investigation did not provide information requested by Commerce, and Commerce preliminarily determines the mandatory respondent to be uncooperative, we will not conduct verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 14 days after the date of publication of the preliminary determination. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[8] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[9]

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[10] Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[11]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the

[7] We adjusted cash deposit rates for export subsidies of 1.99 percent determined for Daffodil in the companion CVD investigation. *See Citric Acid and Certain Citrate Salts from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 91 FR 38664 (June 26, 2026), and accompanying Preliminary Determination Memorandum at 18–22 for the programs that we preliminarily found to be specific under sections 771(5A)(A) and (B) of the Act because they are contingent upon exportation.

[8] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Procedures*).

[9] *See* 19 CFR 351.309(c)(2) and (d)(2).

[10] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[11] *See APO and Service Final Procedures.*

preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.[12]

On July 1, 2026, pursuant to 19 CFR 351.210(e), Daffodil requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[13] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

[12] *See* 19 CFR 351.210(e)(2).

[13] *See* Daffodil's Letter, ''Request for postponement of final determination and extension of provisional Anti-Dumping measures,'' dated July 1, 2026.

Dated: August 19, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate, as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend.

The scope also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate. The scope includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively.

The scope includes merchandise matching the above description that has been processed in a third country, including by commingling, diluting, introducing or removing additives, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the subject country. The scope also includes merchandise matching the above description that is commingled or blended with citric acid, sodium citrate, and potassium citrate from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

The scope does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least two percent, by weight, of the product.

Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and, if included in a mixture or blend, 3824.99.9397 of the HTSUS. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.99.9397 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Application of Facts Available, Use of Adverse Inference, and Calculation of All-Others Rate
V. Adjustment to Cash Deposit Rates for Export Subsidies
VI. Recommendation

[FR Doc. 2026–17418 Filed 8–25–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF968]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 3-day meeting with online webinar participation options to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held Tuesday, September 15 through Thursday, September 17, 2026, beginning at 9 a.m. EDT each day.

ADDRESSES: The meeting will be held at Hotel 1620, 180 Water St., Plymouth, MA 02360; telephone (580) 747–4900; online at *https://www.hilton.com/.* Webinar registration: Information on how to register and provide public comment via webinar will be posted on the Council's September 2026 meeting web page at: *https://www.nefmc.org/calendar/september-2026-council-meeting.*

Register for the webinar at *https://nefmc-org.zoom.us/meeting/register/IyLoe416TOSXhGj9th0g6g.*

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492; *www.nefmc.org.*

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492, ext. 113.

SUPPLEMENTARY INFORMATION:

Agenda

Tuesday, September 15, 2026

The Council will begin the meeting with introductions and announcements by Council Chair Daniel Salerno, followed by the swearing-in of new and reappointed Council members by the Greater Atlantic Regional Fisheries Office (GARFO). The Council will then elect officers for 2026–2027.

The Council will receive reports on recent activities from the Council Chair and Executive Director; the GARFO Regional Administrator; NOAA General Counsel; the Northeast Fisheries Science Center (NEFSC); the Mid-Atlantic Fishery Management Council (MAFMC); the Atlantic States Marine Fisheries Commission (ASMFC); the U.S. Coast Guard; NOAA Enforcement; and Highly Migratory Species (HMS).

Following reports, Daniel Salerno will provide a report from the Northeast Trawl Advisory Panel (NTAP), including an update on the Panel's July meeting and the Regional Industry-Based Trawl Survey. Dr. Anna Mercer of the NEFSC Cooperative Research Branch will then provide a presentation on cooperative research activities. After a Council photo and lunch break, the Council will receive a report from the Scientific and Statistical Committee (SSC), chaired by Dr. Conor McManus, including the SSC's overfishing limit and acceptable biological catch recommendations for Atlantic herring and a summary of recommendations from the Dynamic Reference Points Workshop.

The Council will then receive a report from the Atlantic Herring Committee, chaired by Peter Whelan, and take final action to set Atlantic herring specifications for Fishing Years (FY) 2027–2031. The Committee will also provide updates on river herring and shad management measures.

The Council will then hold an open period for public comment on Council issues that are not listed on the agenda. The meeting will adjourn at approximately 5 p.m. At 6 p.m., the Council will hold a public outreach event at Hotel 1620 to provide an opportunity for an informational exchange and foster open lines of communication among all meeting attendees.

Wednesday, September 16, 2026

The second day of the meeting will begin with a report from Council staff on the evaluation of vessel baseline restrictions across New England and Mid-Atlantic limited access fisheries. The Council will then receive a report from the Habitat Committee, chaired by Melissa Smith, and take final action on the 2026 Essential Fish Habitat Framework. The Committee will also report on the evaluation of the Great South Channel clam dredge exemption program. Next, the Council will receive a report from the Scallop Committee, chaired by Melanie Griffin, including an update on the action to set scallop specifications for Fishing Years 2027 and 2028 (default) and Framework 42 measures to develop sub-management units in the Northern Gulf of Maine and regional allocations of Limited Access Days-at-Sea.

After a lunch break, Council staff will present the results of the Regional Stock Prioritization process and recommendations from the New England Regional Coordinating Committee and then review recommendations related to Executive Order 14276, including the priority recommendations included in NOAA Fisheries' July 2 letter to the Council. The Council will end day two with a discussion of and a potential action to establish 2027 Council work priorities.

Thursday, September 17, 2026

The third day of the meeting will begin with a presentation from Corie Grewal and Jennifer Goebel of GARFO on scoping for future Atlantic Large Whale Take Reduction Plan rulemaking. Council staff will then provide a presentation on the Implementation Plan for the Council's Holistic Strategic Plan Initiative, and the Council will consider approval of the Council's Holistic Strategic Plan. Next, Deirdre Boelke of the Fisheries Insight Network will present the draft design of the 11-State Regional Fund Administration fisheries compensation program and discuss opportunities for public comment. Executive Director Cate O'Keefe will then provide Council planning updates, including the status and planning of fishery management plans, Council priorities, Inflation Reduction Act initiatives, and other Council activities. The meeting will conclude with other business and adjourn at approximately 12 p.m.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Executive Director Cate O'Keefe (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: August 21, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–17348 Filed 8–25–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF986]

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review; Public Meeting

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

ACTION: Notice of webinar.

SUMMARY: The Southeast Data Assessment and Review (SEDAR) 90 assessment process of South Atlantic Red Snapper will consist of a Data Workshop, a series of Assessment Webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 90 Assessment Webinar 10 will be held from 10 a.m. until 1 p.m. EDT on September 9, 2026.

ADDRESSES:

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

Meeting address: The SEDAR 90 Assessment Webinar 10 will be held via webinar. The webinar is open to members of the public. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from or completed prior to the time established by this notice. *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Emily Ott, SEDAR Coordinator; (843) 302–8434. Email: *Emily.Ott@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with the NMFS and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the SEDAR process. SEDAR is a participatory process for developing, evaluating and reviewing information used for fisheries management advice. This multi-step process for determining the status of fish stocks in the Southeast Region may include (1) a data stage, (2) an assessment stage, and (3) a review stage. Each stage produces a report summarizing decisions made during

that stage. A final stock assessment report is produced at the end of a SEDAR process documenting data sets used, model configurations, and the opinions from the independent peer review. Participants for SEDAR projects are appointed by the Gulf, South Atlantic, and Caribbean Fishery Management Councils and National Marine Fisheries Service Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants may include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations; International experts; and staff of Councils, Commissions, and State and Federal agencies.

The items of discussion in the SEDAR 90 Assessment Webinar 10 are as follows:

Participants will review recommendations made on Assessment Webinar 9 and continue discussion of new modeling topics. Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: August 21, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–17347 Filed 8–25–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF967]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public hybrid meeting of its Scallop Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, September 10, 2026 at 9 a.m. EST.

Webinar registration URL information: https://nefmc-org.zoom.us/meeting/register/mgSWiypnQvu3HsYE6E9PyA.

ADDRESSES: This meeting will be held at Hilton Garden Inn Boston Logan, 100 Boardman St., Boston, MA 02128; Phone (617) 567–6789.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scallop Committee will meet to discuss 2027 & 2028 (Default) Specifications—Review results of 2026 scallop surveys, and preliminary projections (if available). The primary focus of this meeting will be to develop input on the range of potential specification alternatives for FY 2027 and FY 2028. The action will set Acceptable Biological Catch/Annual Catch Limits, days-at-sea, access area allocations, total allowable landings for the Northern Gulf of Maine (NGOM) management area, targets for General Category incidental catch, General Category access area trips and trip accounting, and set-asides for the observer and research programs for fishing year 2027 and default specifications for fishing year 2028. The committee will also discuss Framework 42, an action that will consider measures to delineate Georges Bank and Mid-Atlantic Days-at-Sea, as well as define sub-management areas in the NGOM. They will also discuss long-term Scallop Strategic Plan: Review draft 3-Year Work Plan. Other business will be discussed, if necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: August 21, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–17346 Filed 8–25–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF966]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public hybrid meeting of its Scallop Joint Advisory Panel and Plan Development Team to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, September 9, 2026 at 9 a.m. EST.

Webinar registration URL information: https://nefmc-org.zoom.us/meeting/register/2yDWxam2SRKqQ4z94DmnDg.

ADDRESSES: This meeting will be held at Hilton Garden Inn Boston Logan, 100 Boardman St., Boston, MA 02128; Phone (617) 567–6789.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scallop Advisory Panel and Plan Development Team will meet to discuss 2027 & 2028 (Default) Specifications—Review results of 2026 scallop surveys, and preliminary projections (if available). The primary focus of this meeting will be to develop input on the range of potential specification alternatives for FY 2027 and FY 2028. The action will set Acceptable Biological Catch/Annual Catch Limits, days-at-sea, access area allocations, total allowable landings for the Northern Gulf of Maine (NGOM) management area, targets for General Category incidental catch, General Category access area trips and trip accounting, and set-asides for the observer and research programs for fishing year 2027 and default specifications for fishing year 2028. The advisory panel and plan development team will also discuss Framework 42, an action that will consider measures to delineate Georges Bank and Mid-Atlantic Days-at-Sea, as well as define sub-management areas in the NGOM. They will also discuss long-term Scallop Strategic Plan: Review draft 3-Year Work Plan. Other business will be discussed, if necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: August 21, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–17345 Filed 8–25–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF807]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Scientific and Statistical Committee (SSC) of the Mid-Atlantic Fishery Management Council (Council) will hold a meeting.

DATES: The meeting will be held on Wednesday, September 9, 2026, starting at 9:30 a.m. and continue through 2:30 p.m. ET on Thursday, September 10, 2026. See **SUPPLEMENTARY INFORMATION** for agenda details.

ADDRESSES: This will be an in-person meeting with a virtual option. SSC members, other invited meeting participants, and members of the public will have the option to participate in person at the Sheraton Four Points—Philadelphia City Center (1201 Race Street, Philadelphia, PA 19107) or virtually via Webex webinar. Webinar connection instructions and briefing materials will be available at: *https://www.mafmc.org/ssc.*

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; website: *https://www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: During this meeting, the SSC will review the most recent survey and fishery data and the previously recommended 2027 Acceptable Biological Catch (ABC) for Spiny Dogfish, Atlantic Mackerel, and *Illex* squid. The SSC will address Terms of Reference and provide guidance on potential adjustments to the *Illex* squid quota based on the NAFO squid quota. The SSC will also receive an introductory overview of the recently peer reviewed Longfin squid research track stock assessment. The SSC will receive an overview of the Marine Recreational Information Program (MRIP) Fishing Effort Survey (FES) calibration results with specific outcomes for Mid-Atlantic stocks and the plans for the Regional Industry-Based Trawl Survey. The SSC will also discuss research activities associated with offshore wind and Inflation Reduction Act projects. The SSC may take up any other business as necessary. A detailed agenda and background documents will be made available on the Council's website (*www.mafmc.org*) prior to the meeting.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: August 24, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–17420 Filed 8–25–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

Notice Inviting Publishers To Submit Tests for a Determination of Suitability for Use in the National Reporting System for Adult Education

AGENCY: Office of Career, Technical, and Adult Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary of Education invites publishers to submit tests for review and approval for use in the National Reporting System for Adult Education (NRS) and announces the date by which publishers must submit these tests. This notice relates to the approved information collection under OMB control number 1830–0567.

DATES: Deadline for transmittal of applications: October 1, 2026.

ADDRESSES: Submit your application by email to *NRS@ed.gov.*

FOR FURTHER INFORMATION CONTACT: John LeMaster, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202–7240. Telephone: (202) 987–0903. Email: *John.LeMaster@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION: The Department's regulations for Measuring Educational Gain in the National Reporting System for Adult Education, 34 CFR part 462 (NRS regulations) at *https://www.ecfr.gov/current/title-34/subtitle-B/chapter-IV/part-462,* include the procedures for determining the suitability of tests for use in the NRS.

There is a review process that will begin on October 1, 2026. Only tests submitted from publishers by the due date will be reviewed in that review cycle, 34 CFR 462.10 at *https://www.ecfr.gov/current/title-34/subtitle-B/chapter-IV/part-462/subpart-B/section-462.10.* If a publisher submits a test after October 1, 2026, the test will not be reviewed until the review cycle that begins on October 1, 2026.

Criteria the Secretary Uses: In order for the Secretary to consider a test suitable for use in the NRS, the test must meet the criteria and requirements established in 34 CFR 462.13 at *https://www.ecfr.gov/current/title-34/subtitle-B/chapter-IV/part-462/subpart-B/section-462.13.*

Submission Requirements

(a) In preparing your application, you must comply with the requirements in 34 CFR 462.11 at *https://www.ecfr.gov/current/title-34/subtitle-B/chapter-IV/part-462/subpart-B/section-462.11.*

(b) In accordance with 34 CFR 462.10, the deadline for transmittal of applications in this fiscal year is October 1, 2026.

(c) Applications are due by 11:59 p.m. Eastern Time on October 1, 2026. You must retain a copy of your sent email message and the email attachments as proof that you timely submitted your application.

(d) We do not consider applications submitted after the application deadline date to be timely for the October 1, 2026, review cycle. If an application is submitted after the October 1, 2026, deadline date, the application will be considered timely for the October 1, 2027, deadline date.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other Department documents published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access Department documents published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: 29 U.S.C. 3292.

Casey K. Sacks,

Acting Assistant Secretary for Career, Technical, and Adult Education.

[FR Doc. 2026–17403 Filed 8–25–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP13–499–006, CP13–502–003]

Constitution Pipeline Company, LLC, Iroquois Gas Transmission System, L.P.; Notice of Availability of the Environmental Assessment for the Proposed Constitution Pipeline and Wright Interconnect Projects

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Constitution Pipeline and Wright Interconnect Projects (Projects), proposed by Constitution Pipeline Company, LLC (Constitution) and Iroquois Gas Transmission System, LP (Iroquois), respectively, in the above-referenced dockets.[1] Constitution requests authorization to construct and operate the Constitution Pipeline Project's (CPP) facilities in Susquehanna County, Pennsylvania and Broome, Chenango, Delaware, and Schoharie Counties, New York. Iroquois requests authorization to construct and operate the Wright Interconnect Project's (WIP) facilities in Schoharie County, New York.

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 Projects, it is important that the Commission receive your comments on or before 5:00 p.m. Eastern Time on September 21, 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 CPP and WIP 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 proposed Projects would not constitute a major federal action significantly affecting the quality of the human environment.

The EA addresses the potential environmental effects of the construction and operation of the following Project facilities:

- the CPP would entail about 125 miles of new 30-inch-diameter natural gas pipeline and appurtenant facilities that include two new meter stations, ten communication towers, eleven mainline valves, and one pig launcher and one pig receiver,[4] access roads, contractor yards, and cathodic protection ground beds; and
- the WIP would involve expansion of the existing Wright Compressor Station with the addition of 22,000

[1] For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1780563178.

[2] National Environmental Policy Act of 1969, as amended (Public Law [Pub. L.] 91–190. 42 U.S. 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] A pig is an internal tool that can be used to clean and dry a pipeline and/or to inspect it for damage or corrosion.

horsepower of incremental compression (*i.e.,* ''Constitution Transfer Station'') and other miscellaneous modifications as well as modification and upgrade of the existing delivery meter to the Tennessee Gas Pipeline or construction of a new delivery meter.

The Commission mailed a copy of the *Notice of Availability* of the EA 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 media outlets and libraries in the Projects area. The EA is only available in electronic format. It may be viewed and downloaded from the 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 the 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.,* CP13–499 and/or CP13–502). 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 to 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 (CP13–499–006 and/or CP13–502–003) on 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 Projects 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 21, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–17399 Filed 8–25–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following Electric Rate filings:

Docket Numbers: ER21–21–008.

Applicants: Harts Mill Solar, LLC.

Description: Compliance filing: Compliance Filing for Rate Schedule FERC No. 1 to be effective 6/6/2025.

Filed Date: 8/21/26.

Accession Number: 20260821–5071.

Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER25–1845–005.

Applicants: Orange and Rockland Utilities, Inc.

Description: Compliance filing: Amendment to Compliance Filing to be effective 3/1/2026.

Filed Date: 8/21/26.

Accession Number: 20260821–5042.

Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–2697–002.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment of Amended ISA, SA No. 1442; NQ–123 in Docket No. ER26–2697–001 to be effective 4/22/2026.

Filed Date: 8/21/26.

Accession Number: 20260821–5170.

Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–2775–001.

Applicants: Three Rivers Solar Power, LLC.

Description: Tariff Amendment: Response to Deficiency Letter and Request for Expedited Action to be effective 6/17/2026.

Filed Date: 8/21/26.

Accession Number: 20260821–5092.
Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–3066–001.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment: 1628R33 Western Farmers Electric Cooperative NITSA NOAs to be effective 9/1/2026.
Filed Date: 8/21/26.
Accession Number: 20260821–5023.
Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–3573–000.
Applicants: Consolidated Edison Company of New York, Inc., New York Independent System Operator, Inc.
Description: § 205(d) Rate Filing: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: Con Edison 205: Third Amended Operating and Maintenance Agreement SA2013 (CEII) to be effective 8/21/2026.
Filed Date: 8/20/26.
Accession Number: 20260820–5153.
Comment Date: 5 p.m. ET 9/10/26.

Docket Numbers: ER26–3574–000.
Applicants: AC Ranch Solar LLC.
Description: Initial Rate Filing: AC Ranch Solar MBR Application to be effective 9/9/2026.
Filed Date: 8/20/26.
Accession Number: 20260820–5167.
Comment Date: 5 p.m. ET 9/10/26.

Docket Numbers: ER26–3575–000.
Applicants: Mid-Atlantic Interstate Transmission, LLC.
Description: § 205(d) Rate Filing: MAIT submits a new Construction Agmt—SA No. 7497 to be effective 10/21/2026.
Filed Date: 8/21/26.
Accession Number: 20260821–5003.
Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–3576–000.
Applicants: Wolverine Power Supply Cooperative, Inc., Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: Wolverine Power Supply Cooperative, Inc. submits tariff filing per 35.13(a)(2)(iii: 2026–08–21_SA 4840 Wolverine Power-Consumers Energy IFA to be effective 7/27/2026.
Filed Date: 8/21/26.
Accession Number: 20260821–5048.
Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–3577–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: 2nd Amended LGIA, Bellefield Solar, TOT892, SA 245 to be effective 8/22/2026.
Filed Date: 8/21/26.
Accession Number: 20260821–5053.
Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–3578–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: RS338—LGIA Amendment with CTS and Jane Wind to be effective 8/10/2026.
Filed Date: 8/21/26.
Accession Number: 20260821–5066.
Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–3579–000.
Applicants: New York Independent System Operator, Inc.
Description: Tariff Amendment: Notice of Cancellation: SGIA Niagara Solar SA2526 to be effective 10/21/2026.
Filed Date: 8/21/26.
Accession Number: 20260821–5070.
Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–3580–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: NorthWestern Corporation submits tariff filing per 35.13(a)(2)(iii: RS337—LGIA Amendment with CTS and Jane Wind to be effective 8/10/2026.
Filed Date: 8/21/26.
Accession Number: 20260821–5084.
Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–3581–000.
Applicants: Otter Tail Power Company.
Description: § 205(d) Rate Filing: COC-Alexandria to Bison 2d Circuit Transmission Project—JDA 798–NSP to be effective 6/22/2026.
Filed Date: 8/21/26.
Accession Number: 20260821–5085.
Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–3582–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: Sawmill Junction Solar Park LGIA Filing to be effective 8/11/2026.
Filed Date: 8/21/26.
Accession Number: 20260821–5094.
Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–3583–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: Shy Place Solar Park LGIA Filing to be effective 8/11/2026.
Filed Date: 8/21/26.
Accession Number: 20260821–5095.
Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–3584–000.
Applicants: Portland General Electric Company.
Description: § 205(d) Rate Filing: Attachment O Appendices 2A and 3A to be effective 10/21/2026.
Filed Date: 8/21/26.
Accession Number: 20260821–5126.
Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–3585–000.
Applicants: Evergy Missouri West, Inc.
Description: § 205(d) Rate Filing: Wholesale Distribution Access Tariff Update Filing to be effective 10/20/2026.
Filed Date: 8/21/26.
Accession Number: 20260821–5134.
Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–3586–000.
Applicants: New York Independent System Operator, Inc.
Description: § 205(d) Rate Filing: NYISO 205: Credit Requirements for Import and Export Bids at New Proxy Gen Buses to be effective 10/21/2026.
Filed Date: 8/21/26.
Accession Number: 20260821–5135.
Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–3587–000.
Applicants: Evergy Kansas Central, Inc.
Description: § 205(d) Rate Filing: Wholesale Distribution Access Tariff Update Filing to be effective 10/20/2026.
Filed Date: 8/21/26.
Accession Number: 20260821–5138.
Comment Date: 5 p.m. ET 9/11/26.

Docket Numbers: ER26–3588–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: Surplus LGIA Cove Mountain SI–33 (SA No. 1222) to be effective 8/22/2026.
Filed Date: 8/21/26.
Accession Number: 20260821–5171.
Comment Date: 5 p.m. ET 9/11/26.

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 21, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–17402 Filed 8–25–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15422–000]

Chugach Electric Association, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On February 6, 2026, as supplemented on May 8, 2026, Chugach Electric Association, Inc. filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Canyon Creek Hydroelectric Project No. 15422 (project), to be located on Canyon Creek, in Kenai Peninsula Borough, Alaska. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) a concrete-faced rockfill embankment dam; (2) a 40-acre impoundment with a storage volume of 8,000 acre-feet at a normal maximum surface elevation of 830 feet above mean sea level; (3) a concrete intake structure on the left abutment of the dam; (4) a 2,900-foot-long, 5-foot-diamater steel penstock; (5) a 40-foot-long, 50-foot-wide concrete powerhouse containing a 6.3 megawatt Kaplan turbine-generator unit; (6) a 30-foot long, 10-foot-wide tailrace channel excavated in rock; (7) a 1,500-foot-long, 115-kilovolt transmission line extending from a new switchyard near the powerhouse to the point of interconnection with an existing transmission line adjacent to Seward Highway; and (8) appurtenant facilities. The proposed project would have an estimated average annual generation of 14,100 megawatt-hours. The project would be located on federal lands managed by the U.S. Forest Service in the Chugach National Forest.

Applicant Contact: Dustin Highers, Chugach Electric Association, Inc., 5601 Electron Drive, Anchorage, AK 99518; phone: (907) 563–7494.

FERC Contact: John Matkowski; phone: (202) 502–8576, or by email at *john.matkowski@ferc.gov.*

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: by 5:00 p.m. Eastern Time on October 20, 2026. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *https://ferconline.ferc.gov/eFiling.aspx.* Commenters can submit brief comments up to 10,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–15422–000.

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.*

More information about this project, including a copy of the application, can be viewed on the Commission's website (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number, excluding the last three digits (P–15422), in the docket number field to access the document. For assistance, contact FERC Online Support.

(Authority: 18 CFR 2.1)

Dated: August 21, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–17392 Filed 8–25–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2600–088]

Bangor-Pacific Hydro Associates; Notice of Intent To Prepare an Environmental Assessment

On May 27, 2022, Bangor-Pacific Hydro Associates (Bangor Hydro) filed an application to relicense the 1,300-kilowatt West Enfield Hydroelectric Project No. 2600. The project is located on the Penobscot River in Penobscot County, Maine.

In accordance with the Commission's regulations, on December 9, 2025, Commission staff issued a notice that the project was ready for environmental analysis (REA notice).[1] Based on the information in the record, including comments filed on the REA notice, staff does not anticipate that licensing the project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare an environmental assessment (EA) on the application to relicense the project.[2]

The EA will be issued and circulated for review by all interested parties. All comments filed on the EA will be analyzed by staff and considered in the Commission's final licensing decision.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

The application will be processed according to the following schedule. The EA will be issued for a 30-day comment period. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Commission issues EA	June 30, 2027.

Any questions regarding this notice may be directed to Michael Watts by telephone at (202) 502–6123 or by email at *michael.watts@ferc.gov.*

(Authority: 18 CFR 2.1)

[1] Subsequently, on January 12, 2026, and April 22, 2026, the Commission granted two requests from Bangor Hydro to extend the deadlines established in the REA notice by 120 and 60 days, respectively.

[2] For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1784196507.

Dated: August 21, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–17406 Filed 8–25–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2902–025]

GP Big Island, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 2902–025.

c. *Dated Filed:* July 8, 2026.

d. *Submitted By:* GP Big Island, LLC (GP Big Island).

e. *Name of Project:* Big Island Hydroelectric Project (Big Island Project).

f. *Location:* The Big Island Project is located on the James River in Amherst and Bedford Counties, Virginia.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Applicant Contact:* Jennifer Leonardo, Engineering Manager, GP Big Island, LLC 9909 Lee Jackson Highway, Big Island, VA 24526, *jennifer.hollis@gapac.com.*

i. *FERC Contact:* Silvia Pineda-Munoz at (202) 502–8388; or email at *silvia.pineda-munoz@ferc.gov.*

j. GP Big Island filed its request to use the Traditional Licensing Process on July 8, 2026, and provided public notice of its request on July 11, 2026. In a letter dated August 21, 2026, the Director of the Division of Hydropower Licensing approved GP Big Island's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the State Historic Preservation Officer, Virginia Department of Historic Resources, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating GP Big Island as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and section 106 of the National Historic Preservation Act.

m. GP Big Island filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD may be viewed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

You may 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.

o. The licensee states its unequivocal intent to submit an application for a subsequent license for Project No. 2902. Pursuant to 18 CFR 16.20 each application for a subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by September 30, 2029.

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.*

(Authority: 18 CFR 2.1)

Dated: August 21, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–17396 Filed 8–25–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP26–1065–000.

Applicants: Colorado Interstate Gas Company, L.L.C.

Description: Compliance filing: Operational Purchase and Sales Report 2026 to be effective N/A.

Filed Date: 8/20/26.

Accession Number: 20260820–5152.

Comment Date: 5 p.m. ET 9/1/26.

Docket Numbers: RP26–1066–000.

Applicants: Mountain Valley Pipeline, LLC.

Description: § 4(d) Rate Filing: Negotiated Rate Agreement—8/21/2026 to be effective 8/21/2026.

Filed Date: 8/20/26.

Accession Number: 20260820–5172.

Comment Date: 5 p.m. ET 9/1/26.

Docket Numbers: RP26–1067–000.

Applicants: ANR Pipeline Company.

Description: § 4(d) Rate Filing: TCEM 142140–1 NR Amend, Eff 8.20.26 to be effective 8/20/2026.

Filed Date: 8/20/26.

Accession Number: 20260820–5175.

Comment Date: 5 p.m. ET 9/1/26.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: PR26–31–002.

Applicants: Wisconsin Power and Light Company.

Description: § 284.123(g) Rate Filing: Revisions to Statement of Operating Conditions to be effective 2/1/2026.

Filed Date: 8/20/26.

Accession Number: 20260820–5146.

Comment Date: 5 p.m. ET 9/10/26.

Docket Numbers: RP26–1026–001.

Applicants: Ruby Pipeline, L.L.C.

Description: Tariff Amendment: RP 2026–08–20 RP26–1026 Amendment to be effective 9/1/2026.

Filed Date: 8/20/26.

Accession Number: 20260820–5139.

Comment Date: 5 p.m. ET 8/25/26.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: August 21, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–17405 Filed 8–25–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13755–008]

FFP Missouri 12, LLC, J3M Allegheny 2 Hydro, LLC; Notice of Application of Transfer of License and Soliciting Comments, Motions To Intervene, And Protests

On July 24, 2026, FFP Missouri 12, LLC (transferor) and J3M Allegheny 2 Hydro, LLC (transferee) filed an application for a transfer of license for the 10-megawatt Allegheny Lock and Dam 2 Hydroelectric Project No. 13755. The unconstructed project is located at the U.S. Army Corps of Engineers' Allegheny Lock and Dam 2 on the Allegheny River in Allegheny County, Pennsylvania.

Pursuant to 16 U.S.C. 801, the applicants seek Commission approval to transfer the license for the project from FFP Missouri 12, LLC to J3M Allegheny 2 Hydro, LLC. The transferee will be required by the Commission to comply with all the requirements of the license as though it were the original licensee.

Applicant Contacts: (For transferor) Paul Jacob, CEO, Rye Development, LLC, 100 S Olive Avenue, West Palm Beach, FL 33401, *paul@ryedevelopment.com.* (For transferee) Jeanne L. Hilsinger, Manager, J3M Allegheny 2 Hydro, LLC c/o Mavel Americas, Inc., 121 Mount Vernon Street, Boston, MA 02108, (617) 242–2204, *hilsinger@mavel.com.*

FERC Contact: Steven Sachs, Phone: (202) 502–8666, Email: *Steven.Sachs@ferc.gov.*

Deadline for filing comments, motions to intervene, and protests: September 21, 2026, 5:00 p.m. Eastern Time. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

In lieu of electronic filing, you may submit a paper copy. Submissions sent via 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–13755–008. Comments emailed to Commission staff are not considered part of the Commission record.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

(Authority: 18 CFR 2.1)

Dated: August 21, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–17395 Filed 8–25–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2547–095]

Village of Swanton, Vermont; Notice of Revised Schedule for Environmental Assessment

On April 29, 2022, the Village of Swanton, Vermont filed an application for a new major license for the existing 11.372-megawatt Highgate Falls Hydroelectric Project No. 2547. The project is located on the Missisquoi River in Franklin County, Vermont.

In accordance with the Commission's regulations, on September 8, 2025, Commission staff issued a notice that the project was ready for environmental analysis (REA Notice). Based on the information in the record, including comments filed on the REA Notice, staff does not anticipate that licensing the project would constitute a major federal action significantly affecting the quality of the human environment. On January 12, 2026, the Commission issued a notice of intent to prepare an Environmental Assessment (EA) with a schedule indicating that staff anticipated issuing the EA on September 17, 2026. However, based on information filed by the Village on August 18, 2026, pertaining to the Village's relicensing proposal, staff intends to issue the EA by November 20, 2026.[1]

The EA will be issued and circulated for review by all interested parties. All comments filed on the EA will be analyzed by staff and considered in the Commission's final licensing decision.

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.*

By this notice, Commission staff is updating the procedural schedule for completing the EA. The revised schedule is shown below. The EA will be issued for a 30-day comment period. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Commission issues EA.	November 20, 2026.

Any questions regarding this notice may be directed to Arash Barsari by telephone at (202) 502–6207 or by email at *Arash.JalaliBarsari@ferc.gov.*

(Authority: 18 CFR 2.1)

Dated: August 21, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–17398 Filed 8–25–26; 8:45 am]

BILLING CODE 6717–01–P

[1] For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1760606606.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2790–074]

Boott Hydropower, LLC; Notice of Intent To Prepare an Environmental Assessment

On April 30, 2021, Boott Hydropower, LLC filed an application to relicense the 19.372-megawatt Lowell Hydroelectric Project No. 2790. The project is located on the Merrimack River in Middlesex County, Massachusetts and Hillsborough County, New Hampshire.

In accordance with the Commission's regulations, on June 5, 2026, Commission staff issued a notice that the project was ready for environmental analysis (REA notice). Based on the information in the record, including comments filed on the REA notice, staff does not anticipate that licensing the project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare an environmental assessment (EA) on the application to relicense the Lowell Hydroelectric Project.[1]

The EA will be issued and circulated for review by all interested parties. All comments filed on the EA will be analyzed by staff and considered in the Commission's final licensing decision.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

The application will be processed according to the following schedule. The EA will be issued for a 30-day comment period. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Commission issues EA.	July 31, 2027.

Any questions regarding this notice may be directed to Bill Connelly at (202) 502–8587 or *william.connelly@ferc.gov.*

(Authority: 18 CFR 2.1)

Dated: August 21, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–17397 Filed 8–25–26; 8:45 am]

BILLING CODE 6717–01–P

[1] For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1786547769.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13757–005]

FFP Missouri 5, LLC, J3M Emsworth Main Hydro, LLC; Notice of Application of Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

On July 24, 2026, FFP Missouri 5, LLC (transferor) and J3M Emsworth Main Hydro, LLC (transferee) filed an application for a transfer of license for the 24-megawatt Emsworth Locks and Dam Hydroelectric Project No. 13757. The unconstructed project is located at the U.S. Army Corps of Engineers' Emsworth Locks and Dam on the Ohio River in Allegheny County, Pennsylvania.

Pursuant to 16 U.S.C. 801, the applicants seek Commission approval to transfer the license for the project from FFP Missouri 5, LLC to J3M Emsworth Main Hydro, LLC. The transferee will be required by the Commission to comply with all the requirements of the license as though it were the original licensee.

Applicant Contacts: (For transferor) Paul Jacob, CEO, Rye Development, LLC, 100 S Olive Avenue, West Palm Beach, FL 33401, *paul@ryedevelopment.com.* (For transferee) Jeanne L. Hilsinger, Manager, J3M Emsworth Main Hydro, LLC c/o Mavel Americas, Inc., 121 Mount Vernon Street, Boston, MA 02108, (617) 242–2204, *hilsinger@mavel.com.*

FERC Contact: Steven Sachs, Phone: (202) 502–8666, Email: *Steven.Sachs@ferc.gov.*

Deadline for filing comments, motions to intervene, and protests: September 21, 2026, 5:00 p.m. Eastern Time. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

In lieu of electronic filing, you may submit a paper copy. Submissions sent via 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–13757–005. Comments emailed to Commission staff are not considered part of the Commission record.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

(Authority: 18 CFR 2.1)

Dated: August 21, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–17394 Filed 8–25–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13768–006]

Solia 6 Hydroelectric, LLC, J3M Montgomery Hydro, LLC; Notice of Application of Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

On July 24, 2026, Solia 6 Hydroelectric, LLC (transferor) and J3M Montgomery Hydro, LLC (transferee) filed an application for a transfer of license for the 42-megawatt Montgomery Locks and Dam Hydroelectric Project No. 13768. The unconstructed project is located at the U.S. Army Corps of Engineers' Montgomery Locks and Dam on the Ohio River in Beaver County, Pennsylvania.

Pursuant to 16 U.S.C. 801, the applicants seek Commission approval to transfer the license for the project from Solia 6 Hydroelectric, LLC to J3M Montgomery Hydro, LLC. The transferee will be required by the Commission to comply with all the requirements of the license as though it were the original licensee.

Applicant Contacts: (For transferor) Paul Jacob, CEO, Rye Development, LLC, 100 S Olive Avenue, West Palm Beach, FL 33401, *paul@ryedevelopment.com.* (For transferee) Jeanne L. Hilsinger, Manager, J3M Montgomery Hydro, LLC c/o Mavel Americas, Inc., 121 Mount Vernon Street, Boston, MA 02108, (617) 242–2204, *hilsinger@mavel.com.*

FERC Contact: Steven Sachs, Phone: (202) 502–8666, Email: *Steven.Sachs@ferc.gov.*

Deadline for filing comments, motions to intervene, and protests: September 21, 2026, 5:00 p.m. Eastern Time. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

In lieu of electronic filing, you may submit a paper copy. Submissions sent via 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–13768–006. Comments emailed to Commission staff are not considered part of the Commission record.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

(Authority: 18 CFR 2.1)

Dated: August 21, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–17393 Filed 8–25–26; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 25–12]

Dollar General Logistics, LLC, Complainant v. Yang Ming Marine Transport Corp., Respondent; Notice of Filing of Amended Complaint

Notice is given that an amended complaint has been filed with the Federal Maritime Commission (the ''Commission'') by Dollar General Logistics, LLC (the ''Complainant'') against Yang Ming Marine Transport Corp. (the ''Respondent''). Complainant states that the Commission has subject-matter jurisdiction over the amended complaint pursuant to the Shipping Act of 1984, as amended, 46 U.S.C. 40101 *et seq.,* and personal jurisdiction over Respondent as an ocean common carrier, as defined in 46 U.S.C. 40102(18), that has entered into a service contract, as defined in 46 U.S.C. 40102(21), with Complainant.

Complainant is a corporation existing under the laws of the state of Tennessee with its principal place of business located in Goodlettsville, Tennessee.

Complainant identifies Respondent as a company existing under the laws of Tawain with its principal place of business in Keelung City, Taiwan, whose agent in the United States is Yang Ming (America) Corp., a company existing under the laws of the state of New York with its principal place of business in Newark, New Jersey.

Complainant alleges that Respondent violated 46 U.S.C. 41102(c) and (d); 41104(a)(2), (a)(5), (a)(9), and (a)(10). Complainant alleges these violations arose from a practice of systematically failing to meet service commitments, causing Complainant to pursue alternate transportation arrangements for cargo at an increased price, and other acts or omissions of the Respondent.

Pursuant to the presiding judge's August 20, 2026 Order on Motion to Amend Complaint and Joint Motion to Extend Deadlines, an answer to the amended complaint must be filed with the Commission on or before August 26, 2026.

The full text of the amended complaint can be found in the Commission's electronic Reading Room at *https://www2.fmc.gov/readingroom/proceeding/25-12/.*

The initial decision of the presiding judge shall be issued by December 30, 2026, and the final decision of the Commission shall be issued by July 14, 2027.

(Authority: 46 U.S.C. 41301; 46 CFR 502.61(c))

Served: August 21, 2026.

David Eng,

Secretary.

[FR Doc. 2026–17352 Filed 8–25–26; 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)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843), and interested persons may express their views in writing on the standards enumerated in section 4. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

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 25, 2026.

A. Federal Reserve Bank of Minneapolis (Mark Nagle, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291. Comments can also be sent electronically to *MA@mpls.frb.org:*

1. *Versa Bancorp, Minneapolis, Minnesota;* to become a bank holding company by acquiring VersaHoldings US Corp, London, Ontario, Canada (''VersaHoldings''), and thereby indirectly acquiring VersaBank USA

National Association, Holdingford, Minnesota (''VersaBank USA'').

In addition, *Versa Bancorp,* through the acquisition of VersaFinance US Corp., London, Ontario, Canada, to engage in extending credit and servicing loans and data processing pursuant to sections 225.28(b)(1) and 225.28(b)(14) of the Board's Regulation Y, respectively.

In addition, *GBH Inc., Breslau, Ontario, Canada;* to acquire 24.34 percent of the voting shares of Versa Bancorp, and thereby indirectly retain voting shares of VersaHoldings and VersaBank USA.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026–17412 Filed 8–25–26; 8:45 am]

BILLING CODE 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 25, 2026.

A. Federal Reserve Bank of Chicago (Christopher Koopmans, Senior Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414. Comments can also be sent electronically to *Comments.applications@chi.frb.org:*

1. *Agricultural Banking Corporation, Paxton, Illinois;* to acquire Buckley Bancorp, Inc., and thereby indirectly acquire Buckley State Bank, both of Buckley, Illinois.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026–17411 Filed 8–25–26; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business 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 10, 2026.

A. Federal Reserve Bank of Atlanta (Erien O. Terry, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Brandon Cordell Hull; Paige McDonald Hull; the Irrevocable Trust for Laura Caroline Hull, Brandon C. Hull and Leslie A. Hull, as trustees; the Irrevocable Trust for Meredith Grace Hull, Brandon C. Hull and Leslie A. Hull, as trustees; the Irrevocable Trust for Thomas Gray Cordell Hull, Brandon C. Hull and Leslie A. Hull, as trustees; and Helge E. Hull, all of Greeneville, Tennessee; the Leslie A. Hull Revocable Living Trust, Leslie A. Hull, as trustee, Knoxville, Tennessee; Leslie Clare Duenas, Katy, Texas; Thomas George Hull Welsch, Oxford, United Kingdom; John A. Welsch, Pawleys Island, South Carolina; Harry Toulmin McDonald, Jr., Highlands, North Carolina; and Harry Toulmin McDonald III, Athens, Georgia;* as a group acting in concert, to retain voting shares of Andrew Johnson Bancshares, Inc., and thereby indirectly retain voting shares of Andrew Johnson Bank, both of Greeneville, Tennessee.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026–17410 Filed 8–25–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–9208]

International Drug Scheduling; Single Convention on Narcotic Drugs; Convention on Psychotropic Substances; Clobromazolam (Phenazolam); Cychlorphine (N-Propionitrile Chlorphine); Desalkylgidazepam (Bromonordiazepam); Ethylbromazolam; Etomethazene (5-Methyl Etodesnitazene); Spirochlorphine (R6980); Etomidate; Medetomidine; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) is providing interested persons with the opportunity to submit comments concerning abuse potential, actual abuse, medical usefulness, trafficking, and impact of scheduling changes on availability for medical use of eight drug substances. These comments will be considered in preparing a response from the United States to the Expert Committee on Drug Dependence (ECDD) regarding the abuse liability and diversion of these drugs. The ECDD will use this information to consider whether to recommend that certain international restrictions be placed on these drug substances. This notice requesting comments is required by the Controlled Substances Act (CSA).

DATES: Either electronic or written comments must be submitted by September 3, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before September 3, 2026. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 3, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2026–N–9208 for ''International Drug Scheduling; Single Convention on Narcotic Drugs; Convention on Psychotropic Substances; clobromazolam (phenazolam); cychlorphine (*N*-propionitrile chlorphine); desalkylgidazepam (bromonordiazepam); ethylbromazolam; etomethazene (5-methyl etodesnitazene); spirochlorphine (R6980); etomidate; medetomidine; Request for Comments''. Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

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

FOR FURTHER INFORMATION CONTACT: Edward (Greg) Hawkins, Center for Drug Evaluation and Research, Controlled Substance Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 5148, Silver Spring, MD 20993–0002, 301–796–0727, *edward.hawkins@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The United States is a party to the 1971 Convention on Psychotropic Substances (Psychotropic Convention). Article 2 of the Psychotropic Convention provides that if a party to the convention has information about a substance, which, in its opinion, may require international control or change in such control, it shall so notify the Secretary-General of the United Nations (U.N. Secretary-General) and provide the U.N. Secretary-General with information in support of its opinion.

Paragraph (d)(2)(A) of the CSA (21 U.S.C. 811(d)(2)(A)) (Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970) provides that

when the United States is notified under Article 2 of the Psychotropic Convention that there is information that may justify adding a drug or other substances to one of the schedules of the Psychotropic Convention, transferring a drug or substance from one schedule to another, or deleting it from the schedules, the Secretary of State must transmit the notice to the Secretary of Health and Human Services (Secretary of HHS). The Secretary of HHS must then publish the notice in the **Federal Register** and provide opportunity for interested persons to submit comments that will be considered by HHS in its preparation of the scientific and medical evaluations of the drug or substance.

II. Notification to the HHS Secretary

The Secretary of HHS received the following notification (nonrelevant text removed):

[T]he 49th Expert Committee on Drug Dependence (ECDD) will meet from 19 to 22 October 2026 in Geneva, Switzerland. Given that . . . Expert Committee meetings are of a closed nature, this letter serves to notify Member States of the Agenda of the 49th ECDD, which is in the Annex I file, attached for reference.

[T]he 1961 and 1971 International Drug Control Conventions [mandates recommendations be made] to the UN Secretary-General on the need for and level of international control of psychoactive substances based on the advice of its independent scientific advisory body, the ECDD. To assess whether or not a psychoactive substance should be placed under international control, the ECDD convenes annually to review the potential of that substance to cause dependence, abuse and harm to health, as well as any therapeutic applications. In order to perform this review and make evidence-based decisions, the ECDD conducts medical, scientific, and public health evaluations of the selected psychoactive substances using the best available information.

Although the meetings are of a closed nature, Member States and Associate Members are invited to contribute to the ECDD review process by joining the 49th ECDD Information Session on 19 October 2026. The Information Session will be held virtually and allow interested parties to learn about present and future activities of the ECDD Secretariat, and to present information concerning substances under review to the 49th Expert Committee for consideration in its deliberations.

As in the past and in line with the [Annex 6 of EB126/2010/REC1], Member States and Associate Members can also contribute to the ECDD review process by providing up to date and accurate information concerning the substances under review in advance of the meeting. For this purpose, and as per previous practice, a questionnaire will be sent to Member States and Associate Members to gather country information on the legitimate use, harmful use, status of national control and potential impact of international control for each substance under evaluation.

All recommendations made by the 48th ECDD, held in October 2025, were accepted by the 69th UN Commission on Narcotic Drugs and all technical reports and recommendations made by the ECDD will be available online through the recently launched ECDD Information Repository (*https://ecddrepository.org/en*).

Geneva, 9 July 2026

49th Expert Committee on Drug Dependence (ECDD) Substances for Review 19–22 October 2026

Critical reviews: The substances listed below have been proposed . . . for critical review and are not currently under international control. Information was brought to [ECDD's] attention that these substances are clandestinely manufactured, of especially serious risk to public health and society, and of no recognized therapeutic use by any Party. The Expert Committee will consider whether information presented during a critical review may justify the scheduling or a change in the scheduling of the substance in the 1961 or 1971 Conventions.

Opioids

1. Cychlorphine (*N*-propionitrile chlorphine)
2. Etomethazene (5-methyl etodesnitazene)
3. Spirochlorphine

Benzodiazepines

1. Desalkylgidazepam
2. Ethylbromazolam
3. Clobromazolam (phenazolam)

Pre-reviews: The substances listed below have been proposed . . . for pre-review and are not currently under international control. Information [has been received] that these substances are clandestinely manufactured, of especially serious risk to public health and society, and of no recognized therapeutic use by any Party. The Expert Committee will consider whether information presented during a pre-review may justify further action on these substances.

1. Etomidate (anesthetic)
2. Medetomidine (anesthetic)

III. Substances Under Review

A. Critical Reviews

Clobromazolam (phenazolam) is a synthetic triazolobenzodiazepine first synthesized in the 1980s and emerged as a novel psychoactive substance (NPS), distributed through online markets and detected in forensic casework. It is commonly encountered in powders, capsules, and counterfeit pressed tablets and misrepresented as alprazolam or other licit benzodiazepines. Clobromazolam functions as a positive allosteric modulator of the gamma-aminobutyric acid type A (GABA–A) receptor producing sedative, anxiolytic, muscle-relaxant, and hypnotic effects. Available evidence suggests clobromazolam may possess a higher binding affinity at the GABA–A receptor relative to other designer benzodiazepines, potentially indicating greater potency; however, controlled human pharmacokinetic and pharmacodynamic data remain limited. The substance carries potential for abuse, physical dependence, and addiction consistent with the benzodiazepine class, and abrupt discontinuation following regular use may precipitate life-threatening withdrawal, including seizures and delirium. Overdose risk is substantially elevated when clobromazolam is combined with other central nervous system (CNS) depressants, including opioids, alcohol, xylazine, or nitazenes, with which it can synergistically amplify respiratory depression. The substance has been detected in complex illicit drug mixtures alongside fentanyl and other high-potency depressants, raising significant public health concerns. There are no approved commercial or medical uses for clobromazolam in the United States, and it is not currently controlled under the CSA.

Cychlorphine (*N*-propionitrile chlorphine) is a novel synthetic opioid of the benzimidazolone (''orphine'') class, structurally related to brorphine and chlorphine. In vitro receptor binding and activity data indicate that cychlorphine is a potent mu-opioid receptor agonist, with laboratory studies suggesting it is approximately ten times more potent than fentanyl. As a result, cychlorphine is expected to produce adverse effects consistent with other potent opioid agonists, including nausea, vomiting, constipation, pruritus, dizziness, sedation, and respiratory depression, which can lead to death. The substance was first identified by the Center for Forensic Science Research and Education (CFSRE) in mid-2024 and has since been detected in illicit drug supplies across multiple U.S. states and at least ten countries internationally. According to available forensic data, cychlorphine has been confirmed in 225 law enforcement seizures across 19 domestic jurisdictions. As of early 2026, cychlorphine has been associated with at least 55 fatalities in the United States, with the substance identified as the sole opioid in a number of those cases. There are no approved commercial or medical uses for cychlorphine in the United States. On July 1, 2026, the Drug Enforcement Administration (DEA) published a notice of intent to temporarily control cychlorphine (*N*-propionitrile chlorphine) in Schedule I under the CSA.

Desalkylgidazepam is a designer benzodiazepine and the primary active

metabolite of gidazepam, a benzodiazepine with limited historical clinical use in Russia and Ukraine. Desalkylgidazepam functions as a positive allosteric modulator of the gamma-aminobutyric acid type A (GABA–A) receptor, producing sedative, anxiolytic, muscle-relaxant, and hypnotic effects. A notable pharmacokinetic feature is its long elimination half-life, averaging approximately 86 hours, which prolongs its central nervous system depressant effects and increases the risk of protracted withdrawal, including seizures upon abrupt discontinuation. Desalkylgidazepam first appeared on illicit drug markets in 2022 and had become the second most prevalent designer benzodiazepine detected in the United States by 2024. It has been detected in 227 polydrug intoxication and fatality cases, frequently alongside opioids and other central nervous system depressants. Like other benzodiazepines, desalkylgidazepam can synergistically amplify respiratory depression when combined with opioids or alcohol. There are no approved commercial or medical uses for desalkylgidazepam in the United States, and it is not currently controlled under the CSA.

Ethylbromazolam is a designer benzodiazepine that is structurally related to bromazolam. It acts as a positive allosteric modulator at the GABA–A receptor, producing sedative, anxiolytic, and muscle-relaxant effects. The CFSRE first identified ethylbromazolam in the United States in July 2025; by October 2025, the compound had been detected in 13 toxicology cases and 93 drug material cases originating from multiple U.S. states. The substance has frequently been found in counterfeit pharmaceutical tablets misrepresented as diazepam, alprazolam, or clonazepam. Bromazolam-like effects have been described anecdotally by users as producing euphoria, increased confidence, empathy, hypnosis, sedation, muscle relaxation and amnesia consistent with the effects of other benzodiazepine-related compounds. There are no approved commercial or medical uses for ethylbromazolam in the United States, and it is not currently controlled under the CSA.

Etomethazene (5-Methyl etodesnitazene) is a synthetic opioid of the benzimidazole class and is structurally related to etonitazene, with a methyl group in place of the nitro substituent. In vitro binding and activity data indicate that etomethazene is a mu-opioid receptor agonist with a potency twice that of fentanyl. It produces subjective effects in animal behavior studies consistent with other opioid agonists, including morphine. As a result, etomethazene is expected to have an abuse potential similar to other potent opioid agonists and to produce adverse events including nausea, vomiting, constipation, pruritus, dizziness, sedation, and respiratory depression which can lead to death. Etomethazene was first identified in Sweden in January 2023 and has since been sold as a designer drug via online markets. The CFSRE first detected etomethazene in the United States in January 2024. Since 2023, the National Forensic Laboratory Information System (NFLIS) has reported 184 instances related to its trafficking, distribution, and use. As of 2024, it has been identified in at least six forensic toxicology cases. It is frequently detected alongside fentanyl, designer benzodiazepines such as bromazolam, and other nitazene and benzimidazole analogues. As of October 15, 2025, etomethazene is temporarily controlled in Schedule I under the CSA.

Spirochlorphine is a novel synthetic opioid of the benzimidazolone (''orphine'') class, also known by the research designation R–6890. It was first investigated in the 1970s as a narcotic analgesic and has re-emerged in illicit drug markets across North America and Europe. In vitro binding and activity data indicate that spirochlorphine acts as a potent mu-opioid receptor agonist with high binding affinity and analgesic potency in animal models. As a result, it is expected to have an abuse potential similar to that of other potent opioid agonists and to produce adverse events including nausea, vomiting, constipation, pruritus, dizziness, sedation, and respiratory depression, which can lead to death. The CFSRE first identified spirochlorphine in the United States in May 2025. As of early 2026, spirochlorphine has been detected in approximately 36 cases in the United States, with samples originating from Illinois, New England, and other regions. It has been detected both alone and in combination with other synthetic opioids such as fentanyl. The United Nations Office of Drugs and Crime (UNODC) Early Warning Advisory (EWA) on new psychoactive substances has reported spirochlorphine among orphine analogues of concern, noting its presence in both Europe and North America. There are no approved commercial or medical uses for spirochlorphine in the United States. On July 1, 2026, the DEA published a notice of intent to temporarily control spirochlorphine in Schedule I under the CSA.

B. Pre-Reviews

Etomidate is a short-acting imidazole-based intravenous anesthetic agent approved in the United States for the induction of general or supplemental anesthesia. Etomidate has an established medical use profile and is used in clinical settings including emergency medicine and procedural sedation. Despite its recognized medical utility, increasing concerns have emerged regarding its non-medical use, particularly across East and Southeast Asia and Oceania. The UNODC issued an alert in March 2025 regarding the growing detection of etomidate and its analogues in illicit drug markets, including its presence in e-liquids. Several countries have adopted national control measures: the United Kingdom classified etomidate as a Class C drug under the Misuse of Drugs Act (July 2025); South Korea upgraded it to a narcotic drug (February 2025); Taiwan escalated its classification to a Category II narcotic (November 2024); and Hong Kong (China) listed etomidate and three analogues as dangerous drugs (February 2025). A pre-review will allow the ECDD to evaluate whether available evidence is sufficient to justify a full critical review. Etomidate is currently approved for marketing in the United States and is not controlled under the CSA.

Medetomidine is a potent alpha-2 adrenergic agonist approved for veterinary use as a sedative and analgesic, primarily in companion animals. It has no approved human medical use in the United States. Medetomidine has increasingly been detected as an adulterant in illicit drug supplies, particularly in conjunction with fentanyl and xylazine, across multiple U.S. states since 2022. Its potency is estimated to be 100 to 200 times greater than that of xylazine, another veterinary tranquilizer of emerging public health concern. When administered to humans, medetomidine produces sedation, bradycardia, hypotension, and respiratory depression, especially when combined with other central nervous system depressants such as opioids, complicating overdose management and increasing the risk of fatality. Withdrawal from medetomidine after chronic or high-dose exposure may be severe, often requiring intensive care. Medetomidine has been detected in illicit drug samples and associated with overdose events and hospitalizations across multiple jurisdictions. In response to these public health

concerns, Pennsylvania classified medetomidine as a Schedule III controlled substance in 2026. Medetomidine is not currently controlled under the CSA at the federal level. A pre-review would allow the ECDD to assess whether the pattern of non-medical use and associated harms justifies formal international review.

IV. Opportunity To Submit Domestic Information

As required by paragraph (d)(2)(A) of the CSA, FDA, on behalf of HHS, invites interested persons to submit comments regarding the eight drug substances identified in this document. Any comments received by the deadline will be considered by HHS when it prepares a scientific and medical evaluation for drug substances in response to the scientific questionnaire for these drug substances. HHS will forward such evaluation of these drug substances to the ECDD, for their consideration in deciding whether to recommend international control/decontrol of any of these drug substances. Such control could limit, among other things, the manufacture and distribution (import/export) of these drug substances and could impose certain recordkeeping requirements on them.

Although FDA is, through this notice, requesting comments from interested persons, which will be considered by HHS when it prepares an evaluation of these drug substances, HHS will not now make any recommendations regarding whether any of these drugs should be subjected to international controls. Instead, HHS will defer such consideration until official recommendations have been sent to the Commission on Narcotic Drugs, which are expected to be made in late 2026. Any HHS position regarding international control of these drug substances will be preceded by another **Federal Register** notice soliciting public comments, as required by paragraph (d)(2)(B) of the CSA (21 U.S.C. 811).

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–17380 Filed 8–25–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–8482]

Agency Information Collection Activities; Proposed Collection; Comment Request; Allegations of Regulatory Misconduct Voluntarily Submitted to the Center for Devices and Radiological Health

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on allegations of regulatory misconduct voluntarily submitted to the Center for Devices and Radiological Health (CDRH).

DATES: Either electronic or written comments on the collection of information must be submitted by October 26, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of October 26, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2026–N–8482 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Allegations of Regulatory Misconduct Voluntarily Submitted to the Center for Devices and Radiological Health.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly

available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Amber Barrett, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Allegations of Regulatory Misconduct Voluntarily Submitted to the Center for Devices and Radiological Health

OMB Control Number 0910–0769—Extension

This information collection supports the voluntary submission of allegations of regulatory misconduct to FDA's Center for Devices and Radiological Health (CDRH). An allegation of regulatory misconduct is a claim that a medical device manufacturer or individuals marketing medical devices or electronic products regulated by CDRH may be doing so in a manner that violates the law. Reporting these allegations can help make FDA aware of regulatory concerns it may not learn of otherwise. This information can help FDA identify the potential risks to patients and determine whether further investigation is warranted, as well as any steps needed to address or correct a potential violation. Anyone may file a complaint reporting an allegation of regulatory misconduct. FDA encourages people submitting allegations to include supporting information and contact information in case additional information is needed for FDA to understand the allegation and act on the report; however, you can choose to submit a report anonymously. FDA will not share your identity or contact information with anyone outside FDA unless required to do so by law, regulation, or court order.

Allegations of regulatory misconduct may include failure to register and list a medical device, marketing uncleared or unapproved products, failure to follow quality system requirements, or misleading promotion.

You can submit an allegation through the Allegations of Regulatory Misconduct Form (*https://www.fda.gov/medical-devices/reporting-allegations-regulatory-misconduct/allegations-regulatory-misconduct-form*), by email, or by regular mail.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Electronic submission of voluntary allegations to CDRH	2,800	1	2,800	0.25 (15 minutes)	700

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated burden for the information collection reflects an overall increase of 75 hours and a corresponding increase of 300 responses. We attribute this adjustment to an increase in the number of submissions we received over the last few years.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–17377 Filed 8–25–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–P–3104]

Determination That CABAZITAXEL (Cabazitaxel) Solution (Injection), 60 Milligrams/6 Milliliters (10 Milligrams/Milliliter), Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) has determined that CABAZITAXEL (cabazitaxel) solution (injection), 60 milligrams (mg)/6 milliliters (mL) (10 mg/mL), was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for Cabazitaxel (cabazitaxel) solution (injection), 60 mg/6 mL (10 mg/mL), if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Nisha Shah, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6222, Silver Spring, MD 20993–0002, 301–796–4455, *Nisha.Shah@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved, and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

CABAZITAXEL (cabazitaxel) solution (injection), 60 mg/6 mL (10 mg/mL), is the subject of NDA 207970, held by Actavis LLC, an indirect, wholly owned subsidiary of Teva Pharmaceuticals USA, Inc. (referred to as Actavis LLC), and initially approved on March 14, 2024. CABAZITAXEL (cabazitaxel) solution (injection), 60 mg/6 mL (10 mg/mL) is indicated in combination with prednisone for the treatment of patients with metastatic castration-resistant prostate cancer previously treated with a docetaxel-containing treatment regime.

In a letter dated September 6, 2024, Actavis LLC notified FDA that CABAZITAXEL (cabazitaxel) solution (injection), 60 mg/6 mL (10 mg/mL), was being discontinued, and FDA moved the drug product to the ''Discontinued Drug Product List'' section of the Orange Book.

Steve Jensen of ProPharma submitted a citizen petition dated March 24, 2026, (Docket No. FDA–2026–P–3104), under 21 CFR 10.30, requesting that the Agency determine whether CABAZITAXEL (cabazitaxel) solution (injection), 60 mg/6 mL (10 mg/mL), was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that CABAZITAXEL (cabazitaxel) solution (injection), 60 mg/6 mL (10 mg/mL), was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that this drug product, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of CABAZITAXEL (cabazitaxel) solution (injection), 60 mg/6 mL (10 mg/mL), from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that this drug product was not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list CABAZITAXEL (cabazitaxel) solution (injection), 60 mg/6 mL (10 mg/mL), in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to this drug product may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–17401 Filed 8–25–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Microbiome Subcommittee of the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice; 1st public meeting of the Microbiome Subcommittee of the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that an in-person meeting is scheduled to be held for the Microbiome Subcommittee of the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria (PACCARB).

DATES: The meeting is scheduled to be held on September 2, 2026, from 12:00 p.m. to 5:00 p.m. ET (times are tentative and subject to change). The confirmed times and agenda items for the meeting will be posted on the website for the PACCARB at *http://www.hhs.gov/paccarb* when this information becomes available.

ADDRESSES: The meeting will be held in-person at the Hubert H. Humphrey Building, Room 800, 200 Independence Avenue SW, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Sarah Mcclelland, M.P.H., Designated Federal Officer, Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services, Email: *CARB@hhs.gov.*

SUPPLEMENTARY INFORMATION: The Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria (PACCARB), established by Executive Order 13676, is continued by Section 505 of Public Law 116–22, the Pandemic and All-Hazards Preparedness and Advancing Innovation Act of 2019 (PAHPAIA). Activities and duties of the PACCARB are governed by the provisions of the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. App.), which sets forth standards for the formation and use of federal advisory committees.

The PACCARB shall advise and provide information and recommendations to the Secretary of Health and Human Services (Secretary) regarding programs and policies

intended to reduce or combat antibiotic-resistant bacteria that may present a public health threat and improve capabilities to prevent, diagnose, mitigate, or treat such resistance. The PACCARB shall function solely for advisory purposes.

Such advice, information, and recommendations may be related to improving: the effectiveness of antibiotics; research and advanced research on, and the development of, improved and innovative methods for combating or reducing antibiotic resistance, including new treatments, rapid point-of-care diagnostics, alternatives to antibiotics, including alternatives to animal antibiotics, and antimicrobial stewardship activities; surveillance of antibiotic-resistant bacterial infections, including publicly available and up-to-date information on resistance to antibiotics; education for health care providers and the public with respect to up-to-date information on antibiotic resistance and ways to reduce or combat such resistance to antibiotics related to humans and animals; methods to prevent or reduce the transmission of antibiotic-resistant bacterial infections; including stewardship programs; and coordination with respect to international efforts in order to inform and advance the United States capabilities to combat antibiotic resistance.

The focus of the September 2, 2026, meeting will be on current trends and gaps in microbiome science. The meeting will focus on innovative and emerging topics in antimicrobial resistance (AMR) and the microbiome. Written public comments can be emailed to *CARB@hhs.gov* by midnight August 31, 2026, and should be limited to no more than one page. All public comments received prior to September 2, 2026, will be provided to the subcommittee members.

Sarah Mcclelland,

Designated Federal Officer, Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, Office of the Assistant Secretary for Health.

[FR Doc. 2026–17404 Filed 8–25–26; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Docket No. HHS–OASH–2026–0232]
Temporary Placement of 7-

Hydroxymitragynine Above a Specified Threshold in Schedule I; Extension of Comment Period

AGENCY: Office of the Assistant Secretary for Health, Department of Health and Human Services.

ACTION: Notice; request for information; extension of comment period for the Request for Information and for its information collection provisions.

SUMMARY: The Office of the Assistant Secretary for Health (OASH or we) is extending the comment period to solicit input and comments on a Request for Information (RFI) on a proposed threshold for 7-hydroxymitragynine (7–OH) scheduling under the Controlled Substances Act that appeared in the **Federal Register** of July 6, 2026. Public comments submitted to this docket will be provided by the Secretary for Health and Human Services for consideration by the Attorney General. We are taking this action in response to a request for an extension to allow interested persons additional time to provide comments and input.

DATES: Submit either electronic or written comments, data, or information by September 10, 2026.

ADDRESSES: *Request for Information (RFI) Docket:* You may examine the full RFI docket at *regulations.gov* under HHS–OASH–2026–0232. To submit a response, click the ''Comment'' button inside Docket: HHS–OASH–2026–0232 and follow all instructions.

FOR FURTHER INFORMATION CONTACT: Ruben Hernandez Segarra, *Ruben.HernandezSegarra@hhs.gov*

SUPPLEMENTARY INFORMATION:

In the **Federal Register** of July 6, 2026, we published an RFI entitled ''Temporary Placement of 7-Hydroxymitragynine Above a Specified Threshold in Schedule I; Request for Information'' with a comment period that closed on July 31, 2026. This RFI sought input on the proposed 7–OH threshold that was listed by the Drug Enforcement Administration (DEA) that was issued in the **Federal Register** entitled ''Schedules of Controlled Substance: Temporary Placement of 7-Hydroxymitragynine Above a Specified Threshold in Schedule I.''

OASH has received a request for an extension of the comment period on this RFI to allow any interested persons additional time to provide comments. OASH has considered the request and is granting the extension of the comment period to allow any interested persons additional opportunity to provide comments. OASH believes that this extension allows adequate time for any interested persons to fully consider and submit comments.

Note that OASH is not soliciting comments on any permanent scheduling decision, the general safety or utility of kratom-derived products, or other policy questions outside the scope of the threshold determination for temporary scheduling. Public comments submitted to this docket will be provided by the Secretary for Health and Human Services for consideration by the Attorney General.

Brian Christine

Assistant Secretary for Health, Department of Health and Human Services.

[FR Doc. 2026–17409 Filed 8–25–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Notice of Adoption of Categorical Exclusions Under Section 109 of the National Environmental Policy Act

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of Adoption of Categorical Exclusions pursuant to Section 109 of the National Environmental Policy Act, 42 U.S.C. 4336c.

SUMMARY: The Department of Homeland Security (DHS or Department) is notifying the public and documenting the adoption of thirty-five categorical exclusions (CEs) under the National Environmental Policy Act (NEPA). This notice identifies the types of actions to which DHS will apply the CEs, the considerations that DHS will use in determining the applicability of the CEs, and the consultation between the agencies on the use of the CEs, including application of extraordinary circumstances.

DATES: The adoption is effective August 26, 2026.

FOR FURTHER INFORMATION CONTACT: Jennifer DeHart Hass, Director, Environmental Planning Branch, by email at *jennifer.hass@hq.dhs.gov* or by telephone at (202) 834–4346.

SUPPLEMENTARY INFORMATION:

I. Background

National Environmental Policy Act and Categorical Exclusions

The National Environmental Policy Act, 42 U.S.C. 4321–4347, as amended

(NEPA), requires all Federal agencies to consider the environmental effects of their proposed actions as a part of agencies' decision-making processes. Congress enacted NEPA to encourage productive and enjoyable harmony between humans and the environment, recognizing the profound impact of human activity and the critical importance of restoring and maintaining environmental quality to the overall welfare of humankind. 42 U.S.C. 4321, 4331. NEPA's aims are to ensure that agencies consider the potential environmental effects of their proposed actions in their decision-making processes and inform and involve the public in that process. 42 U.S.C. 4332. To comply with NEPA, agencies determine the appropriate level of review for a proposed action. 42 U.S.C. 4336. Where required, these levels of review may be documented in an environmental impact statement (EIS), an environmental assessment (EA), or CE. 42 U.S.C. 4336. If a proposed action is likely to have significant environmental effects, DHS will prepare an EIS and document its decision in a record of decision. 42 U.S.C. 4336(b)(1). If the proposed action is not likely to have significant environmental effects or where the level of significance is unknown, the agency may instead prepare an EA, which involves preparing a concise public document that may reach a finding of no significant impact. 42 U.S.C. 4336(b)(2). If, following preparation of an EA, the agency finds that the proposed action may have significant effects, then an EIS is required.

Under NEPA, a Federal agency may establish CEs—categories of actions that the agency has determined normally do not significantly affect the quality of the human environment—in its agency NEPA procedures. 42 U.S.C. 4336e(1). If an agency determines that a CE covers a proposed action, the agency will then evaluate the proposed action for any extraordinary circumstances in which a normally excluded action may have a significant effect. If no extraordinary circumstances are present or if further analysis determines that the extraordinary circumstances do not involve the potential for significant environmental impacts, the agency may rely on the CE to approve the proposed action without preparing an EA or EIS. 42 U.S.C. 4336(a)(2). If the Department determines that the proposed action has extraordinary circumstances that may result in reasonably foreseeable significant effects on the quality of the human environment, the DHS will determine the CE cannot apply to the proposed action and will prepare an EA or EIS, as appropriate.

Section 109 of NEPA, 42 U.S.C. 4336c, enacted as part of the Fiscal Responsibility Act of 2023, allows a Federal agency to ''adopt a categorical exclusion listed in another agency's NEPA procedures for a category of proposed agency actions for which the categorical exclusion was established.'' 42 U.S.C. 4336c. To adopt another agency's CE under section 109, the adopting agency must: (1) identify the relevant CE listed in another agency's (''establishing agency'') NEPA procedures ''that covers a category of proposed actions or related actions''; (2) consult with the establishing agency ''to ensure that the proposed adoption of the categorical exclusion to a category of actions is appropriate''; (3) ''identify to the public the categorical exclusion that the [adopting] agency plans to use for its proposed actions''; and (4) document adoption of the CE. 42 U.S.C. 4336c.

This notice documents the Department's adoption of thirty-five CEs for DHS use and notifies the public of these adoptions. Two CEs were established by the Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) at 7 CFR 1b.4(d)(3) and (d)(10). Seven CEs were established by the USDA, Rural Development (RD) at 7 CFR 1b.4(d)(24)(i), (d)(24)(ii), (d)(24)(iii)(G)–(J), and (d)(24)(iii)(L). Two CEs were established by the USDA, United States Forest Service (USFS) at 7 CFR 1b.4(d)(41) and (d)(31). One CE for adoption was established by Department of Commerce (DOC), First Responder Network Authority (FirstNet Authority) at First Responder Network Authority Procedures for Implementing the National Environmental Policy Act, Appendix B, paragraph B.3.[1] One CE for adoption was established by Department of Commerce (DOC), National Telecommunications and Information Administration (NTIA) at Guidance on NTIA National Environmental Policy Act Compliance, Appendix B, C–8.[2] Fifteen CEs were established by the Department of Energy (DOE) in the DOE NEPA regulations at 10 CFR, Appendix B to part 1021, paragraphs B1.13, B1.15, B1.19, B1.22, B1.23, B1.26, B1.29, B1.33, B1.35, B3.9, B5.18, B5.20, B5.24, B5.4, and B5.5 and at DOE NEPA Implementing Procedures, Appendix B, paragraphs B1.13, B1.15, B1.19, B1.22, B1.23, B1.26, B1.29, B1.33, B1.35, B3.9, B5.18, B5.20, B5.24, B5.4, and B5.5.[3] One CE for adoption was established by the Department of Health and Human Services (HHS), Indian Health Service (IHS) at **Federal Register** Notice, National Environmental Policy Act; Categorical Exclusions (58 FR 569), C.[4] Two CE categories for adoption were established by the Department of Transportation (DOT), Federal Highway Administration (FHWA) at 23 CFR 771.117(c)(6) and (c)(24). One CE for adoption was established by the Department of War (DOW), Department of Army (DA) at Department of War National Environmental Policy Act Implementing Procedures, Appendix A, section I, DoW A10–10.[5] One CE for adoption was established by the DOW, Department of Navy (DON) at Department of War National Environmental Policy Act Implementing Procedures, Appendix A, section III, DoW A134–14.[6] One CE for adoption was established by the DOW, United States Army Corps of Engineers (USACE) at Department of War National Environmental Policy Act Implementing Procedures, Appendix A, section VIII, DoW A263–1.[7] One CE was established by the Tennessee Valley Authority (TVA) at 18 CFR, Appendix A to Subpart C to Part 1318(29).

The DHS NEPA procedures are contained within Department of Homeland Security Directive 023–01 Rev 01 and the Instruction Manual 023–01–001–01 Rev 01, *Implementing the National Environmental Policy Act* (DHS NEPA Instruction Manual). The Department maintains a list of categorical exclusions available to all DHS Components in the DHS NEPA Instruction Manual.

II. Identification of the Categorical Exclusions

DHS has identified the following 35 CEs for adoption.

NRCS Categorical Exclusions for Adoption

DHS has identified 7 CFR 1b.4(d)(3). ''*Planting appropriate herbaceous and woody vegetation, which does not include noxious weeds or invasive plants, on disturbed sites to restore and maintain the sites ecological functions and services.*''

DHS would use this CE to cover activities that use native plants to stabilize areas. For example, FEMA may

[1] *https://www.firstnet.gov/newsroom/resources/policy/revised-firstnet-authority-nepa-implementing-procedures.*

[2] *https://broadbandusa.ntia.gov/sites/default/files/2025-06/NTIA_NEPA_Procedures_June_2025.pdf.*

[3] *https://www.energy.gov/nepa/doe-nepa-implementing-procedures.*

[4] *https://www.loc.gov/item/fr058003/.*

[5] *https://www.denix.osd.mil/nepa/denix-files/sites/55/2026/05/DOW-Procedures-Combined_05252026_V1.2.pdf.*

[6] Id.

use this CE to stabilize beach and dune systems or stabilize areas damaged by flooding or fire.

7 CFR1b.4(d)(10). ''*Stabilizing stream banks and associated structures to reduce erosion through bioengineering techniques following a natural disaster to restore pre-disaster conditions to the extent practicable, e.g., utilization of living and nonliving plant materials in combination with natural and synthetic support materials, such as rocks, rip-rap, geo-textiles, for slope stabilization, erosion reduction, and vegetative establishment and establishment of appropriate plant communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods).*''

DHS would use this CE for activities described in the CE. For example, FEMA may utilize this CE for post-wildfire stabilization activities or actions where there are no current CEs. DHS has CEs that cover maintenance of aquatic and riparian habitats in streams and ponds, but activities covered under this CE are limited to DHS properties. Additionally, this CE expands the use of bioengineering techniques.

To maintain consistency with the NRCS Conservation Practice Standards, DHS will prepare a Record of Environmental Conditions (REC) when applying these CEs.

RD Categorical Exclusions for Adoption

DHS has identified 7 CFR 1b.4(d)(24)(i). ''*Installation of new, commercial-scale water supply wells and associated pipelines or water storage facilities that are required by a regulatory authority or standard engineering practice as a backup to existing production well(s) or as reserve for fire protection.*''

This CE would be used to cover the installation of water wells, pipelines, or other water storage facilities that could be used as backups to existing wells. For example, FEMA-funded projects supporting disaster recovery may utilize this CE.

7 CFR 1b.4(d)(24)(ii). ''*Financial assistance for small-scale corridor development.*

(A) Construction or repair of roads, streets, and sidewalks, including related structures such as curbs, gutters, storm drains, and bridges, in an existing right-of-way with minimal change in use, size, capacity, purpose, or location from the original infrastructure;

(B) Improvement and expansion of existing water, wastewater, and gas utility systems: within 20 miles of currently served areas irrespective of the percent of increase in new capacity;

(C) Replacement of utility lines where road reconstruction undertaken by non-Agency applicants requires the relocation of lines either within or immediately adjacent to the new road easement or right-of-way; and

(D) Installation of new linear telecommunications facilities and related equipment and infrastructure.''

This CE would be used for projects that provide financial assistance for repair, reconstruction, and/or mitigation of roads, utility systems, or other covered projects.

7 CFR1b.4(d)(24)(iii)(G). ''*Financial assistance for small-scale energy proposals. (G) Construction of small electric generating facilities (except geothermal and solar electric projects), including those fueled with wind or biomass, with a rating of 10 average MW or less. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;*''

DHS intends to use this CE for financial assistance for new construction or reconstruction of small electric facilities. DHS currently has no CEs for these types of activities.

7 CFR 1b.4(d)(24)(iii)(H). ''*Siting, construction, and operation of small biomass projects (except small electric generating facilities projects fueled with biomass) producing not more than 3 million gallons of liquid fuel or 300,000 million British thermal units annually, developed on up 10 acres of land;*''

DHS intends to use this CE to new construction and repair of small biomass projects, which may be requested as part of disaster repairs or mitigation to power systems. DHS currently has no CEs for biomass projects.

7 CFR 1b.4(d)(24)(iii)(I). ''*Geothermal electric power projects or geothermal heating or cooling projects developed on up to 10 acres of land and including installation of one geothermal well for the production of geothermal fluids for direct use application (such as space or water heating/cooling) or for power generation. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;*''

DHS intends to use this CE to new construction of geothermal electric projects, which may be requested as part of disaster repairs or mitigation to power systems. DHS currently has no CEs for geothermal projects.

7 CFR 1b.4(d)(24)(iii)(J). ''*(J) Solar electric projects or solar thermal projects developed on up to 10 acres of land including all supporting facilities and new related electric transmission lines 10 miles in length or less;*''

DHS intends to use this CE to new construction or repair of solar thermal or solar electric projects, which may be requested as part of disaster repairs or mitigation to power systems.

7 CFR 7 CFR 1b.4(d)(24)(iii)(L). ''*Small conduit hydroelectric facilities having a total installed capacity of not more than 5 average MW using an existing conduit such as an irrigation ditch or a pipe into which a turbine would be placed for the purpose of electric generation. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;*''

DHS intends to use this CE to new construction or repair of solar thermal or solar electric projects, which may be requested as part of disaster repairs or mitigation to power systems.

USFS Categorical Exclusions for Adoption

DHS has identified 7 CFR 1b.4(d)(31). ''*Modification or maintenance of stream or lake aquatic habitat improvement structures using native materials or normal practices. Examples include, but are not limited to:*

(i) Reconstructing a gabion with stone from a nearby source;

(ii) Adding brush to lake fish beds; and

(iii) Cleaning and resurfacing a fish ladder at a hydroelectric dam.''

DHS would use this CE to cover the modification or maintenance of aquatic habitat structures. These activities are commonly funded by FEMA, but existing DHS CEs do not fully cover these activities. The CE would allow DHS to refine current bioengineering requirements.

7 CFR 1b.4(d)(41). ''*Removing and/or relocating debris and sediment following disturbance events (such as floods, hurricanes, tornados, mechanical/engineering failures, etc.) to restore uplands, wetlands, or riparian systems to pre-disturbance conditions, to the extent practicable, such that site conditions will not impede or negatively alter natural processes. Examples include but are not limited to:*

(i) Removing an unstable debris jam on a river following a flood event and relocating it back in the floodplain and stream channel to restore water flow and local bank stability;

(ii) Clean-up and removal of infrastructure flood debris, such as, benches, tables, outhouses, concrete, culverts, and asphalt following a hurricane from a stream reach and adjacent wetland area; and

(iii) Stabilizing stream banks and associated stabilization structures to reduce erosion through bioengineering techniques following a flood event, including the use of living and nonliving

plant materials in combination with natural and synthetic support materials, such as rocks, riprap, geo-textiles, for slope stabilization, erosion reduction, and vegetative establishment and establishment of appropriate plant communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods).''

DHS would use this CE for debris and sediment removal following water-related disturbance to restore prior conditions. No DHS CEs currently exist that cover streambank stabilization and the use of bioengineering techniques to restore conditions.

FirstNet Authority Categorical Exclusion for Adoption

DHS has identified First Responder Network Authority Procedures for Implementing the National Environmental Policy Act, Appendix B, paragraph B.3. ''*Construction of buried and aerial telecommunications lines, cables, and related facilities.*''

DHS components would use this CE to support telecommunication line and disaster recovery projects. Per consultation with the FirstNet Authority, this CE will be used for telecommunication networks and within reasonable distances, which may include previously undisturbed areas. This CE will not be used for extensive relocation of telecommunication networks or construction of new lines unassociated with telecommunication networks.

NTIA Categorical Exclusion for Adoption

DHS has identified Guidance on NTIA National Environmental Policy Act Compliance, Appendix B, C–8. ''*Acquisition, installation, reconstruction, repair by replacement, and operation of aerial or buried utility (e.g., water, sewer, electrical), communication (e.g., fiber optic cable, data processing cable and similar electronic equipment), and security systems that use existing rights-of-way, easements, grants of license, distribution systems, facilities, or similar arrangements.*''

DHS would use this CE for the activities described in the CE. For example, FEMA may use this CE for the installation of telecommunication lines for disaster mitigation and recovery projects.

DOE Categorical Exclusions for Adoption

DHS has identified DOE NEPA Implementing Procedures, Appendix B, paragraphs B1.13 and 10 CFR part 1021, Appendix B, paragraph B1.13. ''*Pathways, Short Access Roads, and Rail Lines Construction, acquisition, and relocation, consistent with applicable right-of-way conditions and approved land use or transportation improvement plans, of pedestrian walkways and trails, bicycle paths, small outdoor fitness areas, and short access roads and rail lines (such as branch and spur lines).*''

DHS intends to use this CE to support new construction or relocation of pathways, short access roads, and rail lines. These activities are commonly funded by FEMA but currently have a 1-acre constraint under existing DHS CEs. The CE would allow DHS to expand current allowable acreage limitations.

DOE NEPA Implementing Procedures, Appendix B, paragraph B1.15 and 10 CFR part 1021, Appendix B, paragraph B1.15. ''*Support buildings. Siting, construction or modification, and operation of support buildings and support structures (including, but not limited to, trailers and prefabricated and modular buildings) within or contiguous to an already developed area (where active utilities and currently used roads are readily accessible). Covered support buildings and structures include, but are not limited to, those for office purposes; parking; cafeteria services; education and training; visitor reception; computer and data processing services; health services or recreation activities; routine maintenance activities; storage of supplies and equipment for administrative services and routine maintenance activities; security (such as security posts); fire protection; small-scale fabrication (such as machine shop activities), assembly, and testing of non-nuclear equipment or components; and similar support purposes, but exclude facilities for nuclear weapons activities and waste storage activities, such as activities covered in B1.10, B1.29, B1.35, B2.6, B6.2, B6.4, B6.5, B6.6, and B6.10 of this appendix.*''

DHS intends to use this CE for the siting, construction, or modification of support buildings and facilities. New construction of support buildings currently has a 1-acre constraint under existing DHS CEs. The CE would allow DHS to expand current allowable acreage limitations.

In adopting this CE, DHS will make an administrative change to remove ''of this appendix'' from the text of the B1.15 and replace with ''of Appendix B in the DOE NEPA Implementing Procedures and in Appendix B of 10 CFR part 1021'' in alignment with Council on Environmental Quality (CEQ) guidance on categorical exclusion adoption.[8]

DOE NEPA Implementing Procedures, Appendix B, paragraph B1.19 and 10 CFR part 1021, Appendix B, paragraph B1.19. ''*Microwave, Meteorological, And Radio Towers. Siting, construction, modification, operation, and removal of microwave, radio communication, and meteorological towers and associated facilities, provided that the towers and associated facilities would not be in a governmentally designated scenic area (see B(4)(iv) of this appendix) unless otherwise authorized by the appropriate governmental entity.*''

In adopting this CE, DHS will make an administrative change to remove ''of this appendix'' from the text of the B1.19 and replace with ''of Appendix B in the DOE NEPA Implementing Procedures and in Appendix B of 10 CFR part 1021'' in alignment with CEQ guidance on categorical exclusion adoption.

DHS intends to use this CE to support new construction or modification of towers. These activities are commonly funded by FEMA but currently have a height constraint of 200 or 400 feet under existing DHS CEs. The CE would allow DHS to expand current allowable height limitations.

DOE NEPA Implementing Procedures, Appendix B, paragraph B1.22 and 10 CFR part 1021, Appendix B, paragraph B1.22. ''*Relocation of buildings. Relocation of buildings (including, but not limited to, trailers and prefabricated buildings) to an already developed area (where active utilities and currently used roads are readily accessible).*''

DHS intends to use this CE for activities described in the CE. For example, this CE may be used for hazard mitigation activities completed by FEMA, such as the relocation of safe rooms. These activities have a 1-acre constraint and floodplain location constraint under existing DHS CEs. The CE would allow DHS to expand current allowable acreage and location limitations.

DOE NEPA Implementing Procedures, Appendix B, paragraph B1.23 and 10 CFR part 1021, Appendix B, paragraph B1.23. ''*Demolition and disposal of buildings. Demolition and subsequent disposal of buildings, equipment, and support structures (including, but not limited to, smoke stacks and parking lot surfaces), provided that there would be no potential for release of substances at a level, or in a form, that could pose a*

[8] *https://ceq.doe.gov/docs/ceq-regulations-and-guidance/Categorical-Exclusion-Guidance-2026.pdf.*

threat to public health or the environment.''

DHS intends to use this CE for the demolition and disposal of buildings. These activities have a non-historic building constraint under existing DHS CEs. The CE would allow DHS for demolition of non-historic and historic buildings if the National Historic Preservation Act (NHPA) Section 106 requirements are met.

DOE NEPA Implementing Procedures, Appendix B, paragraph B1.26 and 10 CFR part 1021, Appendix B, paragraph B1.26. ''*Small water treatment facilities. Siting, construction, expansion, modification, replacement, operation, and decommissioning of small (total capacity less than approximately 250,000 gallons per day) wastewater and surface water treatment facilities whose liquid discharges are externally regulated, and small potable water and sewage treatment facilities.*''

DHS intends to use this CE for activities described in the CE. For example, this CE may be used to support disaster restoration or hazard mitigation activities completed by FEMA that require the construction of small water treatment facilities.

DOE NEPA Implementing Procedures, Appendix B, paragraph B1.29 and 10 CFR part 1021, Appendix B, paragraph B1.29. ''*Disposal facilities for construction and demolition waste. Siting, construction, expansion, modification, operation, and decommissioning of small (less than approximately 10 acres) solid waste disposal facilities for construction and demolition waste, in accordance with applicable requirements (such as 40 CFR part 257, Criteria for Classification of Solid Waste Disposal Facilities and Practices,*'' *and 40 CFR part 61,* ''*National Emission Standards for Hazardous Air Pollutants*'') *that would not release substances at a level, or in a form, that could pose a threat to public health or the environment.*''

DHS intends to use this CE for activities described in the CE. For example, this CE may be used to support post-disaster operations by FEMA and the post-disaster construction of new solid waste facilities that must be established to handle disaster-related debris.

DOE NEPA Implementing Procedures, Appendix B, paragraph B1.33 and 10 CFR part 1021, Appendix B, paragraph B1.33. ''*Stormwater runoff control. Design, construction, and operation of control practices to reduce stormwater runoff and maintain natural hydrology. Activities include, but are not limited to, those that reduce impervious surfaces (such as vegetative practices and use of porous pavements), best management practices (such as silt fences, straw wattles, and fiber rolls), and use of green infrastructure or other low impact development practices (such as cisterns and green roofs).*''

This CE would support stormwater control projects. These activities are constrained to stream and pond construction and maintenance under existing DHS CEs. The CE would allow DHS to expand these projects into stormwater and natural hydrology projects.

DOE NEPA Implementing Procedures, Appendix B, paragraph B1.35 and 10 CFR part 1021, Appendix B, paragraph B1.35. ''*Drop-off, collection, and transfer facilities for recyclable materials. Siting, construction, modification, and operation of recycling or compostable material drop-off, collection, and transfer stations on or contiguous to a previously disturbed or developed area and in an area where such a facility would be consistent with existing zoning requirements. The stations would have appropriate facilities and procedures established in accordance with applicable requirements for the handling of recyclable or compostable materials and household hazardous waste (such as paint and pesticides). Except as specified above, the collection of hazardous waste for disposal and the processing of recyclable or compostable materials are not included in this class of actions.*''

DHS intends to use this CE for activities described in the CE. For example, this CE would support post-disaster operations by FEMA and the construction of post-disaster collection and transfer of recyclable materials when handling disaster-related debris.

DOE NEPA Implementing Procedures, Appendix B, paragraph B3.9 and 10 CFR part 1021, Appendix B, paragraph B3.9. ''*Projects to reduce emissions and waste generation. Projects to reduce emissions and waste generation at existing fossil or alternative fuel combustion or utilization facilities, provided that these projects would not have the potential to cause a significant increase in the quantity or rate of air emissions. For this category of actions,* ''*fuel*'' *includes, but is not limited to, coal, oil, natural gas, hydrogen, syngas, and biomass; but* ''*fuel*'' *does not include nuclear fuel. Covered actions include, but are not limited to:*

(a) Test treatment of the throughput product (solid, liquid, or gas) generated at an existing and fully operational fuel combustion or utilization facility;

(b) Addition or replacement of equipment for reduction or control of sulfur dioxide, oxides of nitrogen, or other regulated substances that requires only minor modification to the existing structures at an existing fuel combustion or utilization facility, for which the existing use remains essentially unchanged;

(c) Addition or replacement of equipment for reduction or control of sulfur dioxide, oxides of nitrogen, or other regulated substances that involves no permanent change in the quantity or quality of fuel burned or used and involves no permanent change in the capacity factor of the fuel combustion or utilization facility; and

(d) Addition or modification of equipment for capture and control of carbon dioxide or other regulated substances, provided that adequate infrastructure is in place to manage such substances.''

DHS intends to use this CE to cover projects described in the CE. For example, this CE may be used for hazard mitigation projects completed by FEMA that entail these activities or FEMA energy projects that incorporate these types of activities in restoration or mitigation activities.

DOE NEPA Implementing Procedures, Appendix B, paragraph B5.4 and 10 CFR part 1021, Appendix B, paragraph B5.4. ''*Repair or replacement of pipelines. Repair, replacement, upgrading, rebuilding, or minor relocation of pipelines within existing rights-of-way, provided that the actions are in accordance with applicable requirements (such as Army Corps of Engineers permits under section 404 of the Clean Water Act). Pipelines may convey materials including, but not limited to, air, brine, carbon dioxide, geothermal system fluids, hydrogen gas, natural gas, nitrogen gas, oil, produced water, steam, and water.*''

DHS intends to use this CE to support pipeline upgrades and relocation. These activities are commonly funded by FEMA but currently have a 1-acre constraint under existing DHS CEs. The CE would allow DHS to expand current allowable acreage limitations.

DOE NEPA Implementing Procedures, Appendix B, paragraph B5.5 and 10 CFR part 1021, Appendix B, paragraph B5.5. ''*Short pipeline segments. Construction and subsequent operation of short (generally less than 20 miles in length) pipeline segments conveying materials (such as air, brine, carbon dioxide, geothermal system fluids, hydrogen gas, natural gas, nitrogen gas, oil, produced water, steam, and water) between existing source facilities and existing receiving facilities (such as facilities for use, reuse, transportation, storage, and refining), provided that the pipeline*

segments are within previously disturbed or developed rights-of-way.''

DHS intends to use this CE to new pipeline construction projects. These activities are commonly funded by FEMA but currently have a 1-acre constraint under existing DHS CEs. The CE would allow DHS to expand current allowable acreage limitations.

DOE NEPA Implementing Procedures, Appendix B, paragraph B5.18 and 10 CFR part 1021, Appendix B, paragraph B5.18. ''*Wind turbines. The installation, modification, operation, and removal of a small number (generally not more than 2) of commercially available wind turbines, with a total height generally less than 200 feet (measured from the ground to the maximum height of blade rotation) that (1) Are located within a previously disturbed or developed area; (2) are located more than 10 nautical miles (about 11.5 miles) from an airport or aviation navigation aid; (3) are located more than 1.5 nautical miles (about 1.7 miles) from National Weather Service or Federal Aviation Administration Doppler weather radar; (4) would not have the potential to cause significant impacts on bird or bat populations; and (5) are sited or designed such that the project would not have the potential to cause significant impacts to persons (such as from shadow flicker and other visual effects, and noise). Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices. Covered actions include only those related to wind turbines to be installed on land.*''

DHS intends to use this CE to new construction and repair of these projects, which may be requested as part of disaster repairs or mitigation to power systems. DHS currently has no CEs for wind turbine projects.

DOE NEPA Implementing Procedures, Appendix B, paragraph B5.20 and 10 CFR part 1021, Appendix B, paragraph B5.20. ''*The installation, modification, operation, and removal of small-scale biomass power plants (generally less than 10 megawatts), using commercially available technology (1) Intended primarily to support operations in single facilities (such as a school and community center) or contiguous facilities (such as an office complex); (2) that would not affect the air quality attainment status of the area and would not have the potential to cause a significant increase in the quantity or rate of air emissions and would not have the potential to cause significant impacts to water resources; and (3) would be located within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.*''

DHS intends to use this CE to new construction and repair of these projects, which may be requested as part of FEMA disaster repairs or mitigation to power systems. DHS currently has no CEs for biomass projects.

DOE NEPA Implementing Procedures, Appendix B, paragraph B5.24 and 10 CFR part 1021, Appendix B, paragraph B5.24. ''*Drop-in hydroelectric systems. The installation, modification, operation, and removal of commercially available small-scale, drop-in, run-of-the-river hydroelectric systems that would (1) Involve no water storage or water diversion from the stream or river channel where the system is installed and (2) not have the potential to cause significant impacts on water quality, temperature, flow, or volume. Covered systems would be located up-gradient of an existing anadromous fish barrier that is not planned for removal and where fish passage retrofit is not planned and where there would not be the potential for significant impacts to threatened or endangered species or other species of concern (as identified in B(4)(ii) of this appendix). Covered actions would involve no major construction or modification of stream or river channels, and the hydroelectric systems would be placed and secured in the channel without the use of heavy equipment. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.*''

In adopting this CE, DHS will make an administrative change to remove ''of this appendix'' from the text of the B5.24 and replace with ''of Appendix B in the DOE NEPA Implementing Procedures and in Appendix B of 10 CFR part 1021'' in alignment with CEQ guidance on categorical exclusion adoption.

DHS intends to use this CE to new construction and repair of these projects, which may be requested as part of FEMA disaster repairs or mitigation to power systems. DHS currently has no CEs for hydroelectric projects.

Each of these DOE CEs also includes conditions referred to as ''integral elements'' listed in Appendix B of the DOE NEPA Implementing Procedures and in Appendix B to 10 CFR part 1021 (DOE NEPA regulations). DHS will ensure consistency with these integral elements when applying any of the adopted DOE CEs. Additionally, DHS will prepare a REC when applying these DOE CEs.

When applying these CEs, DHS will abide by the definitions established by DOE at DOE NEPA Implementing Procedures, Section 5.4 and in 10 CFR part 1021.102, paragraph (g) to ensure appropriate application of DOE CEs. ''Previously disturbed or developed'' is defined as ''land that has been changed such that its functioning ecological processes have been and remain altered by human activity. The phrase encompasses areas that have been transformed from natural cover to non-native species or a managed state, including, but not limited to, utility and electric power transmission corridors and rights-of-way, and other areas where active utilities and currently used roads are readily available'' (DOE NEPA Implementing Procedures, Section 5.4(b)(1) and 10 CFR part 1021.102, paragraph (g)(1)). Additionally, ''small'' and ''small scale'' would refer to the context of the particular proposal, including its proposed location. In assessing whether a proposed action is small, in addition to the actual magnitude of the proposal, DOE considers factors such as industry norms, the relationship of the proposed action to similar types of development in the vicinity of the proposed action and expected outputs of emissions or waste. When considering the physical size of a proposed facility, for example, DOE would review the surrounding land uses, the scale of the proposed facility relative to existing development, and the capacity of existing roads and other infrastructure to support the proposed action.

DOE NEPA Implementing Procedures, Section 5.4(b)(2) and in 10 CFR part 1021.102, paragraph (g)(2).

IHS Categorical Exclusion for Adoption

DHS has identified **Federal Register** Notice, National Environmental Policy Act; Categorical Exclusions (58 FR 569), C. ''*Pesticides. Application of pesticides which are not classified for restricted use under provisions of the Federal Insecticide, Fungicide and Rodenticide Act when used for routine pest control purposes.*''

DHS will use this CE to cover the application of pesticides. The application of pesticides can be currently covered under DHS CEs. However, this CE provides more specific language for pesticide applications than existing CEs.

FHWA Categorical Exclusions for Adoption

DHS has identified 23 CFR 771.117(c)(6). ''*The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction*.''

DHS intends to use this CE category for the installation of noise barriers for transportation improvement projects. This CE category will only be used for road-related noise abatement.

23 CFR 771.117(c)(24). ''*Localized geotechnical and other investigation to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys*.''

DHS would use this CE category to cover environmental studies and investigations as needed. For example, Phase I environmental site assessments completed for FEMA mitigation projects may require localized investigation. DHS has existing CEs that cover formation gathering, data analysis and processing, information dissemination, review, interpretation, and development of documents. This CE category will expand upon existing DHS CEs to cover in-depth environmental studies and investigations.

DA Categorical Exclusion for Adoption

DHS has identified Department of War National Environmental Policy Act Implementing Procedures, Appendix A, section I, DoW A10–10. ''*Approval of asbestos or lead-based paint management plans drafted in accordance with applicable laws and regulations (REC required).*''

DHS intends to use this CE to approve asbestos and lead-based paint management plans. DHS currently does not have a CE that covers asbestos and lead-based paint management plans. As noted in the CE, application of the CE will require preparation of a REC.

DON Categorical Exclusion for Adoption

DHS has identified Department of War National Environmental Policy Act Implementing Procedures, Appendix A, section III, A134–14. ''*Alterations of and additions to existing buildings, facilities, and systems (e.g., structures, roads, runways, vessels, aircraft, or equipment) when the environmental effects will remain substantially the same and the use is consistent with applicable regulations*.''

DHS intends to use this CE for projects involving alterations and additions, such as those completed by disaster recovery and mitigation projects. This CE expands upon existing DHS CEs to include alterations. Additionally, while these activities are regularly completed by FEMA, DHS CEs are limited to activities outside the V zone, a Coastal High Hazard Area. This CE would cover alterations and additions of existing buildings, facilities, and systems for FEMA projects within the V zone, which can typically include repairs to roads, utilities, or structures maintained by public organizations and non-profits. Actions within the V zone would also be subject to E.O. 11988 for Floodplain Management and FEMA Implementing Regulations, Floodplain Management and Protection at 44 CFR part 9.

USACE Categorial Exclusions for Adoption

DHS has identified Department of War National Environmental Policy Act Implementing Procedures, Appendix A, section VIII, A263–1. ''*Activities at completed Corps projects which carry out the authorized project purposes. Examples include routine operation and maintenance actions, general administration, equipment purchases, custodial actions, erosion control, painting, repair, rehabilitation, replacement of existing structures and facilities such as buildings, roads, levees, groins and utilities, and installation of new buildings utilities, or roadways in developed areas*.''

DHS would utilize this CE to cover repairs of USACE-constructed projects under the authority of state or local governments. For example, FEMA may complete post-disaster repair and replacement of USACE-constructed projects eligible for FEMA assistance.

TVA Categorical Exclusions for Adoption

DHS has identified 18 CFR Appendix A to Subpart C of Part 1318(29). ''*Actions to restore and enhance wetlands, riparian, and aquatic ecosystems that generally involve physical disturbance of no more than 10 acres, including, but not limited to, construction of small water control structures; revegetation actions using native materials; construction of small berms, dikes, and fish attractors; removal of debris and sediment following natural or human-caused disturbance events; installation of silt fences; construction of limited access routes for purposes of routine maintenance and management; and reintroduction or supplementation of native, formerly native, or established species into suitable habitat within their historic or established range*.''

DHS intends on using this CE to cover mitigation projects, such as those completed by FEMA, that restore wetlands and mitigate flood hazards. DHS application of this CE will require preparation of a REC.

III. Consideration of Extraordinary Circumstances

When applying these categorical exclusions, DHS will evaluate the proposed actions for whether there are any extraordinary circumstances. The Department's extraordinary circumstances are listed within the DHS Instruction Manual and include, in part, consideration of impacts on public health and safety; listed species and migratory birds; historic or cultural resources; Indian sacred sites; environmentally sensitive areas, such as historic properties prime or unique agricultural lands, coastal zones, designated wilderness or wilderness study areas, wild and scenic rivers, 100-year floodplains, wetlands, sole source aquifers, Marine Sanctuaries, National Wildlife Refuges, National Parks, National Monuments, essential fish habitat; violations of a Federal, State, or local law or requirement imposed to protect the environment; certain levels of controversy in terms of scientific validity; precedent for future decision-making; context of scope and size of the particular action; and degradation of already existing poor environmental conditions.

When applying DOE CEs, DHS will evaluate the proposed action to ensure evaluation of ''Integral Elements'' listed at DOE NEPA Implementing Procedures, Appendix B and in the DOE NEPA regulations at Appendix B to 10 CFR part 1021. In addition, in considering extraordinary circumstances, DHS will consider whether the proposed action has the potential to result in significant effects as described in DOE's extraordinary circumstances listed at DOE NEPA Implementing Procedures, Section 5.4 and in 10 CFR part 1021.102, paragraph (b)(2). DOE defines extraordinary circumstances as ''unique situations presented by specific proposals, including, but not limited to, uncertain effects or effects involving unique or unknown risks.'' (DOE NEPA Implementing Procedures, Section 5.4(C)(3)) and 10 CFR part 1021.102, paragraph (b)(2). Consistent with DHS Instruction Manual 023–01–001–01, Implementing the National Environmental Policy Act (DHS Instruction Manual), DHS will document each application of the above-listed CEs and its consideration of

extraordinary circumstances within the DHS Environmental Planning and Historic Preservation Decision Support System or alternate system approved by DHS.

When applying NRCS CEs, DHS will evaluate the proposed action to ensure evaluation of NRCS ''Conservation Practice Standards'' listed at 23 CFR 771.117 paragraphs (b). Consistent with the DHS NEPA Instruction Manual, DHS will document each application of NRCS CEs and their consistency with NRCS Conservation Practice Standards in the DHS Environmental Planning and Historic Preservation Decision Support System or alternate system approved by DHS.

DHS's list of extraordinary circumstances is comparable to those of NRCS, RD, and USFS, found at 7 CFR Subtitle A Part 1b.3(f); NTIA found at Guidance on NTIA National Environmental Policy Act Compliance, Appendix C; IHS found at 58 FR 569; FHWA ''unusual circumstances'' found at 23 CFR 771.117 paragraphs (b); DA, DON, and USACE found at Department of War National Environmental Policy Act Implementing Procedures, Part 1.4; and TVA, found at 18 CFR, Subpart C Section 1318.201.

DHS's list of extraordinary circumstances is comparable to those of the FirstNet Authority, found at First Responder Network Authority Procedures for Implementing the National Environmental Policy Act, Appendix C. However, FirstNet Authority extraordinary circumstance 11, which provides EA requirements for new antennae structures is not explicitly covered under in DHS extraordinary circumstances. The proposed adopted FirstNet Authority CE does not cover antennae construction and will not be used for such activities.

Therefore, only the DHS NEPA Instruction Manual and the extraordinary circumstances contained therein would be reviewed as to whether the proposed action has the potential to result in significant effects for actions DHS is intending to apply a NRCS, RD, USFS, FirstNet Authority, NTIA, IHS, FHWA, DA, DON, USACE, or TVA CE. If DHS determines that a CE is not appropriate to support a decision on a particular proposed action due to extraordinary circumstances, DHS would prepare an EA or EIS. Consistent with the DHS NEPA Instruction Manual, the DHS Environmental Planning and Historic Preservation Decision Support System, or alternate system approved by DHS, will be utilized for application of all CE requiring preparation of REC.

IV. Consultation With Agencies and Determination of Appropriateness

In May of 2026, DHS consulted with NRCS, RD, USFS, FirstNet Authority, NTIA, DOE, IHS, FHWA, DOW, DA, DON, USACE, and TVA about the appropriateness of the Department's adoption of their respective categorical exclusions. Those consultations each included a review of each agency's or bureau's experience in establishing and applying the categorical exclusions, as well as DHS's intended uses for the categorical exclusions. Based on those consultations and reviews, DHS has determined that the types of activities DHS proposes to authorize are substantially similar to the activities for which NRCS, RD, USFS, FirstNet Authority, NTIA, DOE, IHS, FHWA, DA, DON, USACE, and TVA have applied their respective categorical exclusions. Accordingly, the impacts of the DHS actions would be substantially similar to the impacts of each establishing agency's actions, which are not significant, absent the existence of extraordinary circumstances. Therefore, DHS has determined that DHS's proposed use of the CEs, as described within this notice is appropriate.

V. Notice to the Public and Documentation of Adoption

This notice serves to identify to the public and document DHS's adoption of NRCS, RD, USFS, FirstNet Authority, NTIA, DOE, IHS, FHWA, DA, DON, USACE, and TVA categorical exclusions and identifies the types of actions to which DHS contemplates applying the actions at this time. Upon issuance of this notice, the adopted of NRCS, RD, USFS, FirstNet Authority, NTIA, DOE, IHS, FHWA, DA, DON, USACE, and TVA categorical exclusions will be available to DHS and accessible on *DHS.gov* at *https://www.dhs.gov/ocrso/eed/epb/nepa.*

Tracey L. Watkins,

Chief Readiness Support Officer, Department of Homeland Security.

[FR Doc. 2026–17364 Filed 8–25–26; 8:45 am]

BILLING CODE 9112–FF–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–PCE–COR–NTS–NPS0042802; PPWOPCADT0, PPMPSPD1T.Y00000; OMB Control Number 1024–0283]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Application for Designation as National Recreation Trail or National Water Trail

AGENCY: National Park Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service (NPS, we) are proposing to reinstate a previously approved collection without change.

DATES: Interested persons are invited to submit comments, which NPS must receive on or before September 25, 2026.

ADDRESSES: Written comments and suggestions on the information collection requirements should be submitted by the date specified above in **DATES** to *http://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the NPS Information Collection Clearance Officer (ADIR–ICCO), 13461 Sunrise Valley Drive, (MS–263) Herndon, VA 20191 (mail); or *phadrea_ponds@nps.gov* (email). Please reference Office of Management and Budget (OMB) Control Number ''1024–0283'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Lindsay Brisko, Architect/Project Manager, National Trails System & National Wild and Scenic Rivers System, 12795 W Alameda Parkway, Lakewood, CO 80228; or *lindsay_brisko@nps.gov* (email). Please reference OMB Control Number 1024–0064 in the subject line of your comments. 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: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we

provide the public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on March 13, 2026 (91 FR 12441). We did not receive any comments in response to that Notice.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comments addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected.

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to the Office of Management and Budget (OMB) to approve this Information Collection Request (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 can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The NPS is authorized by section 4 of the National Trails System Act (16 U.S.C. 1243) and Secretarial Order No. 3319 to administer the National Recreation Trail (NRT) program, which establishes National Water Trails (NWT) as a class of National Recreation Trails and directs that such trails collectively be considered in a National Water Trails System.

The NPS uses forms 10–1002: *Application for Designation as National Water Trail* and 10–1003: *Application for Designation as National Recreation Trail* to collect information NPS requires when submitting suitable trails or trail systems and water trails to the Secretary of the Interior for designation. The applications are evaluated for adherence to NRT requirements and criteria. NPS evaluation of an application is based on (1) the sufficiency of information provided on the application form and in supporting documentation, such as photographs, maps, and written landowner consents that accompany the form, and (2) successfully meeting the NRT requirements and criteria. Successful applications are forwarded to the Secretary of the Interior for approval.

Title of Collection: Application for Designation as National Recreation Trail or National Water Trail.

OMB Control Number: 1024–0283.

Form Number: NPS 10–1002: *Application for Designation as National Water Trail* and NPS 10–1003: *Application for Designation as National Recreation Trail.*

Type of Review: Reinstatement of a previously approved collection.

Description of Respondents: Private individuals; businesses; educational institutions; nonprofit organizations; state, tribal, and local governments; and Federal agency land units.

Total Estimated Number of Annual Respondents: 30.

Estimated Completion Time per Response: Varies by activity, 30 minutes to 8 hours.

Total Estimated Number of Annual Burden Hours: 130 hours.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Non hour Burden Cost: None.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Phadrea Ponds,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2026–17379 Filed 8–25–26; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–802–804 and 731–TA–1799–1803 (Preliminary)]

Linear Hydraulic Cylinders From Canada, China, India, Mexico, and South Korea; Revised Schedule for the Subject Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: August 21, 2026.

FOR FURTHER INFORMATION CONTACT: Stamen Borisson ((202) 205–3125), 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 investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On July 29, 2026, the Commission established a schedule for the conduct of the final phase of the subject investigations (91 FR 49442, August 4, 2026). Subsequently, the Department of Commerce (''Commerce'') extended the deadline for its initiation determination to September 8, 2026 (91 FR 53848, August 20, 2026). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission must reach preliminary determinations within 25 days after the date on which the Commission receives notice from Commerce of initiation of the investigations, and the Commission's views must be transmitted to Commerce within five business days thereafter.

For further information concerning this proceeding, see the Commission's

notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: August 21, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–17367 Filed 8–25–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1760]

Importer of Controlled Substances Application: Curia New York Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Curia New York Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before September 25, 2026. Such persons may also file a written request for a hearing on the application on or before September 25, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on July 10, 2026, Curia New York Inc., 33 Riverside Avenue, Rensselaer, New York 12144, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
4-Anilino-N-phenethyl-4-piperidine (ANPP).	8333	II
Poppy Straw Concentrate.	9670	II

The company plans to import the listed controlled substances for bulk manufacturing into other controlled substances to be distributed to their customers. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Justin Wood,

Acting Deputy Assistant Administrator.

[FR Doc. 2026–17388 Filed 8–25–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1744]

Bulk Manufacturer of Controlled Substances Application: Chemtos, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Chemtos, LLC has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before October 26, 2026. Such persons may also file a written request for a hearing on the application on or before October 26, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on July 7, 2026, Chemtos, LLC, 16713 Picadilly Court, Round Rock, Texas 78664–8544, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Amineptine	1219	I
Mesocarb	1227	I
3-Fluoro-N-methylcathinone (3-FMC)	1233	I
Cathinone	1235	I
Methcathinone	1237	I
4-Fluoro-N-methylcathinone (4-FMC)	1238	I

Controlled substance	Drug code	Schedule
4-Chloromethcathinone	1239	I
para-Methoxymethamphetamine (PMMA); 1-(4- methoxyphenyl)-N-methylpropan-2-amine	1245	I
Pentedrone (α-methylaminovalerophenone)	1246	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
4-Methyl-N-ethylcathinone (4-MEC)	1249	I
Naphyrone	1258	I
3-methylmethcathinone (2-(methylamino)-1-(3- methylphenyl)propan-1-one)	1259	I
N-Ethylamphetamine	1475	I
4-Flouroamphetamine	1476	I
Methiopropamine	1478	I
N,N-Dimethylamphetamine	1480	I
Fenethylline	1503	I
Aminorex	1585	I
4-Methylaminorex (cis isomer)	1590	I
4,4′-Dimethylaminorex (4,4′-DMAR; 4,5-dihydro-4 methyl-5-(4-methylphenyl)-2-oxazolamine; 4-methyl-5 (4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine).	1595	I
Ethylphenidate (ethyl 2-phenyl-2-(piperidin-2-yl)acetate)	1727	I
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
Mecloqualone	2572	I
Bromazolam (8-bromo-1-methyl-6-phenyl-4H benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine)	2778	I
Etizolam (4-(2-chlorophenyl)-2-ethyl-9-methyl-6H-thieno[3,2-f][1,2,4]triazolo[4,3-a][1,4]diazepine	2780	I
Iprazolam (8-chloro-6-(2-fluorophenyl)-1-methyl-4Hbenzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine)	2785	I
Ionazolam (6-(2-chlorophenyl)-1-methyl-8-nitro-4Hbenzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine	2786	I
Flubromazolam (8-bromo-6-(2-fluorophenyl)-1-methyl-4H-benzo[f][1,2,4] triazolo[4,3-a][1,4]diazepin-	2788	I
Diclazepam (7-chloro-5-(2-chloro-5-(2-chlorophenyl)-1- methyl-1,3-dihydro-2H-benzo[e][1,4]diazepin-2-one	2789	I
JWH-250 (1-Pentyl-3-(2-methoxyphenylacetyl) indole)	6250	I
Cannabimimetic Agents	7000	I
SR-18 (Also known as RCS-8) (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl) indole)	7008	I
ADB-FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7010	I
5-Fluoro-UR-144 and XLR11 [1-(5-Fluoro-pentyl)1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone	7011	I
AB-FUBINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)- 1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7012	I
1-(4-Fluorobenzyl)-1H-indol-3-yl)(2,2,3,3- tetramethylcyclopropyl)methanone	7014	I
JWH-019 (1-Hexyl-3-(1-naphthoyl)indole)	7019	I
MDMB-FUBINACA (Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7020	I
FUB-AMB, MMB- FUBINACA, AMB-FUBINACA (2-(1-(4-fluorobenzyl)-1Hindazole-3-carboxamido)-3-methylbutanoate)	7021	I
AB-PINACA (N-(1-amino-3-methyl- 1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7023	I
THJ-2201 [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone	7024	I
5F-AB-PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluropentyl)-1H-indazole-3-carboximide)	7025	I
ADB-BUTINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-butyl-1H-indazole-3-carboxamide	7027	I
AB-CHMINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)- 1H-indazole-3-carboxamide	7031	I
MAB-CHMINACA (N-(1-amino-3,3dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7032	I
5F-AMB (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate)	7033	I
5F-ADB; 5F-MDMB-PINACA (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7034	I
ADB-PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7035	I
5F-EDMB-PINACA (ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7036	I
5F-MDMB-PICA (methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate)	7041	I
MDMB-CHMICA, MMB-CHMINACA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate)	7042	I
4F-MDMB-BINACA (4F-MDMB-BUTINACA or methyl 2 (1-(4-fluorobutyl)-1H-indazole-3-carboxamido)-3,3 dimethylbutanoate)	7043	I
MMB-CHMICA, AMB-CHMICA (methyl 2-(1-(cyclohexylmethyl)-1*H*-indole-3-carboxamido)-3-methylbutanoate)	7044	I
FUB-AKB48, FUB-APINACA, AKB48 N-(4-FLUOROBENZYL) (N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboximide).	7047	I
APINACA and AKB48 N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide	7048	I
5F-APINACA, 5F-AKB48 (N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide)	7049	I
JWH-081 (1-Pentyl-3-(1-(4-methoxynaphthoyl) indole)	7081	I
5F-CUMYL-PINACA, 5GT-25 (1-(5-fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide)	7083	I
5F-CUMYL-P7AICA (1-(5-fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-pyrrolo[2,3-b]pyridine-3-carboxamide)	7085	I
4-CN-CUMYL-BUTINACA (1-(4-cyanobutyl)-N-(2- phenylpropan-2-yl)-1 H-indazole-3-carboxamide)	7089	I
MDMB-4en-PINACA (methyl 3,3-dimethyl-2-(1-(pent-4- en-1-yl)-1H-indazole-3-carboxamido)butanoate)	7090	I
4F-MDMB-BUTICA (methyl 2-[[1-(4-fluorobutyl)indole-3- carbonyl]amino]-3,3-dimethyl-butanoate	7091	I
ADB-4en-PINACA (N-(1-amino-3,3-dimethyl-1- oxobutan-2-yl)-1-(pent-4-en-1-yl)-1H-indazole-3-carboxamide)	7092	I
CUMYL-PEGACLONE (5-pentyl-2-(2-phenylpropan-2- yl)pyrido[4,3-b]indol-1-one)	7093	I
5F-EDMB-PICA (ethyl 2-[[1-(5-fluorophentyl)indole-3- carbonyl]amino]-3,3-dimethyl-butanoate	7094	I
MMB-FUBICA (methyl 2-(1-(4-fluorobenzyl)-1H-indole3-carboxamido)-3-methyl butanoate	7095	I
SR-19 (Also known as RCS-4) (1-Pentyl-3-[(4-methoxy)-benzoyl] indole	7104	I
JWH-018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole)	7122	I
UR-144 (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone	7144	I
JWH-073 (1-Butyl-3-(1-naphthoyl)indole)	7173	I
JWH-200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole)	7200	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
JWH-203 (1-Pentyl-3-(2-chlorophenylacetyl) indole)	7203	I
6,6,9-Trimethyl-3-pentyl-6a,7,8,9,10,10a-hexahydro-6H- benzo[c]chromen-1-ol	7220	I

Controlled substance	Drug code	Schedule
NM2201, CBL2201 (Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate	7221	I
PB-22 (Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate)	7222	I
5F-PB-22 (Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7225	I
4-MEAP (4-Methyl-alpha-ethylaminopentiophenone)	7245	I
N-Ethylhexedrone	7246	I
Alpha-ethyltryptamine	7249	I
Ibogaine	7260	I
2-Fluorodeschloroketamine	7284	I
2-(Ethylamino)-2-(3-methoxyphenyl)cyclohexan-1-one (methoxetamine)	7286	I
CP-47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol)	7297	I
CP-47,497 C8 Homologue (5-(1,1-Dimethyloctyl)-2-[(1R,3S)3-hydroxycyclohexyl-phenol)	7298	I
Lysergic acid diethylamide	7315	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7)	7348	I
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Parahexyl	7374	I
Mescaline	7381	I
2-(4-Ethylthio-2,5-dimethoxyphenyl) ethanamine (2C-T-2)	7385	I
3,4,5-Trimethoxyamphetamine	7390	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
2,5-Dimethoxyamphetamine	7396	I
JWH-398 (1-Pentyl-3-(4-chloro-1-naphthoyl) indole)	7398	I
2,5-Dimethoxy-4-ethylamphetamine	7399	I
3,4-Methylenedioxyamphetamine	7400	I
5-Methoxy-3,4-methylenedioxyamphetamine	7401	I
N-Hydroxy-3,4-methylenedioxyamphetamine	7402	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
5-Methoxy-N-N-dimethyltryptamine	7431	I
Alpha-methyltryptamine	7432	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
4′-Chloro-alpha-pyrrolidinovalerophenone	7443	I
MPHP, 4′-Methyl-alpha-pyrrolidinohexiophenone	7446	I
N-Ethyl-1-phenylcyclohexylamine	7455	I
3-Methoxyphencyclidine	7457	I
1-(1-Phenylcyclohexyl)pyrrolidine	7458	I
1-[1-(2-Thienyl)cyclohexyl]piperidine	7470	I
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine	7473	I
N-Ethyl-3-piperidyl benzilate	7482	I
N-Methyl-3-piperidyl benzilate	7484	I
N-Benzylpiperazine	7493	I
4-Methyl-alphapyrrolidinopropiophenone (4-MePPP)	7498	I
2-(2,5-Dimethoxy-4-methylphenyl) ethanamine (2C-D)	7508	I
2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine (2C-E)	7509	I
2-(2,5-Dimethoxyphenyl) ethanamine (2C-H)	7517	I
2-(4-iodo-2,5-dimethoxyphenyl) ethanamine (2C-I)	7518	I
2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine (2C-C)	7519	I
2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C-N)	7521	I
2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine (2C-P)	7524	I
2-(4-Isopropylthio)-2,5-dimethoxyphenyl) ethanamine (2C-T-4)	7532	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25B-NBOMe)	7536	I
2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C-NBOMe)	7537	I
2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I-NBOMe)	7538	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Butylone	7541	I
Pentylone	7542	I
N-Ethypentylone, ephylone (1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one)	7543	I
α-PHP, alpha-Pyrrolidinohexanophenone	7544	I
alpha-pyrrolidinopentiophenone (α-PVP)	7545	I
alpha-pyrrolidinobutiophenone (α-PBP)	7546	I
Ethylone	7547	I
alpha-Pyrrolidinoheptaphenone (PV8)	7548	I
Eutylone	7549	I

Controlled substance	Drug code	Schedule
α-PiHP (4-methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1- one)	7551	I
1-(1,3-Benzodioxol-5-yl)-2-(dimethylamino)pentan-1 one	7552	I
AM-694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl) indole)	7694	I
Acetyldihydrocodeine	9051	I
Benzylmorphine	9052	I
Codeine-N-oxide	9053	I
Cyprenorphine	9054	I
Desomorphine	9055	I
Etorphine (except HCl)	9056	I
Codeine methylbromide	9070	I
Brorphine	9098	I
Dihydromorphine	9145	I
Difenoxin	9168	I
Heroin	9200	I
Hydromorphinol	9301	I
Methyldesorphine	9302	I
Methyldihydromorphine	9304	I
Morphine methylbromide	9305	I
Morphine methylsulfonate	9306	I
Morphine-N-oxide	9307	I
Myrophine	9308	I
Nicocodeine	9309	I
Nicomorphine	9312	I
Normorphine	9313	I
Pholcodine	9314	I
Thebacon	9315	I
Acetorphine	9319	I
Drotebanol	9335	I
U-47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)	9547	I
AH-7921 (3,4-dichloro-N-[(1-dimethylamino)cyclohexylmethyl]benzamide))	9551	I
MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine))	9560	I
Acetylmethadol	9601	I
Allylprodine	9602	I
Alphacetylmethadol except levo-alphacetylmethadol	9603	I
Alphameprodine	9604	I
Alphamethadol	9605	I
Benzethidine	9606	I
Betacetylmethadol	9607	I
Betameprodine	9608	I
Betamethadol	9609	I
Betaprodine	9611	I
Clonitazene	9612	I
Dextromoramide	9613	I
Isotonitazene	9614	I
Diampromide	9615	I
Diethylthiambutene	9616	I
Dimenoxadol	9617	I
Dimepheptanol	9618	I
Dimethylthiambutene	9619	I
Dioxaphetyl butyrate	9621	I
Dipipanone	9622	I
Ethylmethylthiambutene	9623	I
Etonitazene	9624	I
Etoxeridine	9625	I
Furethidine	9626	I
Hydroxypethidine	9627	I
Ketobemidone	9628	I
Levomoramide	9629	I
Levophenacylmorphan	9631	I
Morpheridine	9632	I
Noracymethadol	9633	I
Norlevorphanol	9634	I
Normethadone	9635	I
Norpipanone	9636	I
Phenadoxone	9637	I
Phenampromide	9638	I
Phenoperidine	9641	I
Piritramide	9642	I
Proheptazine	9643	I
Properidine	9644	I
Racemoramide	9645	I
Trimeperidine	9646	I
Phenomorphan	9647	I

Controlled substance	Drug code	Schedule
Propiram	9649	I
1-Methyl-4-phenyl-4-propionoxypiperidine	9661	I
1-(2-Phenylethyl)-4-phenyl-4-acetoxypiperidine	9663	I
2-methyl AP-237 (1-(2-methyl-4-(3-phenylprop-2-en-1- yl)piperazin-1-yl)butan-1-one	9664	I
Tilidine	9750	I
Butonitazene (2-(2-(4-butoxybenzyl)-5-nitro-1H- benzimidazol-1-yl)-N,N-diethylethan-1-amine)	9751	I
Flunitazene (N,N-diethyl-2-(2-(4-fluorobenzyl)-5-nitro- 1H-benzimidazol-1-yl)ethan-1-amine)	9756	I
Metonitazene (N,N-diethyl-2-(2-(4-methoxybenzyl)-5- nitro-1H-benzimidazol-1-yl)ethan-1-amine)	9757	I
N-Pyrrolidino etonitazene (2-(4-ethoxybenzyl)-5-nitro-1- (2-(pyrrolidin-1-yl)ethyl)-1H-benzimidazole)	9758	I
Protonitazene (N,N-diethyl-2-(5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine)	9759	I
N-desethyl isotonitazene (N-ethyl-2-(2-(4- isopropoxylbenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1AMIN	9760	I
N-piperidinyl etonitazene (2-(4-ethoxybenzyl)-5-nitro-1- (2-(piperidin-1-yl)ethyl-1H-benzimidazole)	9761	I
2-(4-Methoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)- 1H-benzimidazole (N-pyrrolidino metonitazene)	9762	I
5-Nitro-2-(4-propoxybenzyl)-1-(2-(pyrrolidin-1-yl)ethyl)- 1H-benzimidazole (N-pyrrolidino protonitazene)	9763	I
Metodesnitazene (N,N-diethyl-2-(2-(4-methoxybenzyl)- 1H-benzimidazol-1-yl)ethan-1-amine)	9764	I
Etodesnitazene; etazene (2-(2-(4-ethoxybenzyl)-1H benzimidazol-1-yl)-N,N-diethylethan-1-amine)	9765	I
2-(2-(Benzodioxol-5-ylmethyl)-5-nitro-1H-benzimidazo 1-yl)-N,N-diethylethan-1-amine	9766	I
2-(2-(4-Ethoxybenzyl)-5-methyl-1H-benzimidazol-1-yl N,N-diethylethan-1-amine	9767	I
2-(2-(4-Ethoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)-N ethylethan-1-amine	9768	I
N-Ethyl-2-(5-nitro-2-(4-propoxybenzyl)-1H -benzimidazol-1-yl)ethan-1-amine	9769	I
2-(2-((2,3-Dihydrobenzofuran-5-yl)methyl)-5-nitro-1H -benzimidazol-1-yl)-N,N-diethylethan-1-amine	9770	I
2-(2-(4-Ethoxybenzyl)-5-nitro-1H-benzimidazol-1-yl) N,N-dimethylethan-1-amine	9771	I
2-(4-Isopropoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1yl)ethyl)-1H-benzimidazole	9772	I
Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide)	9811	I
Para-Fluorofentanyl	9812	I
3-Methylfentanyl	9813	I
Alpha-methylfentanyl	9814	I
Acetyl-alpha-methylfentanyl	9815	I
N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide	9816	I
Para-Methylfentanyl	9817	I
para-Chlorofentanyl) N-(4-chlorophenyl)-N-(1- phenethylpiperidin-4-yl)propionamide)	9818	I
4′-Methyl Acetyl Fentanyl	9819	I
Ortho-Methyl Methoxyacetyl Fentanyl	9820	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Butyryl Fentanyl	9822	I
Para-fluorobutyryl fentanyl	9823	I
4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9824	I
2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide	9825	I
Para-chloroisobutyryl fentanyl	9826	I
Isobutyryl fentanyl	9827	I
ortho-Chlorofentanyl (N-(2-chlorophenyl)-N-(1- phenethylpiperidin-4-yl)propionamide)	9828	I
Beta-hydroxyfentanyl	9830	I
Beta-hydroxy-3-methylfentanyl	9831	I
Alpha-methylthiofentanyl	9832	I
3-Methylthiofentanyl	9833	I
Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)	9834	I
Thiofentanyl	9835	I
Beta-hydroxythiofentanyl	9836	I
Para-methoxybutyryl fentanyl	9837	I
Ocfentanil	9838	I
Thiofuranyl Fentanyl	9839	I
Valeryl fentanyl	9840	I
Phenyl fentanyl	9841	I
Beta′-Phenyl fentanyl	9842	I
N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide	9843	I
Crotonyl Fentanyl	9844	I
Cyclopropyl Fentanyl	9845	I
Ortho-Fluorobutyryl Fentanyl	9846	I
Cyclopentyl Fentanyl	9847	I
Ortho-Methyl Acetylfentanyl	9848	I
ortho-Methylcyclopropylfentanyl (N-(2-methylphenyl)-N- (1-phenethylpiperidin-4-yl)cyclopropanecarboxamide	9849	I
Fentanyl related-compounds as defined in 21 CFR 1308.11(h)	9850	I
Fentanyl Carbamate	9851	I
Ortho-Fluoracryl Fentanyl	9852	I
Ortho-Fluoroisobutyryl Fentanyl	9853	I
Para-Fluoro Furanyl Fentanyl	9854	I
2′-Fluoro ortho-fluorofentanyl	9855	I
Beta-Methyl Fentanyl	9856	I
meta-Fluorofentanyl (N-(3-fluorophenyl)-N-(1- phenethylpiperidin-4-yl)propionamide)	9857	I
meta-Fluoroisobutyryl fentanyl (N-(3-fluorophenyl)-N-(1- phenethylpiperidin-4-yl)isobutyramide)	9858	I
para-Methoxyfuranyl fentanyl (N-(4-methoxyphenyl)-N- (1-phenethylpiperidin-4-yl)furan-2-carboxamide)	9859	I
3-Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-3-carboxamide)	9860	I
2′,5′-Dimethoxyfentanyl (N-(1-(2,5- dimethoxyphenethyl)piperidin-4-yl)-N-phenylpropionamide)	9861	I

Controlled substance	Drug code	Schedule
Isovaleryl fentanyl (3-methyl-N-(1-phenethylpiperidin-4- yl)-N-phenylbutanamide)	9862	I
ortho-Fluorofuranyl fentanyl (N-(2-fluorophenyl)-N-(1- phenethylpiperidin-4-yl)furan-2-carboxamide)	9863	I
alpha′-Methyl butyryl fentanyl (2-methyl-N-(1- phenethylpiperidin-4-yl)-N-phenylbutanamide)	9864	I
para-Methylcyclopropylfentanyl (N-(4-methylphenyl)-N- (1-phenethylpiperidin-4-yl)cyclopropanecarboxamide)	9865	I
beta-Methylacetyl fentanyl (N-phenyl-N-(1-(2- phenylpropyl)piperidin-4-yl)acetamide)	9868	I
Tetrahydrothiofuranyl fentanyl (N-(1-phenethylpiperidin4-yl)-N-phenyltetrahydrothiophene-2-carboxamide)	9869	I
para-Fluoro valeryl fentanyl (N-(4-fluorophenyl)-N-(1- phenethylpiperidin-4-yl)pentanamide)	9870	I
meta-Fluorofuranyl fentanyl (N-(3-fluorophenyl)-N-(1- phenethylpiperidin-4-yl)furan-2-carboxamide)	9871	I
Zipeprol (1-methoxy-3[-4-(2-methoxy-2- phenylethyl)piperazin-1-yl]-1-phenylpropan-2-ol)	9873	I
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Phenmetrazine	1631	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Glutethimide	2550	II
Nabilone	7379	II
1-Phenylcyclohexylamine	7460	II
Phencyclidine	7471	II
4-Anilino-N-phenethyl-4-piperidine (ANPP)	8333	II
Norfentanyl	8366	II
Phenylacetone	8501	II
1-Piperidinocyclohexanecarbonitrile	8603	II
Alphaprodine	9010	II
Anileridine	9020	II
Cocaine	9041	II
Codeine	9050	II
Etorphine HCl	9059	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Diphenoxylate	9170	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Hydrocodone	9193	II
Levomethorphan	9210	II
Levorphanol	9220	II
Isomethadone	9226	II
Meperidine	9230	II
Meperidine intermediate-A	9232	II
Meperidine intermediate-B	9233	II
Meperidine intermediate-C	9234	II
Metazocine	9240	II
Oliceridine	9245	II
Methadone	9250	II
Methadone intermediate	9254	II
Metopon	9260	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Oripavine	9330	II
Thebaine	9333	II
Dihydroetorphine	9334	II
Levo-alphacetylmethadol	9648	II
Oxymorphone	9652	II
Noroxymorphone	9668	II
Phenazocine	9715	II
Thiafentanil	9729	II
Piminodine	9730	II
Racemethorphan	9732	II
Racemorphan	9733	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II
Carfentanil	9743	II
Tapentadol	9780	II
Bezitramide	9800	II
Fentanyl	9801	II
Moramide-intermediate	9802	II

The company plans to bulk manufacture the listed controlled substances for distribution as reference standards to its customers. No other activities for these drug codes are authorized for this registration.

Justin Wood,

Acting Deputy Assistant Administrator.

[FR Doc. 2026–17386 Filed 8–25–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1746]

Bulk Manufacturer of Controlled Substances Application: Cambrex Charles City

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Cambrex Charles City has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before October 26, 2026. Such persons may also file a written request for a hearing on the application on or before October 26, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on June 22, 2026, Cambrex Charles City, 1205 11th Street, Charles City, Iowa 50616–3466, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
Tetrahydrocannabinols	7370	I
Amphetamine	1100	II
Lisdexamfetamine	1205	II
Methylphenidate	1724	II
ANPP (4-Anilino-N-phenethyl-4-piperidine).	8333	II
Phenylacetone	8501	II
Codeine	9050	II
Oxycodone	9143	II
Hydromorphone	9150	II
Hydrocodone	9193	II
Methadone	9250	II
Morphine	9300	II
Oripavine	9330	II
Thebaine	9333	II
Opium extracts	9610	II
Opium fluid extract	9620	II
Opium tincture	9630	II
Opium, powdered	9639	II
Oxymorphone	9652	II
Noroxymorphone	9668	II
Fentanyl	9801	II

The company plans to manufacture the listed controlled substances in bulk for conversion to other controlled substances and sales to its customers for dosage form development, clinical trials and use in stability qualification studies. In reference to drug code 7370 (Tetrahydrocannabinols), the company plans to bulk manufacture this drug as synthetic. No other activities for these drug codes are authorized for this registration.

Justin Wood,

Acting Deputy Assistant Administrator.

[FR Doc. 2026–17387 Filed 8–25–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1745]

Importer of Controlled Substances Application: Cambrex Charles City

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Cambrex Charles City has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before September 25, 2026. Such persons may also file a written request for a hearing on the application on or before September 25, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on June 22, 2026, Cambrex Charles City, 1205 11th Street, Charles City, Iowa 50616–3466, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Psilocybin	7437	I
4-Anilino-N-phenethyl-4-piperidine (ANPP).	8333	II
Phenylacetone	8501	II
Coca Leaves	9040	II
Opium Raw	9600	II
Poppy Straw Concentrate.	9670	II

The company plans to import psilocybin for formulation development and clinical trial support for their customers. The remaining listed controlled substances will be imported to support the manufacture into other controlled substances which will be distributed to their customers. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2).

Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Justin Wood,

Acting Deputy Assistant Administrator.

[FR Doc. 2026–17383 Filed 8–25–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1747]

Importer of Controlled Substances Application: Experic LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Experic LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before September 25, 2026. Such persons may also file a written request for a hearing on the application on or before September 25, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on July 17, 2026, Experic LLC, 2 Clarke Drive, Cranbury, New Jersey 08512–3619, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Tetrahydrocannabinols	7370	I
5-Methoxy-N-N-dimethyltryptamine.	7431	I
Nabilone	7379	II

The company plans to import the above listed controlled substances for internal research and clinical trial purposes. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Justin Wood,

Acting Deputy Assistant Administrator.

[FR Doc. 2026–17385 Filed 8–25–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1190–0020]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Title—International Terrorism Victim Expense Reimbursement Program Application

AGENCY: Civil Rights Department, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Justice Management Division, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until September 25, 2026.

FOR FURTHER INFORMATION CONTACT: To request additional information about this information collection request, please contact: Randy Abramson, *randy.abramson@usdoj.gov* (202) 598–9631, 150 M Street NE, Washington, DC 20002.

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register** June 22, 2026, 91 FR 37148, allowing a 60-day comment period. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the information collection or the OMB #1190–0020. This information collection request may be viewed at *www.reginfo.gov.* Please send a copy of comments to Randy Abramson, *randy.abramson@usdoj.gov* and add OMB #1190–0020.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.

The Title of the Form/Collection: Reporting Portal for Civil Rights Violations.

2. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is no agency form number for this collection. The applicable component within the Department of Justice is the Civil Rights Division.

3. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: Individuals or households.

4. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The total or estimated number of respondents for this collection is 132,655. The time per response is 6 minutes.

5. *An estimate of the total annual burden (in hours) associated with the collection:* The total annual burden hours for this collection is 13,265.5 hours.

Abstract: This collection is authorized by 18 U.S.C. 245, Federally Protected Activities and 18 U.S.C. 241, 242, Official Misconduct. Civil Rights Division of the U.S. Department of Justice enforces the nation's federal civil rights statutes. Members of the public play a critical role in this effort by reporting civil rights violations to the Division. To facilitate this reporting process, the Division is developing a streamlined online Reporting Portal for Civil Rights Violations. This Portal is designed to facilitate and enhance individual complainant's reporting opportunities.

6. *Affected Public:* Households and individuals.

7. *Obligation to Respond:* The obligation to respond is voluntary.

8. *Total Estimated Number of Respondents:* The total or estimated number of respondents for this collection is 132,655.

9. *Estimated Time per Respondent:* The time per response is 6 minutes.

10. *Frequency:* Varies per complainant.

11. *Total Estimated Annual Time Burden:* Burden Hours: $666,000.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency (annually)	Total annual responses	Time per response (min.)	Total annual burden (hours)
Reporting Portal for Civil Rights Violations	132,655	1	132,655	6 (.1)	13,265.5
Unduplicated Totals	132,655		132,655		13,265.5

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Enterprise Portfolio Management, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W–218 Washington, DC 20530.

Dated: August 21, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–17349 Filed 8–25–26; 8:45 am]

BILLING CODE 4410–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 26–047]

Performance Review Board, Senior Executive Service (SES)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Membership of SES Performance Review Board.

SUMMARY: The Civil Service Reform Act of 1978, Public Law 95–454 (Section 405) requires that appointments of individual members to the Performance Review Board (PRB) be published in the **Federal Register**.

SUPPLEMENTARY INFORMATION: The performance review function for the SES in NASA is being performed by the NASA PRB. The following individuals are serving on the Board:

Performance Review Board

Chairperson, Deputy Administrator
Associate Administrator
Deputy Associate Administrator
Chief Human Capital Officer
Associate Administrator, Research Technology Mission Directorate
KSC Center Director & Launch Operations

Stephanie Martin,

Lead, Executive Performance Management, Office of the Chief Human Capital Officer.

[FR Doc. 2026–17382 Filed 8–25–26; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Qualitative Feedback on Agency Service Delivery

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register**, and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAmain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to

minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 401 Dulany Street, Alexandria, VA 22314, or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

Copies of the submission may be obtained by calling 703–292–7556.

SUPPLEMENTARY INFORMATION: NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Title of Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 3145–0215.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The proposed information collection activity provides a means for the National Science Foundation (NSF) to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Agency's commitment to improving service delivery.

By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences, and expectations; provide an early warning of issues with service; or focus attention on areas where communication, training, or changes in operations might improve delivery of products or services. This collection will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

NSF will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collection is voluntary;
- The collection is low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and is low-cost for both the respondents and the Federal Government;
- The collection is non-controversial and does not raise issues of concern to other Federal agencies;
- The collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is intended to be used only internally for general service improvement and program management purposes and is not intended for release outside of NSF (if released, NSF must indicate the qualitative nature of the information);
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collection will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding this study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, this information collection will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Below we provide the National Science Foundation's projected average estimates for the next three years:

Affected public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Average expected annual number of activities: 50.

Respondents: 500 per activity.

Annual responses: 25,000.

Frequency of response: Once per request.

Average minutes per response: 30.

Burden hours: 12,500.

Dated: August 24, 2026.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2026–17413 Filed 8–25–26; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: National Science Foundation (NSF) Directorate for Technology, Innovation and Partnerships (TIP) Reviewer Request Form

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register**, and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAmain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 401 Dulany Street, Alexandria, VA 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

Comments: Comments regarding (a) whether the proposed collection of information is necessary for the proper performance of the functions of the NSF, including whether the information shall have practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, use, and clarity of the information on respondents; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to the points of contact in the **FOR FURTHER INFORMATION CONTACT** section.

Copies of the submission may be obtained by calling 703–292–7556. NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number, and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title of Collection: National Science Foundation (NSF) Directorate for Technology, Innovation and Partnerships (TIP) Reviewer Request Form.

OMB Control No.: 3145–0273.

Type of Request: Revision to and extension of approval of an information collection.

Proposed Project

For more than 70 years, the National Science Foundation (NSF) has supported the full spectrum of science, technology, engineering, and mathematics (STEM) research and education—from foundational, curiosity-driven discovery to use-inspired and solutions-oriented research that addresses national and economic challenges. Across this continuum, scientific discovery, innovation, and technology translation are deeply interconnected.

The NSF Directorate for Technology, Innovation and Partnerships (TIP) was established to strengthen the agency's capacity to accelerate the translation of research outputs to the market. TIP advances use-inspired and translational research through investments that support technology development, workforce development, and regional innovation as outlined in the CHIPS and Science Act.

Some examples of TIP investments include: Accelerating Research Translation (ART), (*https://www.nsf.gov/funding/opportunities/art-accelerating-research-translation*) Innovation Corps (I-Corps) (*https://beta.nsf.gov/funding/initiatives/i-corps/about-teams*), Regional Innovation Engines (NSF Engines) (*https://www.nsf.gov/funding/initiatives/regional-innovation-engines*), Pathways to Enable Open-Source Ecosystems (POSE) (*https://www.nsf.gov/funding/initiatives/pathways-enable-open-source-ecosystems*), and America's Seed Fund (SBIR/STTR) (*https://seedfund.nsf.gov/*).

Due to the breadth and specialized nature of these programs, the Directorate requires the ability to recruit reviewers with wide-ranging expertise, experience, and perspectives. Appropriate reviewers for TIP programs may come from varied sectors and professional backgrounds, including academia, industry, startups, venture development, technology transfer organizations, workforce development entities, regional innovation partnerships, nonprofit organizations, and open-source communities.

Accordingly, NSF requests renewal of Office of Management and Budget (OMB) approval for the *TIP Directorate Reviewer Request Form.* The information collection enables TIP programs to gather information necessary to identify and recruit reviewers whose expertise, experience, and professional backgrounds align with the objectives, subject matter, and evaluation needs of specific funding opportunities and merit review activities.

The information collection consists of two components. The first component aligns with the NSF-wide Reviewer Request Form (NSF 428A) and collects standard reviewer information, educational background, demographic information, and professional experience. The second component contains customizable program-specific questions that allow TIP programs to request additional information relevant to the goals and needs of individual programs or solicitations.

Program-specific information may include, but is not limited to:

- Areas of technical or domain expertise;
- Sector experience (*e.g.,* academia, industry, nonprofit, venture, or government);
- Experience in technology translation, commercialization, entrepreneurship, workforce development, or regional innovation ecosystem development;
- Professional affiliations, websites, or LinkedIn profiles;
- Prior reviewer, mentoring, or startup advisory experience; and
- Potential conflicts of interest.

The flexibility afforded by the customizable portion of the *TIP Reviewer Request Form* is necessary because reviewer qualifications appropriate for one TIP program may not adequately reflect the expertise required for another. The requested information will support TIP Program Directors in identifying reviewers with the appropriate expertise and perspectives necessary to conduct fair, rigorous, and context-appropriate merit review processes across the Directorate's diverse portfolio and funding activities.

Following standard OMB requirements, NSF will require OMB approval in advance and provide OMB with a copy of the form containing these questions and/or data fields. Data collected will be used strictly for reviewer recruiting purposes. The data collection burden to the individuals will be limited to no more than 10 minutes of the respondents' time in each instance.

Respondents: Members of the public who possess the expertise and experience qualifications to potentially review grant applications solicited by NSF's TIP directorate.

Estimated number of annual respondents: 3,000.

Burden on the public: It is estimated to take 10 minutes per respondent per form, for a total of 500 hours per year.

Dated: August 24, 2026.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2026–17414 Filed 8–25–26; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Request for Comment Regarding Common Disclosure Forms for the Biographical Sketch and Current and Pending (Other) Support

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to renew this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comments on this action. After obtaining and considering public comments, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by October 26, 2026 to be assured consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Please address comments to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 401 Dulany Street, Alexandria, Virginia 22314; telephone (703) 292–7556; or send an email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

Comments: Comments are requested on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

SUPPLEMENTARY INFORMATION:

Title of Collection: Request for Comment regarding Common Disclosure Forms for the Biographical Sketch and Current and Pending (Other) Support.

OMB Approval Number: 3145–0279.

Type of Request: Intent to seek approval to renew an information collection.

I. Background

Section 4(b) of NSPM–33 directs that ''research funding agencies shall require the disclosure of information related to potential conflicts of interest and commitment from participants in the Federally funded R&D enterprise . . . The appropriate disclosure requirement varies depending on the individual's role in the United States R&D enterprise.'' Section 4(b)(vi) directs that ''agencies should standardize forms for initial disclosures as well as annual updates, . . . and should provide clear instructions to accompany these forms and to minimize any associated administrative burden.''

The National Science and Technology Council (NSTC) Research Security Subcommittee developed consistent disclosure requirements from senior personnel, as well as common disclosure forms for the Biographical Sketch and Current and Pending (Other) Support sections of an application for Federal research and development (R&D) grants or cooperative agreements. The purpose of the Biographical Sketch is to assess how well qualified the individual, team, or organization is to conduct the proposed activities. The purpose of Current and Pending (Other) Support is to assess the capacity of the individual to carry out the research as proposed and to help identify any potential scientific and budgetary overlap/duplication, as well as overcommitment with the project being proposed. NSF has agreed to continue to serve as the steward for collection and resolution of public comments, as well as for posting and maintaining the latest versions of the above-mentioned documents of the common forms and other associated documents.

These common forms are intended to clarify what is expected of senior personnel applying for R&D funding from Federal research funding agencies. Variations among research agencies will be limited to cases: (a) where required by statute or regulation; (b) where more stringent protections are necessary for protection of R&D that is classified, export-controlled, or otherwise legally protected; or (c) for other compelling reasons consistent with individual agency authorities and as coordinated through the NSTC.

As stated in the NSPM–33 Implementation Guidance, ''the goal of these common forms and accompanying instructions is to ensure that applying for awards from any Federal research funding agency will require disclosing the same information in the same manner, to increase clarity and reduce administrative burden on the research community. In some cases, research agencies may adapt the forms and instructions, where required by their legal authorities. Such common forms also will allow the research community to identify and point out where greater clarity may be needed.''

Agencies may develop agency- or program-specific data elements and instructions, if necessary, to meet programmatic requirements, although agencies will be instructed to minimize the degree to which they supplement the common forms. Modification and/or supplementation of these common forms will require clearance by OMB/OIRA under the PRA process.

These common forms replace forms/formats currently used by agencies for these sections of applications, thereby increasing the consistency of disclosure forms and reducing administrative burden.

II. Invitation To Comment

The following documents are available for review and comment on the NSF website (see *https://www.nsf.gov/bfa/dias/policy/nstc_disclosure.jsp*):

a. A common Biographical Sketch form, including data elements and associated instructions; and

b. A common Current and Pending (Other) Support form, including data elements and associated instructions.

BURDEN ON THE PUBLIC

Form name	Number of proposals (estimated)	Number of respondents (estimated)	Burden time (hours)	Total
Biographical Sketch	47,900	4	1	191,600
Current and Pending (Other) Support	47,900	4	1	191,600
Total burden hours				383,200

Dated: August 24, 2026.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2026–17415 Filed 8–25–26; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–498; NRC–2026–4192]

STP Nuclear Operating Company; South Texas Project, Unit 1; License Amendment Application

AGENCY: Nuclear Regulatory Commission.

ACTION: Opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC, the Commission) is considering issuance of an amendment to Renewed Facility Operating License No. NPF–76, issued to STP Nuclear Operating Company (STPNOC); Constellation South Texas, LLC; City Public Service Board of San Antonio; and City of Austin, Texas, for operation of South Texas Project, Unit 1 (STP). The proposed license amendment would, if granted, make a one-time exigent change to the technical specifications (TS) to extend the allowed outage time (AOT) for TS 3.7.1.7, ''Main Feedwater System''. This proposed amendment is being requested to facilitate repairs to the Unit 1 train D main feedwater isolation valve (MFIV). This proposed amendment is being requested under exigent circumstances pursuant to NRC regulations.

DATES: Submit comments by September 9, 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 before this date. Requests for a hearing or petitions for leave to intervene must be filed by October 26, 2026.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website.

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–4192. 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.
- *Mail comments to:* Office of Nuclear Material Safety and Safeguards, Mail Stop: TWFN–5–A85, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Guidance and Publications Branch.

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: Thomas Byrd, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3719; email: *Thomas.Byrd@nrc.gov*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–4192 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–2026–4192.
- *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 license amendment application Request Proposed One-Time Exigent Change to Technical Specification 3.7.1.7, ''Main Feedwater System,'' is available in ADAMS under Accession No. ML26218A279.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2026–4192 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering issuance of an amendment to Renewed Facility Operating License No. NPF–76, issued to STP Operating Company (STPNOC or the licensee); City Public Service Board of San Antonion; City of Austin, Texas; and Constellation South Texas, LLC, for operation of the South Texas Project,

Unit 1 (STP–1) located in Matagorda County, Texas.

The proposed amendment would extend, for one time, the allowed outage time (AOT) for TS 3.7.1.7, ''Main Feedwater System,'' from 4 hours to 24 hours to allow sufficient time for the repair of the system while the plant maintains operations.

Pursuant to the requirements of sections 50.91 and 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), the licensee requested approval of the amendment under exigent circumstances. In its application, the licensee stated that the degraded condition of the main feedwater isolation valve (MFIV) and the further degradation of the current repair could not reasonably be foreseen or anticipated. Therefore, STPNOC requested approval of this license amendment request at the earliest possible date because the conditions of the leak could degrade to the point where a Unit 1 shutdown would be required.

Before any issuance of the proposed license amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations.

Pursuant to 10 CFR 50.91(a)(6), for amendments to be granted under exigent circumstances, the NRC has made a proposed determination that the license amendment request involves no significant hazards consideration (NSHC). Under the NRC's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of NSHC, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No. The proposed change extends the action completion time for Unit 1 Train D MFIV from 4 hours to 24 hours. Extending the completion time is not an accident initiator and thus does not change the probability that an accident will occur. However, it could potentially affect the consequences of an accident if an accident occurred during the extended unavailability of the inoperable MFIV. The increase in time that the MFIV is unavailable is small and the probability of an event occurring during this time period, which would require isolation of the main feedwater flow paths, is low.?≤

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No. The proposed change does not involve any physical alteration of plant equipment and does not change the method by which any safety-related structure, system, or component performs its function or is tested. Closure of the MFIVs is required to mitigate the consequences of the Main Steam Line Break and Main Feedwater Line Break accidents. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No. The proposed change does not adversely affect existing plant safety margins or the reliability of the equipment assumed to operate in the safety analysis. There are no changes being made to safety analysis assumptions, safety limits or safety system settings that would adversely affect plant safety as a result of the proposed change.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the license amendment request involves NSHC.

In accordance with 10 CFR 50.91(a)(6), where the Commission finds that exigent circumstances exist, in that a licensee and the Commission must act quickly and that time does not permit the Commission to publish a **Federal Register** notice allowing 30 days for prior public comment, and it also determines that the amendment involves NSHCs, it can issue a **Federal Register** notice providing notice of an opportunity for hearing and allowing at least two weeks from the date of the notice for prior public comment. Therefore, in accordance with 10 CFR 50.91(a)(6)(i)(A), the NRC staff is providing a 14-day notice period for public comment.

The NRC is seeking public comments on this proposed determination that the license amendment request involves NHSC. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the license amendment until the expiration of the 14-day notice period. However, if circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the notice period, provided that its final determination is that the amendment involves NSHC. The final determination will consider all public and State comments received. If the Commission takes this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

III. Opportunity To Request a Hearing and Petition for Leave To Intervene

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 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).

If a hearing is requested, and the Commission has not made a final determination on the issue of NSHC, the Commission will make a final determination on the issue of NSHC, which will serve to establish when the hearing is held. If the final determination is that the license amendment request involves NSHC, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the license amendment request involves a

significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

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 designated 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 (*https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate*).

IV. 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 (*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 their 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 their 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 (*https://www.nrc.gov/site-help/e-submittals/getting-started.html*). After a digital ID certificate is obtained and a docket is created, the participant must submit adjudicatory documents in the Portable Document Format. Guidance on submissions is available on the NRC's public website (*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 in order to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website (*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, except Federal 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 on the NRC's public website (*https://ehd.nrc.gov*), unless otherwise excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing docket 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.

For further details with respect to this action, see the application for license amendment dated August 6, 2026 (ADAMS Accession No. ML26218A279).

Attorney for licensee: Rachel L. Jackson-Owens, VP, Chief Legal Officer, STP Nuclear Operating Company, P.O. Box 289, Wadsworth, TX 77483.

NRC Branch Chief: Hipólito González.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: August 24, 2026.

For the Nuclear Regulatory Commission.

Thomas Byrd,

Project Manager, Operating Reactor Licensing Branch 4, Division of Licensing Project I, Office of Nuclear Reactor Regulation.

[FR Doc. 2026–17408 Filed 8–25–26; 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. 2026–17344 Filed 8–25–26; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; New Matching Program

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, and Office of Management and Budget (OMB) guidance on computer matching, the U.S. Office of Personnel Management (OPM) is providing notice of the establishment of a new matching program. Pursuant to the Payment Integrity Information Act of 2019 (PIIA), OPM is establishing a matching program with the Department of the Treasury's Do Not Pay (DNP) Working System, which is administered by the Bureau of the Fiscal Service. The matching program will enable OPM Retirement Services to compare records maintained in OPM systems of records with records maintained in the DNP Working System for the purposes of identifying and preventing improper payments and conducting related recovery activities by verifying pre-payment eligibility through Do Not Pay. OPM has determined that this matching program satisfies the eligibility requirements for the waiver of the computer matching agreement requirement under OMB Memorandum M–25–32.

DATES: This matching program will become effective 30 days after publication of this notice and will remain in effect through September 10, 2029, unless terminated earlier or superseded.

ADDRESSES: You may submit written comments using the Federal eRulemaking Portal at *https://www.regulations.gov.* All submissions received must include the agency name

and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *https://www.regulations.gov* without change, which will include any personal identifiers submitted with the comments.

FOR FURTHER INFORMATION CONTACT: Yevette G. Overton, Chief, Retirement Eligibility and Services, by email at *Yevette.Overton@opm.gov* or by mail at Yevette G. Overton, Chief, Retirement Eligibility and Services, Room 6484, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415–0001.

SUPPLEMENTARY INFORMATION: The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503) amended the Privacy Act of 1974 (5 U.S.C. 552a) by establishing procedural safeguards governing agencies' use of computerized matching programs. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 further amended the Privacy Act by strengthening protections for individuals whose records are used in matching programs.

The Payment Integrity Information Act of 2019 (31 U.S.C. 3351 *et seq.*) authorizes the head of the agency operating the Do Not Pay Working System, in consultation with OMB, to waive the computer matching agreement requirements of 5 U.S.C. 552a(o) in any case or class of cases for matching activities conducted under 31 U.S.C. 3354. Pursuant to that authority, the Secretary of the Treasury, after consulting with the OMB Director, authorized a four-year waiver for the class of matching programs meeting the criteria established in OMB Memorandum M–25–32, *Preventing Improper Payments and Protecting Privacy Through Do Not Pay.*

OPM has determined that the matching program described in this notice satisfies the eligibility requirements for that waiver.

Participating Agencies

The Office of Personnel Management and the Department of the Treasury, Bureau of the Fiscal Service, Do Not Pay Working System.

Authority for Conducting the Matching Program

The Payment Integrity Information Act of 2019 (31 U.S.C. 3351–3358), including 31 U.S.C. 3354; Executive Order 14249, *Protecting America's Bank Account Against Fraud, Waste, and Abuse;* OMB Memorandum M–25–32, *Preventing Improper Payments and Protecting Privacy Through Do Not Pay;* and OPM's authorities for administering retirement benefits under chapters 83 and 84 of title 5, United States Code.

Purpose(s)

The purpose of this matching program is to support OPM Retirement Services' verification of continued eligibility for retirement benefit payments under Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) by comparing appropriate records with records maintained in Treasury's Do Not Pay Working System. Do Not Pay match results will not be used as the sole basis for suspending, terminating, denying, or recouping retirement benefits. OPM will independently verify any potential match and provide any notice, opportunity to contest, appeal rights, or other procedural protections by applicable law, regulation, or policy before taking adverse action.

Categories of Individuals

Former Federal employees, annuitants, survivors, beneficiaries, and other individuals whose records are maintained by OPM Retirement Services in connection with retirement benefits administered under the CSRS and FERS.

Categories of Records

Records necessary to verify continued eligibility for retirement benefit payments, including name, Social Security number, account claim number, taxpayer identification number, date of birth, address, and payment information.

System(s) of Records

The records contained within the DNP Working System are maintained in the system of records known as Department of the Treasury, Bureau of the Fiscal Service .017—Do Not Pay Payment Verification Records (85 FR 11776). This system of records includes those databases designated to be included in the DNP Working System by the Payment Integrity Information Act of 2019 as well as other databases designated for inclusion by the Director of the Office of Management and Budget, or the designee of the Director, in consultation with executive agencies. The OPM records involved in the matching program are maintained in OPM systems of records listed in the table below. The records involved in the matching program from OPM GOVT–1 are those maintained by OPM.

SORN No.	SORN name	**Federal Register** citations
OPM CENTRAL–1	Civil Service Retirement and Insurance Records.	73 FR 15013 (March 20, 2008), 80 FR 74815 (November 30, 2015), 91 FR 22553 (April 27, 2026).
OPM GOVT–1	General Personnel Records	77 FR 73694 (December 11, 2012), 80 FR 74815 (November 30, 2015), 91 FR 25937 (May 12, 2026).
OPM Internal-23 ..	Financial Management Records	88 FR 16282 (March 16, 2023), 91 FR 22553 (April 27, 2026).

U.S. Office of Personnel Management.

Alexys Stanley,

Federal Register Liaison.

[FR Doc. 2026–17369 Filed 8–25–26; 8:45 am]

BILLING CODE 6325–67–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 26, 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 14,

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 121 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2026–346 and K2026–340.

Colleen Hibbert-Kapler,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2026–17355 Filed 8–25–26; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Sunshine Act Meetings

TIME AND DATE: Wednesday, September 9, 2026, at 9:00 a.m. EST; Thursday, September 10, 2026, at 9:00 a.m. EST.

PLACE: Potomac, MD.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Wednesday, September 9, at 9:00 a.m.; Thursday, September 10, at 9:00 a.m.

1. Strategic Matters.
2. Financial and Operational Matters.
3. Administrative Matters.

General Counsel Certification: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act, 5 U.S.C. 552b.

CONTACT PERSON FOR MORE INFORMATION: Lucy C. Trout, Secretary of the Board of Governors, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

Lucy C. Trout,

Secretary.

[FR Doc. 2026–17407 Filed 8–24–26; 4:15 pm]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106173; File No. SR–Phlx–2026–52]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Various Phlx Rules

August 21, 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 19, 2026, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 1, Section 1, Applicability, Definitions and References; Options 2, Section 1, Application for Approval as an SQT, RSQT, or RSQTO and Assignment in Options; Options 4A, Section 6, Position Limits; Options 7, Section 1, General Provisions; and Options 8, Section 11, Floor Market Maker and Lead Market Maker Appointment, Section 25, Floor Allocation, and Section 39, B–6, Priority of Options Orders for Equity Options, Index Options and U.S. Dollar-Settled Foreign Currency Options by Account Type (EQUITY OPTION, INDEX OPTION AND U.S. DOLLAR-SETTLED FOREIGN CURRENCY OPTION ONLY).

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings,* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Phlx proposes to amend the following Rules: Options 1, Section 1, Applicability, Definitions and References; Options 2, Section 1, Application for Approval as an SQT, RSQT, or RSQTO and Assignment in Options; Options 4A, Section 6, Position Limits; Options 7, Section 1, General Provisions; and Options 8, Section 11, Floor Market Maker and Lead Market Maker Appointment, Section 25, Floor Allocation, and Section 39, B–6, Priority of Options Orders for Equity Options, Index Options and U.S. Dollar-Settled Foreign Currency Options by Account Type (EQUITY OPTION, INDEX OPTION AND U.S. DOLLAR-SETTLED FOREIGN CURRENCY OPTION ONLY).

Alphabetize Definitions and Amend Rule Citations

The Exchange proposes to amend Options 1, Section 1, Applicability, Definitions and References, to alphabetize the defined terms and make corresponding rule citation corrections at: Options 2, Section 1 (Application for Approval as an SQT, RSQT, or RSQTO and Assignment in Options); Options 7, Section 1 (General Provisions); and Options 8, Section 11 (Floor Market Maker and Lead Market Maker Appointment). The Exchange also proposes to amend Options 1, Section 1(b)(49) to change ''an'' to ''a'' within the description. These proposed amendments are non-substantive.

Remove Extraneous Text

The Exchange proposes to remove extraneous words from Options 4A, Section 6, Options Index Rules. The phrase ''in excess of 100,000 contracts for its own account or for the account of a customer'' is repeated twice in a row within the rule text. The Exchange proposes to remove the inadvertently repeated text. This proposed amendment is non-substantive.

Undefined Term and Conforming Usage of Term

The Exchange proposes to amend Options 8, Section 25, Floor Allocation, to replace the legacy term ''Off-Floor Broker-Dealer'' with ''broker-dealer.'' The term ''Off-Floor Broker-Dealer'' was removed from Phlx's Rules in 2025.[3] Phlx noted in that rule proposal that off-floor broker-dealers should be treated the same as other market participants. Therefore, Phlx believes the term ''broker-dealer'' is the appropriate replacement for this term because the term ''Off-Floor Broker-Dealer'' was not meant to refer to any specific floor participant currently defined in the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 101989 (December 30, 2024), 89 FR 106888 (December 31, 2024) (SR–Phlx–2024–71). The term ''Off-Floor Broker-Dealer Order'' meant an order delivered from off the floor of the Exchange by or on behalf of a broker-dealer for the proprietary account(s) of such broker-dealer, including an order for a market maker located on an exchange or trading floor other than the Exchange's trading floor delivered electronically for the proprietary account(s) of such market maker.

floor trading rules. The Exchange also proposes to lowercase ''Limit Orders'' to conform the use of the term Options 8 and remove the dated reference to Options 1, Section 1(b)(34). The Exchange also proposes to replace the lowercase ''off-floor broker-dealer'' references in Options 8, Section 39 at B–6, Priority of Options Orders for Equity Options, Index Options and U.S. Dollar-Settled Foreign Currency Options by Account Type (EQUITY OPTION, INDEX OPTION AND U.S. DOLLAR–SETTLED FOREIGN CURRENCY OPTION ONLY) with ''broker-dealer'' to conform the terms and remove the references to ''off-floor broker-dealer.'' The Exchange also proposes to remove the dated reference to Options 3, Section 7(b)(i)(C).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5) of the Act,[5] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that each of the proposed non-substantive amendments furthers these objectives by improving the clarity, accuracy, and internal consistency of the Exchange's rulebook, on which members, member organizations, and other market participants rely. The proposed amendments correct organizational, drafting, grammatical, and terminology errors without altering the substance of any rule.

The proposal to alphabetize the defined terms in Options 1, Section 1, Applicability, Definitions and References, and to make corresponding rule citation corrections at Options 2, Section 1, Options 7, Section 1, and Options 8, Section 11 should make it easier for market participants to locate the defined terms, and the amendments also ensure that cross-references throughout the rulebook accurately point to the renumbered definitions. The related amendment to Options 1, Section 1(b)(49) to change ''an'' to ''a'' is a grammatical correction that improves the readability of that provision.

The proposal to eliminate a repetition of the phrase ''in excess of 100,000 contracts for its own account or for the account of a customer'' is consistent with the Act because the repetition could create confusion among members and member organizations regarding their reporting obligations for options on market indexes.

The proposal to replace the legacy term ''Off-Floor Broker-Dealer'' and its lowercase variants (''off-floor broker-dealer'') with ''broker-dealer'' in Options 8, Section 25, Floor Allocation, and Options 8, Section 39 at B–6, Priority of Options Orders for Equity Options, Index Options and U.S. Dollar-Settled Foreign Currency Options by Account Type, conforms these floor rules to the Exchange's current rulebook. The defined term ''Off-Floor Broker-Dealer'' was removed from Phlx's Rules in 2025, and its continued use in Options 8, Section 25 and Section 39 at B–6 could confuse members and member organizations regarding the class of participants to which the applicable allocation and priority provisions refer. Replacing this legacy term with ''broker-dealer'' protects investors and the public interest by ensuring that the Exchange's floor rules reference a class of market participants that is currently used throughout the rulebook, consistent with the Exchange's stated intent, when it removed the ''Off-Floor Broker-Dealer'' definition, that off-floor broker-dealers be treated the same as other market participants. Finally, lowercasing ''Limit Order'' and removing dated references is consistent with the Act because it will conform the Rules and remove confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendments are non-substantive. Alphabetizing the defined terms in Options 1, Section 1 and updating the corresponding rule citations at Options 2, Section 1, Options 7, Section 1, and Options 8, Section 11, correcting the article in Options 1, Section 1(b)(49), removing the inadvertently duplicative phrase in Options 4A, Section 6, and replacing the legacy term ''Off-Floor Broker-Dealer'' and its lowercase variants with ''broker-dealer'' in Options 8, Section 25 and Options 8, Section 39 at B–6 are corrective and organizational changes that leave the substance of each affected rule unchanged. The proposed amendments will apply uniformly to all similarly situated members and member organizations. For these reasons, the Exchange does not believe that the proposed rule change will impose any burden on intra-market or inter-market competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and subparagraph (f)(6) of Rule 19b–4 thereunder.[7]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–Phlx–2026–52 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–Phlx–2026–52. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml.)* Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–Phlx–2026–52 and should be submitted on or before September 16, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–17361 Filed 8–25–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106175; File No. SR–NYSEAMER–2026–73]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 7.18E Regarding Trading Halts

August 21, 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 August 11, 2026, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.18E (''Trading Halts'') to set forth specific requirements for halting and resuming trading in a security that is subject to certain corporate actions. The proposed rule change is available on the Exchange's website at *www.nyse.com* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE American LLC (''NYSE American'' or the ''Exchange'') proposes to amend Rule 7.18 (''Trading Halts'') to set forth specific requirements for halting and resuming trading in a security that is subject to certain corporate actions.

In conjunction with the industry's plans for the introduction of trading 23 hours a day, 5 days a week (''23/5 Trading''), the Exchange's affiliate exchange, NYSE Arca, Inc. (''NYSE Arca''), filed with the Commission a proposal to amend its rules to set forth specific requirements for halting trading in a security for which the Exchange is the Primary Listing Market that is subject to certain issuer-related corporate actions and for resuming trading in that security using a Trading Halt Auction. NYSE Arca explained that the proposal would expand on the framework already in place with respect to its authority to declare a mandatory regulatory halt in advance of a reverse stock split, thereby providing greater transparency and clarity with respect to the situations in which trading certain securities subject to issuer-related corporate actions will be halted and the process through which that halt will be implemented and terminated. On July 8, 2026, the Commission published a notice of filing and immediate effectiveness of NYSE Arca's proposal.[4]

The Exchange now proposes to make the same changes to its own rules. The Exchange understands that the other Primary Listing Markets also plan to implement substantially identical versions of this rule to ensure consistent treatment of corporate actions across the market.

Background

In 2024, the Commission noticed for immediate effectiveness the Exchange's filing establishing the Exchange's authority to declare a mandatory regulatory halt in a security for which the Exchange is the Primary Listing Market when that security is subject to a reverse stock split.[5] Specifically, the Exchange proposed halting such a security before the end of the Late Trading Session on the day immediately before the effective date of a reverse stock split, with trading to resume with a Trading Halt Auction at 9:00 a.m. Eastern Time (''ET'')—instead of 4:00 a.m. ET—on the next trading day. The Exchange noted that because it processes reverse stock splits overnight, having the security reopen for trading at 4:00 a.m. ET raised the ''potential for errors resulting in a material effect on the market resulting from market participants' processing of the reverse stock split, including incorrect adjustment or entry of orders.''[6] The Exchange explained that this concern could be rectified by imposing a trading halt, ''which would prohibit pre-market trading immediately after a reverse stock split'' and open trading in such securities at 9:00 a.m. ET instead of 4:00 a.m. ET.[7] The Exchange further noted that imposing such a trading halt and deferring the opening of the security until 9:00 a.m. ET would ''allow the Exchange and market participants to better detect any errors or problems with orders for the security resulting from the reverse stock split before trading in the security begins and thereby avoid any material effect on the market.''[8] In approving the substantively identical proposal of

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Release No. 105862 (July 8, 2026), 91 FR 42999 (July 13, 2026) (SR–NYSEARCA–2026–71) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 7.18–E Regarding Regulatory Halts for Corporate Actions and Issuer-Related Events).

[5] *See* Securities Exchange Act Release No. 99863 (March 27, 2024), 89 FR 22757 (April 2, 2024) (SR–NYSEAMER–2024–22) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 7.18E) (''Reverse Stock Split Proposal'').

[6] *Id.,* 89 FR at 22769.

[7] *Id.,* 89 FR at 22758.

[8] *Id.*

another market, the Commission noted that the proposal was ''designed to promote fair and orderly trading on the Exchange by reducing the potential for order entry or other system-related errors associated with a reverse stock split in a security for which [the Exchange] is the Primary Listing Market.'' [9]

With the launch of 23/5 Trading later this year, the concerns that led the Exchange to adopt a regulatory halt framework for reverse stock splits will likewise arise with respect to a broader set of corporate actions. Although the Exchange does not currently plan to extend its own trading hours, the Exchange is a primary listing market whose listed securities may trade on any venue, including NYSE Arca and other exchanges that opt to offer 23/5 Trading. Under the current market structure, the Exchange processes corporate action-related changes and updates for its listed securities during overnight hours. Other market participants, including broker-dealers, likewise use that overnight period to process corporate action-related information and adjust quotes, orders, and related instructions accordingly.

Under 23/5 Trading, however, trading in the Exchange's listed securities will resume on other markets at 9:00 p.m., only one hour after the close of trading at 8:00 p.m. Consequently, there will no longer be a substantial non-trading window during which the Exchange and market participants can process such corporate actions without potentially impacting overnight trading on other markets. These corporate actions require coordinated updates across Exchange and market-participant systems—including adjustments to orders, quotes, and related instructions—to ensure orderly trading and accurate pricing and execution in the affected security. With only a one-hour pause between trading days, neither the Exchange nor other market participants would have sufficient time to process and incorporate corporate action-related information—such as adjustments to systems, orders, quotes, and related instructions—without the risk that trading could occur in the affected security based on incomplete or inconsistent information. In short, the continued trading of securities undergoing such corporate actions could potentially result in price dislocations, investor confusion, erroneous executions, and general operational risk.

To address these concerns, the Exchange proposes to implement the same changes that the Commission recently noticed for immediate effectiveness on NYSE Arca. The Exchange proposes to build on the framework established under Rule 7.18E for reverse stock splits by extending that rule's mandatory regulatory halt requirement to additional corporate actions that, much like reverse stock splits, require a clearly defined and transparent pause in trading to permit coordinated processing. As proposed, under 23/5 Trading, if a security is affected by any of the corporate actions enumerated in the proposal, the Exchange would implement a mandatory regulatory halt [10] in that security before the start of overnight trading on other markets at 9:00 p.m. ET, and trading would resume with a Trading Halt Auction at 8:00 a.m. ET.[11] The Exchange believes these changes would provide important operational safeguards by ensuring that both the Exchange and market participants have adequate time to process such corporate actions in a nearly continuous trading environment, thereby preserving a protection that has historically been implicit in a market structure with limited trading hours.

Proposed Rule Change

Implicit in Rule 7.18E is the recognition that certain corporate actions—such as reverse stock splits—require a clearly defined and transparent pause in trading to permit their coordinated processing and thereby avoid the risks associated with concurrent trading in the affected security while that processing is underway. The same principle applies to the categories of corporate actions addressed in this proposal, particularly in the context of nearly continuous trading.

In the context of 23/5 Trading, the Exchange has determined—based on discussions both internal and with industry participants, including the other Primary Listing Markets—that, similar to reverse stock splits, certain other corporate actions require a clearly defined and transparent pause in trading to facilitate their coordinated processing by the Exchange and other market participants before orderly trading may resume in the affected security.

Specifically, the Exchange believes that the following issuer-related corporate actions are analogous to reverse stock splits with respect to processing requirements and thus warrant analogous treatment with respect to their categorization and regulatory response: (1) changes in trading symbol, (2) changes in CUSIP number, (3) dividends equal to at least 25% of the Official Closing Price; [12] (4) stock splits (including forward and reverse stock splits); (5) De-SPAC transactions; (6) spin-off transactions; (7) security-type changes; (8) mergers or similar mandatory exchanges of shares; and (9) any other corporate action or issuer-related event not enumerated above, for which the Exchange determines that a regulatory halt is appropriate for the maintenance of fair and orderly markets, the protection of investors, or otherwise in the public interest, as described below. Like reverse stock splits, these corporate actions all involve non-discretionary changes to core security characteristics that require synchronized updates across Exchange and market-participant systems.

Accordingly, the Exchange proposes to amend Rule 7.18E and make certain conforming changes to incorporate such corporate actions into the regulatory framework established for corporate actions consisting of reverse stock splits, as follows.

The Exchange proposes to amend Rule 7.18E(b)(1)(A)(iii) to extend the current reverse stock split regulatory halt framework to the categories of other corporate actions discussed above that, in addition to reverse stock splits, would be subject to the mandatory regulatory requirements of that rule. The Exchange accordingly proposes to delete the current text of Rule 7.18E(b)(1)(A)(iii) and replace it with revised text stating that the Exchange will declare a Regulatory Halt:

> for a security for which the Exchange is the Primary Listing Market that is the subject of an issuer corporate action or other issuer-related event referenced below after the end of the Late Trading Session and before 9:00 p.m. ET on the day immediately preceding the market effective date of such issuer corporate action or issuer-related event (''Corporate Action Halt''). A security subject to an issuer corporate action or issuer event-related Regulatory Halt pursuant to this rule will resume trading with a Trading Halt Auction at 8:00 a.m. ET on the market

[9] *See* Securities Exchange Act Release No. 98878 (November 7, 2023), 88 FR 78081 (November 14, 2023) SR–NASDAQ–2023–036) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Change, as Modified by Amendment No. 1, Relating to Nasdaq Rules 4120 and 4753).

[10] Notification of the declaration and termination of the proposed regulatory halt would be provided in accordance with Rule 7.18E.

[11] As described below, the Exchange also proposes a conforming change to move the time for the Trading Halt Auction that re-opens trading after a reverse stock split regulatory halt to 8:00 a.m. ET, from the current time of 9:00 a.m. ET.

[12] The term ''Official Closing Price'' is defined in Rule 1.1E(gg).

effective date of such corporate action or issuer-related event.

The Exchange proposes to further amend Rule 7.18E(b)(1)(A)(iii) to provide that ''[f]or purposes of this rule, the following shall be deemed corporate actions or issuer-related events subject to the mandatory Regulatory Halt provisions of this rule,'' followed by the nine categories of corporate actions discussed above that would be subject to a mandatory regulatory halt under that provision. As proposed, the nine categories of enumerated corporate actions subject to a mandatory regulatory halt would consist of the following corporate actions: (1) trading symbol changes; [13] (2) changes in CUSIP; [14] (3) dividends equal to at least 25% of the Official Closing Price; [15] (4) forward (and reverse) stock splits; [16] (5) de-SPAC transactions; [17] (6) spin-off transactions; [18] (7) security-type changes; [19] (8) mergers/mandatory exchanges; [20] and (9) other corporate actions or issuer-related events not specifically enumerated in (1)–(8) above as more particularly described below.[21]

Specifically, proposed Rule 7.18E(b)(1)(A)(iii)(9) would require the Exchange to declare a regulatory halt for any other corporate action or issuer-related event not enumerated in (1)–(8) above for which the Exchange determines, based on the totality of the circumstances and any information available to it, including without limitation information obtained from the issuer, that a regulatory halt is necessary or appropriate for the maintenance of fair and orderly markets, the protection of investors, or otherwise in the public interest.

This residual provision is designed to capture issuer-related corporate actions that, while not enumerated in Rule 7.18E(b)(1)(A)(iii)(1)–(8), raise operational or market-integrity concerns comparable to those actions. Once the Exchange determines that such a corporate action warrants a Regulatory Halt based on its application of the standards in Rule 7.18E(b)(1)(A)(iii)(9), implementation of the regulatory halt would be required.[22] Accordingly, the provision is intended to promote consistent regulatory treatment across comparable corporate actions and to preserve transparency and uniformity in the application of the proposed framework in a 23/5 Trading environment.

Timing of Corporate Action Regulatory Halts

The Exchange proposes that under 23/5 Trading, the mandatory regulatory halts described above in proposed Rule 7.18E(b)(1)(A)(iii) would be implemented after the conclusion of the Late Trading Session and before the start of overnight trading on other markets at 9:00 p.m. ET. This timing differs from the Exchange's current process for reverse stock split regulatory halts, pursuant to which the Exchange implements the mandatory regulatory halt at 7:50 p.m. ET, before the end of the Late Trading Session, on the day immediately before the reverse split becomes effective. That approach has been feasible in the reverse stock split context, but this proposal would extend the mandatory regulatory halt framework beyond reverse stock splits to a broader set of corporate actions that, although differing in form, share the need for coordinated systems and reference-data updates before trading may resume in an orderly manner. Because some of those actions may involve entirely new symbols or CUSIPs that would not yet exist at 7:50 p.m. ET on the prior trading day, the Exchange does not believe that the current reverse stock split timing can practicably be applied across the full set of covered corporate actions. The Exchange therefore believes it is reasonable, in the context of 23/5 Trading, to adopt a single, uniform implementation time for all halts under proposed Rule 7.18E(b)(1)(A)(iii)—after the Late Trading Session and before overnight trading begins on other markets at 9:00 p.m. ET—which would facilitate consistent treatment of covered corporate actions and enable the halts to be implemented through an automated process.[23] This timing would apply to

[13] As proposed, Rule 7.18E(b)(1)(A)(iii)(1) would define changes to any ''Trading Symbol'' as ''a change in the issuer's trading symbol.''

[14] As proposed, Rule 7.18E(b)(1)(A)(iii)(2) would define changes in ''CUSIP'' as ''[a] change in the issuer's Committee on Uniform Securities Identification Procedures (''CUSIP'').''

[15] As proposed, Rule 7.18E(b)(1)(A)(iii)(3) would define ''Dividend'' transactions as ''[s]tock dividends, whether payable in cash, stock, or another security of the issuer (or a subsidiary or other affiliate of the issuer), or any combination thereof, other than stock splits or similar adjustments described in paragraph (4), where the Exchange determines that such dividend has an aggregate value per share that is equal to at least 25% of the Official Closing Price of the affected security on the date immediately preceding the ex-date of such dividend; provided, however, that if no such Official Closing Price is available, the Exchange shall use the most recent available Official Closing Price for such shares (or other securities).''

[16] As proposed, Rule 7.18E(b)(1)(A)(iii)(4) would define ''Forward, Reverse Stock Splits'' as ''[a]ny stock split or similar adjustment that affects the number of outstanding shares of an issuer or changes the relative equity ownership of holders of such shares, including any forward or reverse stock split, subdivision, reclassification, or combination of shares, or any similar transaction that has the effect of adjusting the number of outstanding shares or the relative equity ownership of holders, whether effected pursuant to a fixed or variable exchange ratio or otherwise, and whether occurring as a stand-alone action or in conjunction with any other corporate action or issuer-related event.''

[17] As proposed, Rule 7.18E(b)(1)(A)(iii)(5) would define a ''De-SPAC'' transaction as ''[a]ny De-SPAC transaction, as that term is defined in Item 1601(a) of Regulation S–K.''

[18] As proposed, Rule 7.18E(b)(1)(A)(iii)(6) would define a ''Spin-off'' transactions as ''[a]ny transaction in which an issuer distributes to its security holders, on a pro rata basis, (i) equity securities of a subsidiary or other business that is separated into a new or existing standalone issuer; or (ii) any different class of securities.''

[19] As proposed, Rule 7.18E(b)(1)(A)(iii)(7) would define a ''Security Type Change'' as ''[a]ny change in the form, type, class, or designation of a listed security, including, without limitation, (i) American Depositary Receipts or American Depositary Shares (''ADR''/''ADS'') to ordinary shares (and ordinary shares to ADR/ADS); (ii) conversions between ordinary shares and common stock (in either direction); and (iii) similar transactions.''

[20] As proposed, Rule 7.18E(b)(1)(A)(iii)(8) would define a ''Merger/Mandatory Exchange'' as ''[a]ny merger, consolidation, statutory share exchange, or similar business combination or corporate action that results in the affected security being mandatorily exchanged, converted, redeemed, or cancelled for cash, securities, or other consideration (including an exchange into securities of a successor issuer); provided, however, that this paragraph (8) does not include transactions that solely effect a change in the issuer's (company) name without a mandatory exchange of the affected security.''

[21] As proposed, Rule 7.18E(b)(1)(A)(iii)(9) would define any ''Other Corporate Action or Issuer-Related Event'' as ''[a]ny other corporate action or issuer-related event not enumerated in (1)–(8) above for which the Exchange determines, based on the totality of the circumstances and any information available to it, including without limitation information obtained from the issuer, that a Regulatory Halt is necessary or appropriate for the maintenance of fair and orderly markets, the protection of investors, or otherwise in the public interest.''

[22] Such determination would be made by the Exchange's senior trading and regulatory officials in advance of the corporate action effective date.

[23] *See* Exchange proposed Rule 7.18E(b)(1)(A)(iii). Shifting the implementation time for such regulatory halts from 7:50 p.m. to before 9:00 p.m. would not have a material effect on market participants. The Exchange notes that market participants, including alternative trading systems (''ATSs''), would have advance notice of the types of issuer corporate actions addressed in this proposal through the Exchange's existing issuer notification, market notice, and public dissemination mechanisms. Under the Exchange's existing listing and related rules and/or procedures, listed issuers are required in various circumstances to provide the Exchange advance notice of corporate actions and to publicly disclose such events before they become effective. In addition, the Exchange's established corporate action processing and market notification procedures generally result in the Exchange receiving notice of, and disseminating information concerning, other covered corporate actions sufficiently in advance of their effectiveness to support the orderly implementation of the proposed halt process. Accordingly, the Exchange believes that ATSs and other market participants would have adequate

each of the corporate actions addressed in this filing, as well as to the Exchange's existing reverse stock split regulatory halt. The proposed change to the timing for the implementation of the reverse stock split regulatory halt is therefore conforming in nature, as it is intended only to align that halt with the trading session structure under 23/5 Trading.

Resumption of Trading After Corporate Action-Related Regulatory Halts

The Exchange proposes to amend Rule 7.18E(b)(5)(B)(iii) to provide that under 23/5 Trading, trading in a security halted pursuant to proposed Rule 7.18E(b)(1)(A)(iii) would resume ''at 8:00 a.m. ET with a Trading Halt Auction on the market effective date of such corporate action or issuer-related event.'' [24] This is similar to the Exchange's current process with respect to reverse stock split regulatory halts, where the Exchange resumes trading at 9:00 a.m. ET, with a modification to 8:00 a.m. ET from 9:00 a.m. ET.

In supporting its reverse stock split-related proposal, the Exchange explained that re-opening the security at 9:00 a.m. ET, ''which is after the start of early trading on other markets and the Exchange but before the opening of the Exchange's Core Trading Session at 9:30 a.m., would promote fair and orderly trading, protect investors, and promote the public interest by allowing market participants and the Exchange a better opportunity to notice errors or problems with orders for the security because it would be opening for trading at a unique time, and not at a time when thousands of other securities open for trading.'' [25]

Since the introduction of the reverse stock split regulatory halt in 2024, the Exchange has determined that it would be preferable to re-open from a reverse stock split halt at 8:00 a.m. ET instead of 9:00 a.m. ET. That alteration would provide for an additional hour of liquidity formation and price discovery before the 9:30 a.m. ET Core Opening Auction, while still being consistent with the rationales cited above for re-opening trading at a ''unique'' time. Specifically, the Exchange believes that resuming trading in the affected securities at 8:00 a.m. ET is appropriate because the proposed pause in trading provides a sufficient and transparent interval for the Exchange and market participants to complete the processing of such corporate actions and the earlier resumption of trading would provide the affected securities with additional price discovery and liquidity formation opportunities before participating in the Core Opening Auction at 9:30 a.m. ET.

Consistent with that rationale, the Exchange proposes that the securities subject to the mandatory regulatory halts addressed in this filing, including reverse stock splits, would re-open at 8:00 a.m. ET.[26] To effectuate this change, the Exchange proposes to amend the re-opening time for securities subject to a reverse stock split-related regulatory halt to 8:00 a.m. ET (from 9:00 a.m. ET) and to apply that same 8:00 a.m. ET re-opening time to the additional corporate action-related regulatory halts covered under proposed Rule 7.18E(b)(1)(A)(iii). This proposed change is based on the Exchange's experience with reverse stock splits and is designed to promote uniformity and transparency with respect to the resumption of trading in securities subject to a corporate actions-related regulatory halt under proposed Rule 7.18E(b)(1)(A)(iii).

In sum, the corporate actions addressed in this proposal raise operational and market integrity concerns in a 23/5 Trading environment that mirror the concerns addressed by the Commission in approving the Exchange's Reverse Stock Split Proposal. Under 23/5 Trading, the Exchange will no longer have a substantial non-trading window during which it and other market participants can process these corporate actions before trading resumes. With only one hour between trading days, neither the Exchange nor other market participants would have sufficient time to process and incorporate corporate action-related information, resulting in a risk of price dislocations, investor confusion, erroneous executions, and broader operational issues. The Exchange believes that extending its reverse stock split regulatory framework to the additional corporate actions described herein would appropriately preserve, in a 23/5 Trading environment, the safeguard implicit in the current market structure—specifically, the overnight pause in trading that allows for coordinated processing and related systems and reference-data updates. Accordingly, the proposal would promote fair and orderly trading, mitigate operational risk, and help ensure that trading resumes only after those updates have been completed.

Implementation

The Exchange understands that the other Primary Listing Exchanges plan to implement substantially identical versions of this rule to ensure consistent treatment of corporate actions across the market. The Exchange proposes that the changes in this proposal and in the other Primary Listing Exchanges' similar filings would become operative at the commencement of 23/5 Trading.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[27] in general, and furthers the objectives of Section 6(b)(5) of the Act,[28] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes that the proposed rules will provide greater transparency and clarity with respect to the situations in which trading will be halted due to certain corporate actions and the process through which that halt will be implemented and terminated, as discussed below.

The Exchange believes that extending the reverse stock split regulatory halt framework to the additional, analogous corporate actions addressed in this proposal would promote free and open trade, protect investors, and serve the public interest by helping to ensure fair and orderly markets. Specifically, the proposal would preserve and apply an established, transparent framework for pausing and resuming trading in securities subject to reverse stock splits to certain corporate actions with analogous processing requirements, so that trading in an affected security does not occur before the corporate action has been processed and the related systems and reference-data updates have been completed and applied across the market.

With respect to the specific categories of corporate actions addressed in this proposal, the Exchange believes that it is reasonable and appropriate to extend the regulatory halt framework applicable to reverse stock splits to certain categories of corporate actions with analogous processing requirements, as more specifically described above. Like reverse stock splits, these corporate actions all

advance awareness of the types of corporate actions addressed by this proposal to make informed business decisions with respect to the affected securities, and that proposed Rule 7.18E(b)(1)(A)(iii) thus provides a transparent and appropriate mechanism for addressing such corporate actions in a 23/5 Trading environment.

[24] *See* proposed Rule 7.18E(b)(5)(B)(iii).

[25] *See* Reverse Stock Split Proposal, *supra* note 5, 89 FR at 22758.

[26] *See* proposed Rule 7.18E(b)(1)(A)(iii).

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(5).

involve non-discretionary changes to core security characteristics that require synchronized updates across Exchange and market-participant systems.

Under the current market structure, an overnight pause in trading has historically provided a defined non-trading window during which the Exchange and other market participants have sufficient time to process such corporate actions in an orderly and coordinated manner prior to the resumption of trading. But in the 23/5 Trading environment, with only one hour of non-trading time between trading days, there is a substantial chance that trading in an impacted security could occur based on incomplete, inconsistent, or partially updated information, giving rise to pricing anomalies, investor confusion, erroneous executions, and heightened operational risk. The Exchange believes the proposed approach promotes fair and orderly markets by helping to ensure that trading resumes only once systems and reference data concerning these corporate actions have been fully and consistently updated across the marketplace.

With respect to the mandatory regulatory halts specifically enumerated in proposed Rule 7.18E(b)(1)(A)(iii)(1)–(8), if the corporate action falls within the categories enumerated in the rule, the Exchange will not have discretion about whether to declare a trading halt in the affected security.

In addition, proposed Rule 7.18E(b)(1)(A)(iii)(9) is intended to operate as a residual provision covering issuer-related corporate actions not enumerated in Rule 7.18E(b)(1)(A)(iii)(1)–(8) that nonetheless raise operational or market-integrity concerns comparable to those presented by the enumerated actions. Under that provision, when the Exchange determines, based on the totality of the circumstances and the information available to it, including information obtained from the issuer, that it is necessary or appropriate for the maintenance of fair and orderly markets, the protection of investors, or otherwise in the public interest, it would be required to declare a regulatory halt in that security. Once the Exchange makes that determination, the regulatory halt would be mandatory, thereby avoiding ad hoc treatment once the applicable standard has been met. In that respect, proposed Rule 7.18E(b)(1)(A)(iii)(9) serves as a narrow residual mechanism designed to promote consistent regulatory treatment across comparable corporate actions and to preserve transparency and uniformity in the application of proposed Rule 7.18E(b)(1)(A)(iii) in a 23/5 Trading environment by requiring the Exchange to declare a regulatory halt in such cases. The Exchange therefore believes that it is reasonable and appropriate to extend its authority to declare a regulatory halt in this instance.

In all cases under proposed Rule 7.18E(b)(1)(A)(iii), a mandatory regulatory halt in the affected security would be implemented after the conclusion of the Late Trading Session and before the start of overnight trading on other markets at 9:00 p.m. ET on the date immediately preceding the market-effective date of the corporate action.

The Exchange also believes it is reasonable and appropriate to use a Trading Halt Auction under Rule 7.35E to re-open trading in a security that is subject to a regulatory halt pursuant to this proposal because it is consistent with the process that the Exchange currently uses to re-open a security after a reverse stock split regulatory halt, and the operational complexity and processing demands associated with such corporate actions are comparable to those involved regarding reverse stock splits. Furthermore, using a Trading Halt Auction to re-open trading after the regulatory halts addressed in this proposal is consistent with the process that is typically used by the Exchange when re-opening a security that has been halted under Rule 7.18E. Applying a uniform, previously approved framework enhances transparency and predictability for issuers, investors, and market participants.

The Exchange believes that resuming trading in the corporate action-impacted securities addressed in this proposal at 8:00 a.m. ET would promote fair and orderly markets, protect investors, and serve the public interest by providing the Exchange and market participants sufficient time to process the relevant corporate actions correctly. The Exchange further believes that resuming trading in the affected securities through a Trading Halt Auction at 8:00 a.m. ET, rather than at 9:30 a.m. ET through a Core Open Auction, would provide a more focused re-opening window and a better opportunity to identify and address potential order-entry or processing issues before the broader market opening, when thousands of other securities are undergoing their opening process.

The Exchange's proposal to make conforming changes to its existing reverse stock split regulatory halt structure to harmonize the halt time and re-opening time with the times proposed in this filing is reasonable and would promote transparency and predictability for issuers, investors, and market participants. As described above, the current practice of implementing a mandatory regulatory halt for a security undergoing a reverse stock split at 7:50 p.m. ET has been feasible in the reverse stock split context, but this proposal would extend the mandatory regulatory halt framework beyond reverse stock splits to a broader set of corporate actions that, although differing in form, share the need for coordinated systems and reference-data updates before trading may resume in an orderly manner. Because some of those actions may involve entirely new symbols or CUSIPs that would not yet exist at 7:50 p.m. ET on the prior trading day, the Exchange does not believe that the current reverse stock split timing can practicably be applied across the full set of covered corporate actions. The Exchange therefore believes it is reasonable, in the context of 23/5 Trading, to adopt a single, uniform implementation time for all halts under proposed Rule 7.18E(b)(1)(A)(iii)—after the Late Trading Session and before overnight trading begins on other markets at 9:00 p.m. ET—which would facilitate consistent treatment of comparable corporate actions, enhance transparency and predictability for issuers, investors, and market participants, and support the orderly and automated implementation of such halts. The Exchange also believes that the proposal is consistent with Section 6(b)(5) of the Act because the Exchange's existing issuer notification, market notice, and public dissemination mechanisms generally provide market participants with advance awareness of the types of corporate actions addressed herein, thereby supporting the orderly implementation of the proposed halt process and helping to protect investors and the public interest.

Similarly, the Exchange believes its proposal to move the re-opening time for a symbol after a reverse stock split regulatory halt to 8:00 a.m. ET from 9:00 a.m. ET would remove impediments to and perfect the mechanism of a free and open market and a national market system by creating uniformity in the re-opening times for securities after a corporate action regulatory halt. As discussed above, the Exchange believes that the proposed duration of the regulatory halt is appropriate to permit full processing of the proposed corporate actions and resuming trading in the security at an earlier time, as proposed, would provide the security with opportunities for enhancing price discovery and liquidity before

participating in the Core Open Auction at 9:30 a.m. ET.

The Exchange notes that these timing harmonization changes are purely conforming and that, by aligning the reverse stock split provisions with the corporate action-related halts described in this filing, the proposal promotes a consistent and harmonized rule structure, enhances transparency and predictability for issuers, investors, and market participants, and reduces the potential for confusion.

Overall, establishing mandatory trading halts for securities that are subject to the corporate actions addressed in this filing and resuming trading thereafter promotes fair and orderly markets and the protection of investors, because it allows the Exchange to protect the broader interests of the national market system and addresses potential concerns that system errors may affect immediate trading in those securities. The Exchange believes that with the advent of 23/5 Trading, the proposed rules will help the Exchange reduce the potential for errors resulting in a material effect on the market resulting from the challenge of processing such corporate actions with only a one-hour non-trading window between trading days. As discussed above, in a 23/5 Trading environment, overnight trading on other markets will begin only one hour after trading closes on the Exchange, meaning that there will no longer be a substantial overnight period during which the Exchange can process corporate actions of the type addressed in this proposal. By extending the existing reverse stock split regulatory halt framework to those categories of corporate actions, the proposal is designed to preserve the safeguards currently afforded by that overnight pause.

For these reasons, the Exchange believes that the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system by mitigating operational and market integrity risks that would otherwise arise in a nearly continuous trading environment. By helping to ensure that trading resumes only after corporate action processing has been completed in an orderly and coordinated manner, the proposed rule change promotes just and equitable principles of trade and protects investors and the public interest, consistent with Sections 6(b) and 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal will not impose a burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change is designed to protect investors and facilitate a fair and orderly market, which are both important purposes of the Act. To the extent that there is any impact on intermarket competition, it is incidental to these objectives.

Rather, the proposed changes will promote competition by ensuring that trading in corporate action-affected securities resumes only when the Exchange has processed corporate actions in a coordinated manner across Exchange and market participants' systems, consistent with its obligations as a primary listing market, thereby avoiding concurrent trading and potential confusion with respect to the affected securities while such corporate action processing is underway. In addition, the Exchange believes that the proposal does not impose any burden on competition because it applies equally to all issuers and market participants. The proposal builds on an established, uniform, and transparent framework governing the timing of trading halts and resumptions in trading in connection with certain corporate actions and is designed to address operational and market-integrity concerns, rather than competitive considerations. In substance, the proposal preserves an operational safeguard implicit in the current market structure and adapts that safeguard to a nearly continuous trading environment by extending the well-established reverse stock split framework to analogous corporate actions. By helping to ensure that trading resumes only after systems and reference data have been updated in a coordinated manner, the proposal promotes fair and orderly markets and enhances, rather than burdens, competition.

The Exchange does not believe that the proposed rule change imposes a burden on intra-market competition because the provisions apply to all market participants and issuers equally. In addition, information regarding the halting and resumption of trading will be disseminated using several freely accessible sources to ensure the widespread availability of that information.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [29] and subparagraph (f)(6) of Rule 19b–4 thereunder.[30]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [31] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEAMER–2026–73 on the subject line.

[29] 15 U.S.C. 78s(b)(3)(A)(iii).

[30] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[31] 15 U.S.C. 78s(b)(2)(B).

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEAMER–2026–73. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEAMER–2026–73 and should be submitted on or before September 16, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–17363 Filed 8–25–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–11436; 34–106170]

Order Making Fiscal Year 2027 Annual Adjustments to Registration Fee Rates

August 21, 2026.

I. Background

The Commission collects fees under various provisions of the securities laws. Section 6(b) of the Securities Act of 1933 (''Securities Act'') requires the Commission to collect fees from issuers on the registration of securities.[1] Section 13(e) of the Securities Exchange Act of 1934 (''Exchange Act'') requires the Commission to collect fees on specified purchases of securities.[2] Section 14(g) of the Exchange Act requires the Commission to collect fees on specified proxy solicitations and specified tender offers.[3] These provisions require the Commission to make annual adjustments to the applicable fee rates.

II. Fiscal Year 2027 Annual Adjustment to Fee Rates

Section 6(b)(2) of the Securities Act requires the Commission to make an annual adjustment to the fee rate applicable under section 6(b).[4] The annual adjustment to the fee rate under section 6(b) of the Securities Act also sets the annual adjustment to the fee rates under sections 13(e) and 14(g) of the Exchange Act.[5]

Section 6(b)(2) sets forth the method for determining the annual adjustment to the fee rate under section 6(b) for fiscal year 2027. Specifically, the Commission must adjust the fee rate under section 6(b) to a ''rate that, when applied to the baseline estimate of the aggregate maximum offering prices for [fiscal year 2027], is reasonably likely to produce aggregate fee collections under [section 6(b)] that are equal to the target fee collection amount for [fiscal year 2027].'' That is, the adjusted rate is determined by dividing the ''target fee collection amount'' for fiscal year 2027 by the ''baseline estimate of the aggregate maximum offering prices'' for fiscal year 2027.

III. Target Fee Collection Amount for FY 2027

The statutory ''target fee collection amount'' for fiscal year 2021 and ''each fiscal year thereafter'' is ''an amount that is equal to the target fee collection amount for the prior fiscal year, adjusted by the rate of inflation.'' [6] Consistent with the fiscal year 2021 calculation, the Commission has determined that it will use an approach similar to one that it uses to annually adjust civil monetary penalties by the rate of inflation.[7] Under this approach, the Commission will use the year-over-year change, rounded to five decimal places, in the Consumer Price Index for All Urban Consumers (''CPI–U''), not seasonally adjusted, in calculating the target fee collection amount, which is then rounded to the nearest whole dollar. The calculation for the fiscal year 2027 target fee collection amount is described in more detail below.

The most recent CPI–U index value, not seasonally adjusted, available for use by the Commission at the time this fee rate update was prepared was for June 2026. This value is 333.952.[8] The CPI–U index value, not seasonally adjusted, for June 2025 is 322.561.[9] Dividing the June 2026 value by the June 2025 value and rounding to five decimal places yields a multiplier value of 1.03531. Multiplying the fiscal year 2026 target fee collection amount of $887,800,554 [10] by the multiplier value of 1.03531 and rounding to the nearest whole dollar yields a fiscal year 2027 target fee collection amount of $919,148,792.

Section 6(b)(6)(B) defines the ''baseline estimate of the aggregate maximum offering prices'' for fiscal year 2027 as ''the baseline estimate of the aggregate maximum offering price at which securities are proposed to be offered pursuant to registration statements filed with the Commission during [fiscal year 2027] as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget . . . .''

To make the baseline estimate of the aggregate maximum offering prices for fiscal year 2027, the Commission is using the methodology it has used in prior fiscal years and that was developed in consultation with the Congressional Budget Office and OMB.[11] Using this methodology, the Commission determines the ''baseline estimate of the aggregate maximum

[32] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 77f(b).

[2] 15 U.S.C. 78m(e). Per section 13(e)(2), a purchase by or for the issuer or any person controlling, controlled by, or under common control with the issuer, or a purchase subject to control of the issuer or any such person, shall be deemed to be a purchase by the issuer for some or all purposes of section 13(e)(1).

[3] 15 U.S.C. 78n(g).

[4] 15 U.S.C. 77f(b)(2). The annual adjustments are designed to adjust the fee rate in a given fiscal year so that, when applied to the aggregate maximum offering prices at which securities are proposed to be offered for the fiscal year, it is reasonably likely to produce total fee collections under section 6(b) equal to the ''target fee collection amount'' required by section 6(b)(6)(A) for that fiscal year.

[5] 15 U.S.C. 78m(e)(4) and 15 U.S.C. 78n(g)(4).

[6] 15 U.S.C. 77f(b)(6)(A).

[7] The Commission annually adjusts for inflation the civil monetary penalties that can be imposed under the statutes administered by Commission, as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, pursuant to guidance from the Office of Management and Budget (''OMB''). See OMB Dec. 16, 2019, Memorandum for the Heads of Executive Departments and Agencies,'' M–20–05, on ''Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.''

[8] This value was announced July 14, 2026. See *https://www.bls.gov/news.release/archives/cpi_07142026.htm*.

[9] See ''Table 1. Consumer Price Index for All Urban Consumers (CPI–U): U.S. city average, by expenditure category, June 2026'' in the announcement referenced above.

[10] See 90 FR 41847, published Aug. 27, 2025 (*https://www.federalregister.gov/documents/2025/08/27/2025-16387/order-making-fiscal-year-2026-annual-adjustments-to-registration-fee-rates*).

[11] Appendix A explains how we determined the ''baseline estimate of the aggregate maximum offering prices'' for fiscal year 2027 using our methodology, and then shows the arithmetical process of calculating the fiscal year 2027 annual adjustment based on that estimate. The appendix includes the data used by the Commission in making its ''baseline estimate of the aggregate maximum offering prices'' for fiscal year 2027.

offering price'' for fiscal year 2027 to be $10,561,145,911,745. Based on this estimate and the fiscal year 2027 target fee collection amount, the Commission calculates the fee rate for fiscal 2027 to be $87.00 per million. This adjusted fee rate applies to section 6(b) of the Securities Act, as well as to sections 13(e) and 14(g) of the Exchange Act.

IV. Effective Dates of the Annual Adjustments

The fiscal year 2027 annual adjustments to the fee rates applicable under section 6(b) of the Securities Act and sections 13(e) and 14(g) of the Exchange Act will be effective on October 1, 2026.[12]

V. Conclusion

Accordingly, pursuant to section 6(b) of the Securities Act and sections 13(e) and 14(g) of the Exchange Act,[13]

It is hereby ordered that the fee rates applicable under section 6(b) of the Securities Act and sections 13(e) and 14(g) of the Exchange Act shall be $87.00 per million effective on October 1, 2026.

By the Commission.

Vanessa A. Countryman,

Secretary.

Appendix A

Congress has established a target amount of monies to be collected from fees charged to issuers based on the value of their registrations. This appendix provides the formula for determining such fees, which the Commission adjusts annually. Congress has mandated that the Commission determine these fees based on the ''aggregate maximum offering prices,'' which measures the aggregate dollar amount of securities registered with the Commission over the course of the year (hereafter, ''registrations''). In order to maximize the likelihood that the amount of monies targeted by Congress under section 6(b) of the Securities Act of 1933 will be collected, the fee rate must be set to reflect projected aggregate maximum offering prices. As a percentage, the fee rate equals the ratio of the target amounts of monies to the projected aggregate maximum offering prices.

For 2027, the Commission has estimated the aggregate maximum offering prices by projecting forward the trend established in the previous decade. More specifically, an auto-regressive integrated moving average (''ARIMA'') model was used to forecast the value of the aggregate maximum offering prices for months subsequent to July 2026, the last month for which the Commission has data on the aggregate maximum offering prices.

The following sections describe this process in detail.

A. Baseline Estimate of the Aggregate Maximum Offering Prices for Fiscal Year 2027

First, calculate the aggregate maximum offering prices (AMOP) for each month in the sample (July 2016 through July 2026). Next, calculate the percentage change in the AMOP from month to month.

Model the monthly percentage change in AMOP as a first order moving average process. The moving average approach allows one to model the effect that an exceptionally high (or low) observation of AMOP tends to be followed by a more ''typical'' value of AMOP.

Use the [estimated moving average] [ARIMA] model to forecast the monthly percent change in AMOP. These percent changes can then be applied to obtain forecasts of the total dollar value of registrations. The following is a more formal (mathematical) description of the procedure:

1. Begin with the monthly data for AMOP. The sample spans ten years, from July 2016 to July 2026.

2. Divide each month's AMOP (column C) by the number of trading days in that month (column B) to obtain the average daily AMOP (AAMOP, column D).

3. For each month t, the natural logarithm of AAMOP is reported in column E.

4. Calculate the change in log(AAMOP) from the previous month as $\Delta_t = \log(\text{AAMOP}_t) - \log(\text{AAMOP}_{t-1})$. This approximates the percentage change.

5. Estimate the first order moving average model $\Delta_t = \alpha + \beta e_{t-1} + e_t$, where e_t denotes the forecast error for month t. The forecast error is simply the difference between the one-month ahead forecast and the actual realization of Δ_t. The forecast error is expressed as $e_t = \Delta_t - \alpha - \beta e_{t-1}$. The model can be estimated using standard commercially available software. Using least squares, the estimated parameter values are $\alpha = 0.0068155346$ and $\beta = 0.\ 8765268141$.

6. For the month of August 2026 forecast $\Delta_{t\ =\ 8/2026} = \alpha + \beta e_{t\ =\ 7/2026}$. For all subsequent months, forecast $\Delta_t = \alpha$.

7. Calculate forecasts of log(AAMOP). For example, the forecast of log(AAMOP) for October 2026 is given by $\text{FLAAMOP}_{t\ =\ 10/2026} = \log(\text{AAMOP}_{t\ =\ 7/2026}) + \Delta_{t\ =\ 8/2026} + \Delta_{t\ =\ 9/2026} + \Delta_{t\ =\ 10/2026}$.

8. Under the assumption that e_t is normally distributed, the n-step ahead forecast of AAMOP is given by $\exp(\text{FLAAMOP}_t + \sigma_n^2/2)$, where σ_n denotes the standard error of the n-step ahead forecast.

9. For October 2026, this gives a forecast AAMOP of $40,077 million (Column I), and a forecast AMOP of $881,684 million (Column J).

10. Iterate this process through September 2027 to obtain a baseline estimate of the aggregate maximum offering prices for fiscal year 2027 of $10,561,145,911,745.

B. Using the Forecasts From A To Calculate the New Fee Rate

1. Using the data from Table A, estimate the aggregate maximum offering prices between 10/01/26 and 9/30/27 to be $10,561,145,911,745.

2. The rate necessary to collect the target $919,148,792 in fee revenues required by section 6(b) of the Securities Act is then calculated as: $919,148,792 ÷ $10,561,145,911,745 = 0.0000870312.

3. Round the result to the seventh decimal point, yielding a rate of 0.0000870 (or $87.00 per million).

TABLE A—ESTIMATION OF BASELINE OF AGGREGATE MAXIMUM OFFERING PRICES

[Fee rate calculations]

a. Baseline estimate of the aggregate maximum offering prices, 10/01/26 to 09/30/27 ($Millions)	10,561,146
b. Implied fee rate ($919,148,792/a)	$87.00

(A) Month	(B) Number of trading days in month	(C) Aggregate maximum offering prices, in $millions	(D) Average daily aggregate max. offering prices (AAMOP) in $millions	(E) log(AAMOP)	(F) Log (change in AAMOP)	(G) Forecast log(AAMOP)	(H) Standard error	(I) Forecast AAMOP, in $millions	(J) Forecast aggregate maximum offering prices, in $millions
Jul–16	20	289,671	14,484	23.396					
Aug–16	23	352,068	15,307	23.452	0.055				
Sep–16	21	326,116	15,529	23.466	0.014				
Oct–16	21	266,115	12,672	23.263	−0.203				
Nov–16	21	443,034	21,097	23.772	0.510				
Dec–16	21	310,614	14,791	23.417	−0.355				
Jan–17	20	503,030	25,152	23.948	0.531				
Feb–17	19	255,815	13,464	23.323	−0.625				

[12] 15 U.S.C. 77f(b)(4), 15 U.S.C. 78m(e)(6), and 15 U.S.C. 78n(g)(6).

[13] 15 U.S.C. 77f(b), 78m(e), and 78n(g).

(A) Month	(B) Number of trading days in month	(C) Aggregate maximum offering prices, in $millions	(D) Average daily aggregate max. offering prices (AAMOP) in $millions	(E) log(AAMOP)	(F) Log (change in AAMOP)	(G) Forecast log(AAMOP)	(H) Standard error	(I) Forecast AAMOP, in $millions	(J) Forecast aggregate maximum offering prices, in $millions
Mar–17	23	723,870	31,473	24.172	0.849				
Apr–17	19	255,275	13,436	23.321	−0.851				
May–17	22	569,965	25,908	23.978	0.657				
Jun–17	22	445,081	20,231	23.730	−0.247				
Jul–17	20	291,167	14,558	23.401	−0.329				
Aug–17	23	263,981	11,477	23.164	−0.238				
Sep–17	20	372,705	18,635	23.648	0.485				
Oct–17	22	173,749	7,898	22.790	−0.858				
Nov–17	21	377,262	17,965	23.612	0.822				
Dec–17	20	281,126	14,056	23.366	−0.245				
Jan–18	21	593,025	28,239	24.064	0.698				
Feb–18	19	353,182	18,589	23.646	−0.418				
Mar–18	21	685,784	32,656	24.209	0.563				
Apr–18	21	367,569	17,503	23.586	−0.624				
May–18	22	543,840	24,720	23.931	0.345				
Jun–18	21	477,967	22,760	23.848	−0.083				
Jul–18	21	327,710	15,605	23.471	−0.377				
Aug–18	23	347,239	15,097	23.438	−0.033				
Sep–18	19	259,874	13,678	23.339	−0.099				
Oct–18	23	300,814	13,079	23.294	−0.045				
Nov–18	21	447,767	21,322	23.783	0.489				
Dec–18	19	276,130	14,533	23.400	−0.383				
Jan–19	21	495,624	23,601	23.885	0.485				
Feb–19	19	372,166	19,588	23.698	−0.186				
Mar–19	21	604,813	28,801	24.084	0.385				
Apr–19	21	267,737	12,749	23.269	−0.815				
May–19	22	476,892	21,677	23.800	0.531				
Jun–19	20	399,178	19,959	23.717	−0.083				
Jul–19	22	359,438	16,338	23.517	−0.200				
Aug–19	22	401,391	18,245	23.627	0.110				
Sep–19	20	382,876	19,144	23.675	0.048				
Oct–19	23	181,113	7,874	22.787	−0.888				
Nov–19	20	553,889	27,694	24.044	1.258				
Dec–19	21	438,062	20,860	23.761	−0.283				
Jan–20	21	636,403	30,305	24.135	0.373				
Feb–20	19	424,133	22,323	23.829	−0.306				
Mar–20	22	409,403	18,609	23.647	−0.182				
Apr–20	21	389,821	18,563	23.644	−0.002				
May–20	20	731,835	36,592	24.323	0.679				
Jun–20	22	650,219	29,555	24.110	−0.214				
Jul–20	22	457,871	20,812	23.759	−0.351				
Aug–20	21	465,953	22,188	23.823	0.064				
Sep–20	21	435,323	20,730	23.755	−0.068				
Oct–20	22	429,638	19,529	23.695	−0.060				
Nov–20	20	849,894	42,495	24.473	0.777				
Dec–20	22	493,133	22,415	23.833	−0.640				
Jan–21	19	753,590	39,663	24.404	0.571				
Feb–21	19	785,163	41,324	24.445	0.041				
Mar–21	23	960,806	41,774	24.456	0.011				
Apr–21	21	430,803	20,514	23.744	−0.711				
May–21	20	759,512	37,976	24.360	0.616				
Jun–21	22	512,966	23,317	23.872	−0.488				
Jul–21	21	485,097	23,100	23.863	−0.009				
Aug–21	22	608,745	27,670	24.044	0.181				
Sep–21	21	565,229	26,916	24.016	−0.028				
Oct–21	21	338,100	16,100	23.502	−0.514				
Nov–21	21	387,841	18,469	23.639	0.137				
Dec–21	22	618,897	28,132	24.060	0.421				
Jan–22	20	809,773	40,489	24.424	0.364				
Feb–22	19	531,622	27,980	24.055	−0.370				
Mar–22	23	868,009	37,740	24.354	0.299				
Apr–22	20	607,591	30,380	24.137	−0.217				
May–22	21	529,417	25,210	23.951	−0.187				
Jun–22	21	410,380	19,542	23.696	−0.255				
Jul–22	20	364,895	18,245	23.627	−0.069				
Aug–22	23	495,621	21,549	23.794	0.166				
Sep–22	21	371,472	17,689	23.596	−0.197				
Oct–22	21	175,612	8,362	22.847	−0.749				
Nov–22	21	362,262	17,251	23.571	0.724				
Dec–22	21	311,922	14,853	23.421	−0.150				
Jan–23	20	484,759	24,238	23.911	0.490				
Feb–23	19	700,233	36,854	24.330	0.419				
Mar–23	23	775,232	33,706	24.241	−0.089				
Apr–23	19	310,952	16,366	23.518	−0.722				
May–23	22	574,632	26,120	23.986	0.467				
Jun–23	21	87,686	4,176	22.153	−1.833				
Jul–23	20	778,808	38,940	24.385	2.233				

(A) Month	(B) Number of trading days in month	(C) Aggregate maximum offering prices, in $millions	(D) Average daily aggregate max. offering prices (AAMOP) in $millions	(E) log(AAMOP)	(F) Log (change in AAMOP)	(G) Forecast log(AAMOP)	(H) Standard error	(I) Forecast AAMOP, in $millions	(J) Forecast aggregate maximum offering prices, in $millions
Aug–23	23	290,749	12,641	23.260	−1.125				
Sep–23	20	387,612	19,381	23.688	0.427				
Oct–23	22	118,541	5,388	22.407	−1.280				
Nov–23	21	458,187	21,818	23.806	1.399				
Dec–23	20	35,060	1,753	21.285	−2.521				
Jan–24	21	547,780	26,085	23.985	2.700				
Feb–24	20	625,139	31,257	24.166	0.181				
Mar–24	20	1,073,420	53,671	24.706	0.541				
Apr–24	22	330,061	15,003	23.432	−1.275				
May–24	22	769,244	34,966	24.278	0.846				
Jun–24	19	481,093	25,321	23.955	−0.323				
Jul–24	22	465,992	21,181	23.776	−0.178				
Aug–24	22	309,615	14,073	23.368	−0.409				
Sep–24	20	550,284	27,514	24.038	0.670				
Oct–24	23	130,566	5,677	22.460	−1.578				
Nov–24	20	459,941	22,997	23.859	1.399				
Dec–24	21	231,576	11,027	23.124	−0.735				
Jan–25	20	533,650	26,682	24.007	0.884				
Feb–25	19	672,083	35,373	24.289	0.282				
Mar–25	21	1,061,430	50,544	24.646	0.357				
Apr–25	21	408,103	19,433	23.690	−0.956				
May–25	21	622,545	29,645	24.113	0.422				
Jun–25	20	569,873	28,494	24.073	−0.040				
Jul–25	22	479,792	21,809	23.806	−0.267				
Aug–25	21	502,212	23,915	23.898	0.092				
Sep–25	21	710,732	33,844	24.245	0.347				
Oct–25	23	480,586	20,895	23.763	−0.482				
Nov–25	19	968,765	50,988	24.655	0.892				
Dec–25	22	705,571	32,071	24.191	−0.464				
Jan–26	20	790,126	39,506	24.400	0.208				
Feb–26	19	824,441	43,392	24.494	0.094				
Mar–26	22	1,133,172	51,508	24.665	0.171				
Apr–26	21	474,180	22,580	23.840	−0.825				
May–26	20	958,730	47,936	24.593	0.753				
Jun–26	21	845,382	40,256	24.419	−0.175				
Jul–26	22	695,686	31,622	24.177	−0.241				
Aug–26	21					24.271	0.501	39,383	827,043
Sep–26	21					24.278	0.505	39,728	834,293
Oct–26	22					24.285	0.509	40,077	881,684
Nov–26	20					24.292	0.512	40,428	808,558
Dec–26	22					24.298	0.516	40,782	897,211
Jan–27	19					24.305	0.520	41,140	781,657
Feb–27	19					24.312	0.523	41,501	788,510
Mar–27	22					24.319	0.527	41,864	921,016
Apr–27	22					24.326	0.531	42,231	929,090
May–27	20					24.332	0.534	42,602	852,032
Jun–27	21					24.339	0.538	42,975	902,477
Jul–27	21					24.346	0.541	43,352	910,389
Aug–27	22					24.353	0.545	43,732	962,102
Sep–27	21					24.360	0.548	44,115	926,421

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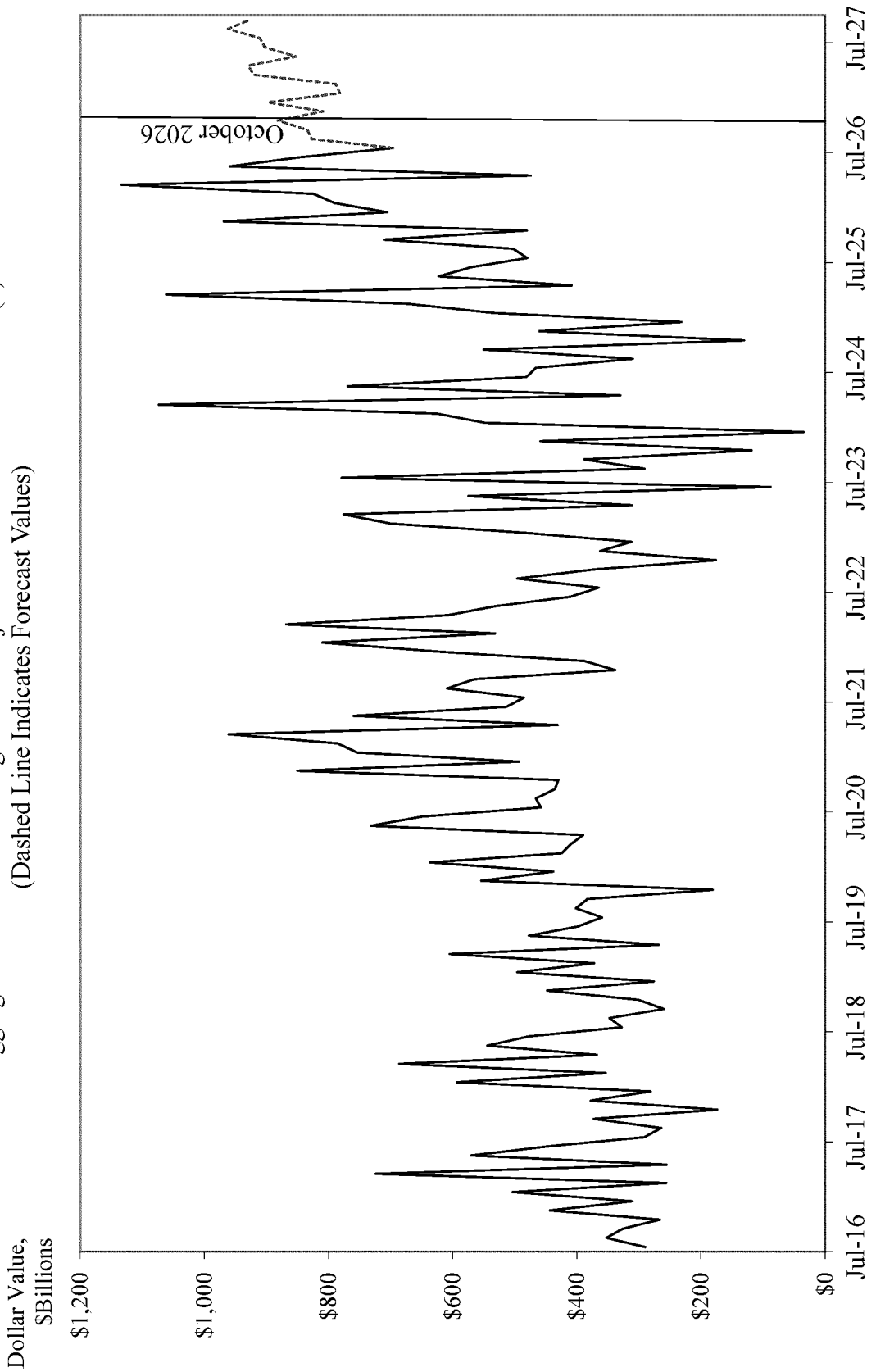
Figure A
Aggregate Maximum Offering Prices Subject to Securities Act Section 6(b)
(Dashed Line Indicates Forecast Values)



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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106174; File No. SR–NYSETEX–2026–31]

Self-Regulatory Organizations; NYSE Texas, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 7.18 Regarding Trading Halts

August 21, 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 August 14, 2026, the NYSE Texas, Inc. (''NYSE Texas'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.18 (''Trading Halts'') to set forth specific requirements for halting and resuming trading in a security that is subject to certain corporate actions. The proposed rule change is available on the Exchange's website at *www.nyse.com* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Texas, Inc. (''NYSE Texas'' or the ''Exchange'') proposes to amend Rule 7.18 (''Trading Halts'') to set forth specific requirements for halting and resuming trading in a security that is subject to certain corporate actions.

In conjunction with the industry's plans for the introduction of trading 23 hours a day, 5 days a week (''23/5 Trading''), the Exchange's affiliate exchange, NYSE Arca, Inc. (''NYSE Arca''), filed with the Commission a proposal to amend its rules to set forth specific requirements for halting trading in a security for which the Exchange is the Primary Listing Market that is subject to certain issuer-related corporate actions and for resuming trading in that security using a Trading Halt Auction. NYSE Arca explained that the proposal would expand on the framework already in place with respect to its authority to declare a mandatory regulatory halt in advance of a reverse stock split, thereby providing greater transparency and clarity with respect to the situations in which trading certain securities subject to issuer-related corporate actions will be halted and the process through which that halt will be implemented and terminated. On July 8, 2026, the Commission published a notice of filing and immediate effectiveness of NYSE Arca's proposal.[4]

The Exchange now proposes to make the same changes to its own rules. The Exchange understands that the other Primary Listing Markets also plan to implement substantially identical versions of this rule to ensure consistent treatment of corporate actions across the market.

Background

The Exchange's current Rule 7.18(e) includes a ''Reverse Stock Split Halt'' that is identical to the ''Reverse Stock Split Halt'' on its affiliate exchange NYSE Arca LLC (''NYSE Arca'').

In 2024, NYSE Arca filed a rule proposal to establish the Exchange's authority to declare a mandatory regulatory halt in a security for which NYSE Arca is the Primary Listing Market when that security is subject to a reverse stock split, which the Commission noticed for immediate effectiveness.[5] Specifically, NYSE Arca proposed halting such a security before the end of the Late Trading Session on the day immediately before the effective date of a reverse stock split, with trading to resume with a Trading Halt Auction at 9:00 a.m. Eastern Time (''ET'')—instead of 4:00 a.m. ET—on the next trading day. NYSE Arca noted that because it processes reverse stock splits overnight, having the security reopen for trading at 4:00 a.m. ET raised the ''potential for errors resulting in a material effect on the market resulting from market participants' processing of the reverse stock split, including incorrect adjustment or entry of orders.'' [6] NYSE Arca explained that this concern could be rectified by imposing a trading halt, ''which would prohibit pre-market trading immediately after a reverse stock split'' and open trading in such securities at 9:00 a.m. ET instead of 4:00 a.m. ET.[7] NYSE Arca further noted that imposing such a trading halt and deferring the opening of the security until 9:00 a.m. ET would ''allow the Exchange and market participants to better detect any errors or problems with orders for the security resulting from the reverse stock split before trading in the security begins and thereby avoid any material effect on the market.'' [8] In approving the substantively identical proposal of another market, the Commission noted that the proposal was ''designed to promote fair and orderly trading on the Exchange by reducing the potential for order entry or other system-related errors associated with a reverse stock split in a security for which [the Exchange] is the Primary Listing Market.'' [9]

In 2025, the Exchange added the Reverse Stock Split Halt to its own version of Rule 7.18.[10]

With the launch of 23/5 Trading later this year, the concerns that led the Exchange and NYSE Arca to adopt a regulatory halt framework for reverse stock splits will likewise arise with

[4] *See* Securities Exchange Release No. 105862 (July 8, 2026), 91 FR 42999 (July 13, 2026) (SR–NYSEARCA–2026–71) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 7.18–E Regarding Regulatory Halts for Corporate Actions and Issuer-Related Events).

[5] *See* Securities Exchange Act Release No. 99863 (March 27, 2024), 89 FR 22757 (April 2, 2024) (SR–NYSEAMER–2024–22) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 7.18E) (''NYSE Arca Reverse Stock Split Proposal'').

[6] *Id.,* 89 FR at 22762.

[7] *Id.,* 89 FR at 22761.

[8] *Id.*

[9] *See* Securities Exchange Act Release No. 98878 (November 7, 2023), 88 FR 78081 (November 14, 2023) SR–NASDAQ–2023–036) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Change, as Modified by Amendment No. 1, Relating to Nasdaq Rules 4120 and 4753).

[10] *See* Securities Exchange Act Release No. 103039 (May 13, 2025), 90 FR 21369 (May 19, 2025) (SR–NYSETEX–2025–08).

respect to a broader set of corporate actions. Although the Exchange does not currently plan to extend its own trading hours, the Exchange is a Primary Listing Market whose listed securities may trade on any venue, including NYSE Arca and other exchanges that opt to offer 23/5 Trading. Under the current market structure, the Exchange processes corporate action-related changes and updates for its listed securities during overnight hours. Other market participants, including broker-dealers, likewise use that overnight period to process corporate action-related information and adjust quotes, orders, and related instructions accordingly.

Under 23/5 Trading, however, trading in the Exchange's listed securities will resume on other markets at 9:00 p.m., only one hour after the close of trading at 8:00 p.m. Consequently, there will no longer be a substantial non-trading window during which the Exchange and market participants can process such corporate actions without potentially impacting overnight trading on other markets. These corporate actions require coordinated updates across Exchange and market-participant systems—including adjustments to orders, quotes, and related instructions—to ensure orderly trading and accurate pricing and execution in the affected security. With only a one-hour pause between trading days, neither the Exchange nor other market participants would have sufficient time to process and incorporate corporate action-related information—such as adjustments to systems, orders, quotes, and related instructions—without the risk that trading could occur in the affected security based on incomplete or inconsistent information. In short, the continued trading of securities undergoing such corporate actions could potentially result in price dislocations, investor confusion, erroneous executions, and general operational risk.

To address these concerns, the Exchange proposes to implement the same changes regarding corporate action regulatory halts that the Commission recently noticed for immediate effectiveness on NYSE Arca. The Exchange proposes to build on the framework established under Rule 7.18 for reverse stock splits by extending that rule's mandatory regulatory halt requirement to additional corporate actions that, much like reverse stock splits, require a clearly defined and transparent pause in trading to permit coordinated processing. As proposed, under 23/5 Trading, if a security is affected by any of the corporate actions enumerated in the proposal, the Exchange would implement a mandatory regulatory halt [11] in that security before the start of overnight trading on other markets at 9:00 p.m. ET, and trading would resume with a Trading Halt Auction at 8:00 a.m. ET.[12] The Exchange believes these changes would provide important operational safeguards by ensuring that both the Exchange and market participants have adequate time to process such corporate actions in a nearly continuous trading environment, thereby preserving a protection that has historically been implicit in a market structure with limited trading hours.

Proposed Rule Change

Implicit in Rule 7.18 is the recognition that certain corporate actions—such as reverse stock splits—require a clearly defined and transparent pause in trading to permit their coordinated processing and thereby avoid the risks associated with concurrent trading in the affected security while that processing is underway. The same principle applies to the categories of corporate actions addressed in this proposal, particularly in the context of nearly continuous trading.

In the context of 23/5 Trading, the Exchange has determined—based on discussions both internal and with industry participants, including the other Primary Listing Markets—that, similar to reverse stock splits, certain other corporate actions require a clearly defined and transparent pause in trading to facilitate their coordinated processing by the Exchange and other market participants before orderly trading may resume in the affected security.

Specifically, the Exchange believes that the following issuer-related corporate actions are analogous to reverse stock splits with respect to processing requirements and thus warrant analogous treatment with respect to their categorization and regulatory response: (1) changes in trading symbol, (2) changes in CUSIP number, (3) dividends equal to at least 25% of the Official Closing Price; [13] (4) stock splits (including forward and reverse stock splits); (5) De-SPAC transactions; (6) spin-off transactions; (7) security-type changes; (8) mergers or similar mandatory exchanges of shares; and (9) any other corporate action or issuer-related event not enumerated above, for which the Exchange determines that a regulatory halt is appropriate for the maintenance of fair and orderly markets, the protection of investors, or otherwise in the public interest, as described below. Like reverse stock splits, these corporate actions all involve non-discretionary changes to core security characteristics that require synchronized updates across Exchange and market-participant systems.

Accordingly, the Exchange proposes to amend Rule 7.18 and make certain conforming changes to incorporate such corporate actions into the regulatory framework established for corporate actions consisting of reverse stock splits, as follows.

The Exchange proposes to amend Rule 7.18(b)(1)(A)(iii) to extend the current reverse stock split regulatory halt framework to the categories of other corporate actions discussed above that, in addition to reverse stock splits, would be subject to the mandatory regulatory requirements of that rule. The Exchange accordingly proposes to delete the current text of Rule 7.18(b)(1)(A)(iii) and replace it with revised text stating that the Exchange will declare a Regulatory Halt:

> for a security for which the Exchange is the Primary Listing Market that is the subject of an issuer corporate action or other issuer-related event referenced below after the end of the Late Trading Session and before 9:00 p.m. ET on the day immediately preceding the market effective date of such issuer corporate action or issuer-related event (''Corporate Action Halt''). A security subject to an issuer corporate action or issuer event-related Regulatory Halt pursuant to this rule will resume trading with a Trading Halt Auction at 8:00 a.m. ET on the market effective date of such corporate action or issuer-related event.

The Exchange proposes to further amend Rule 7.18(b)(1)(A)(iii) to provide that ''[f]or purposes of this rule, the following shall be deemed corporate actions or issuer-related events subject to the mandatory Regulatory Halt provisions of this rule,'' followed by the nine categories of corporate actions discussed above that would be subject to a mandatory regulatory halt under that provision. As proposed, the nine categories of enumerated corporate actions subject to a mandatory regulatory halt would consist of the following corporate actions: (1) trading

[11] Notification of the declaration and termination of the proposed regulatory halt would be provided in accordance with Rule 7.18.

[12] As described below, the Exchange also proposes a conforming change to move the time for the Trading Halt Auction that re-opens trading after a reverse stock split regulatory halt to 8:00 a.m. ET, from the current time of 9:00 a.m. ET.

[13] The term ''Official Closing Price'' is defined in Rule 1.1(t).

symbol changes; [14] (2) changes in CUSIP; [15] (3) dividends equal to at least 25% of the Official Closing Price; [16] (4) forward (and reverse) stock splits; [17] (5) de-SPAC transactions; [18] (6) spin-off transactions; [19] (7) security-type changes; [20] (8) mergers/mandatory exchanges;[21] and (9) other corporate actions or issuer-related events not specifically enumerated in (1)—(8) above as more particularly described below.[22]

Specifically, proposed Rule 7.18(b)(1)(A)(iii)(9) would require the Exchange to declare a regulatory halt for any other corporate action or issuer-related event not enumerated in (1)–(8) above for which the Exchange determines, based on the totality of the circumstances and any information available to it, including without limitation information obtained from the issuer, that a regulatory halt is necessary or appropriate for the maintenance of fair and orderly markets, the protection of investors, or otherwise in the public interest.

This residual provision is designed to capture issuer-related corporate actions that, while not enumerated in Rule 7.18(b)(1)(A)(iii)(1)–(8), raise operational or market-integrity concerns comparable to those actions. Once the Exchange determines that such a corporate action warrants a Regulatory Halt based on its application of the standards in Rule 7.18(b)(1)(A)(iii)(9), implementation of the regulatory halt would be required.[23] Accordingly, the provision is intended to promote consistent regulatory treatment across comparable corporate actions and to preserve transparency and uniformity in the application of the proposed framework in a 23/5 Trading environment.

Timing of Corporate Action Regulatory Halts

The Exchange proposes that under 23/5 Trading, the mandatory regulatory halts described above in proposed Rule 7.18(b)(1)(A)(iii) would be implemented after the conclusion of the Late Trading Session and before the start of overnight trading on other markets at 9:00 p.m. ET. This timing differs from the Exchange's current process for reverse stock split regulatory halts, pursuant to which the Exchange implements the mandatory regulatory halt at 7:50 p.m. ET, before the end of the Late Trading Session, on the day immediately before the reverse split becomes effective. That approach has been feasible in the reverse stock split context, but this proposal would extend the mandatory regulatory halt framework beyond reverse stock splits to a broader set of corporate actions that, although differing in form, share the need for coordinated systems and reference-data updates before trading may resume in an orderly manner. Because some of those actions may involve entirely new symbols or CUSIPs that would not yet exist at 7:50 p.m. ET on the prior trading day, the Exchange does not believe that the current reverse stock split timing can practicably be applied across the full set of covered corporate actions. The Exchange therefore believes it is reasonable, in the context of 23/5 Trading, to adopt a single, uniform implementation time for all halts under proposed Rule 7.18(b)(1)(A)(iii)—after the Late Trading Session and before overnight trading begins on other markets at 9:00 p.m. ET—which would facilitate consistent treatment of covered corporate actions and enable the halts to be implemented through an automated process.[24] This timing would apply to each of the corporate actions addressed in this filing, as well as to the Exchange's existing reverse stock split regulatory halt. The proposed change to the timing for the implementation of the reverse stock split regulatory halt is therefore conforming in nature, as it is intended only to align that halt with the trading session structure under 23/5 Trading.

Resumption of Trading After Corporate Action-Related Regulatory Halts

The Exchange proposes to amend Rule 7.18(b)(5)(B)(iii) to provide that

[14] As proposed, Rule 7.18(b)(1)(A)(iii)(1) would define changes to any ''Trading Symbol'' as ''a change in the issuer's trading symbol.''

[15] As proposed, Rule 7.18(b)(1)(A)(iii)(2) would define changes in ''CUSIP'' as ''[a] change in the issuer's Committee on Uniform Securities Identification Procedures (''CUSIP'').''

[16] As proposed, Rule 7.18(b)(1)(A)(iii)(3) would define ''Dividend'' transactions as ''[s]tock dividends, whether payable in cash, stock, or another security of the issuer (or a subsidiary or other affiliate of the issuer), or any combination thereof, other than stock splits or similar adjustments described in paragraph (4), where the Exchange determines that such dividend has an aggregate value per share that is equal to at least 25% of the Official Closing Price of the affected security on the date immediately preceding the ex-date of such dividend; provided, however, that if no such Official Closing Price is available, the Exchange shall use the most recent available Official Closing Price for such shares (or other securities).''

[17] As proposed, Rule 7.18(b)(1)(A)(iii)(4) would define ''Forward, Reverse Stock Splits'' as ''[a]ny stock split or similar adjustment that affects the number of outstanding shares of an issuer or changes the relative equity ownership of holders of such shares, including any forward or reverse stock split, subdivision, reclassification, or combination of shares, or any similar transaction that has the effect of adjusting the number of outstanding shares or the relative equity ownership of holders, whether effected pursuant to a fixed or variable exchange ratio or otherwise, and whether occurring as a stand-alone action or in conjunction with any other corporate action or issuer-related event.''

[18] As proposed, Rule 7.18(b)(1)(A)(iii)(5) would define a ''De-SPAC'' transaction as ''[a]ny De-SPAC transaction, as that term is defined in Item 1601(a) of Regulation S–K.''

[19] As proposed, Rule 7.18(b)(1)(A)(iii)(6) would define a ''Spin-off'' transactions as ''[a]ny transaction in which an issuer distributes to its security holders, on a pro rata basis, (i) equity securities of a subsidiary or other business that is separated into a new or existing standalone issuer; or (ii) any different class of securities.''

[20] As proposed, Rule 7.18(b)(1)(A)(iii)(7) would define a ''Security Type Change'' as ''[a]ny change in the form, type, class, or designation of a listed security, including, without limitation, (i) American Depositary Receipts or American Depositary Shares (''ADR''/''ADS'') to ordinary shares (and ordinary shares to ADR/ADS); (ii) conversions between ordinary shares and common stock (in either direction); and (iii) similar transactions.''

[21] As proposed, Rule 7.18(b)(1)(A)(iii)(8) would define a ''Merger/Mandatory Exchange'' as ''[a]ny merger, consolidation, statutory share exchange, or similar business combination or corporate action that results in the affected security being mandatorily exchanged, converted, redeemed, or cancelled for cash, securities, or other consideration (including an exchange into securities of a successor issuer); provided, however, that this paragraph (8) does not include transactions that solely effect a change in the issuer's (company) name without a mandatory exchange of the affected security.''

[22] As proposed, Rule 7.18(b)(1)(A)(iii)(9) would define any ''Other Corporate Action or Issuer-Related Event'' as ''[a]ny other corporate action or issuer-related event not enumerated in (1)–(8) above for which the Exchange determines, based on the totality of the circumstances and any information available to it, including without limitation information obtained from the issuer, that a Regulatory Halt is necessary or appropriate for the maintenance of fair and orderly markets, the protection of investors, or otherwise in the public interest.''

[23] Such determination would be made by the Exchange's senior trading and regulatory officials in advance of the corporate action effective date.

[24] *See* Exchange proposed Rule 7.18(b)(1)(A)(iii). Shifting the implementation time for such regulatory halts from 7:50 p.m. to before 9:00 p.m. would not have a material effect on market participants. The Exchange notes that market participants, including alternative trading systems (''ATSs''), would have advance notice of the types of issuer corporate actions addressed in this proposal through the Exchange's existing issuer notification, market notice, and public dissemination mechanisms. Under the Exchange's existing listing and related rules and/or procedures, listed issuers are required in various circumstances to provide the Exchange advance notice of corporate actions and to publicly disclose such events before they become effective. In addition, the Exchange's established corporate action processing and market notification procedures generally result in the Exchange receiving notice of, and disseminating information concerning, other covered corporate actions sufficiently in advance of their effectiveness to support the orderly implementation of the proposed halt process. Accordingly, the Exchange believes that ATSs and other market participants would have adequate advance awareness of the types of corporate actions addressed by this proposal to make informed business decisions with respect to the affected securities, and that proposed Rule 7.18(b)(1)(A)(iii) thus provides a transparent and appropriate mechanism for addressing such corporate actions in a 23/5 Trading environment.

under 23/5 Trading, trading in a security halted pursuant to proposed Rule 7.18(b)(1)(A)(iii) would resume ''at 8:00 a.m. ET with a Trading Halt Auction on the market effective date of such corporate action or issuer-related event.'' [25] This is similar to the Exchange's current process with respect to reverse stock split regulatory halts, where the Exchange resumes trading at 9:00 a.m. ET, with a modification to 8:00 a.m. ET from 9:00 a.m. ET.

In supporting its reverse stock split-related proposal, the Exchange explained that re-opening the security at 9:00 a.m. ET, ''which is after the start of early trading on other markets and the Exchange but before the opening of the Exchange's Core Trading Session at 9:30 a.m., would promote fair and orderly trading, protect investors, and promote the public interest by allowing market participants and the Exchange a better opportunity to notice errors or problems with orders for the security because it would be opening for trading at a unique time, and not at a time when thousands of other securities open for trading.'' [26]

Since the introduction of the reverse stock split regulatory halt in 2024, the Exchange has determined that it would be preferable to re-open from a reverse stock split halt at 8:00 a.m. ET instead of 9:00 a.m. ET. That alteration would provide for an additional hour of liquidity formation and price discovery before the 9:30 a.m. ET Core Opening Auction, while still being consistent with the rationales cited above for re-opening trading at a ''unique'' time. Specifically, the Exchange believes that resuming trading in the affected securities at 8:00 a.m. ET is appropriate because the proposed pause in trading provides a sufficient and transparent interval for the Exchange and market participants to complete the processing of such corporate actions and the earlier resumption of trading would provide the affected securities with additional price discovery and liquidity formation opportunities before participating in the Core Opening Auction at 9:30 a.m. ET.

Consistent with that rationale, the Exchange proposes that the securities subject to the mandatory regulatory halts addressed in this filing, including reverse stock splits, would re-open at 8:00 a.m. ET.[27] To effectuate this change, the Exchange proposes to amend the re-opening time for securities subject to a reverse stock split-related regulatory halt to 8:00 a.m. ET (from 9:00 a.m. ET) and to apply that same 8:00 a.m. ET re-opening time to the additional corporate action-related regulatory halts covered under proposed Rule 7.18(b)(1)(A)(iii). This proposed change is based on the Exchange's experience with reverse stock splits and is designed to promote uniformity and transparency with respect to the resumption of trading in securities subject to a corporate actions-related regulatory halt under proposed Rule 7.18(b)(1)(A)(iii).

In sum, the corporate actions addressed in this proposal raise operational and market integrity concerns in a 23/5 Trading environment that mirror the concerns addressed by the Commission in approving NYSE Arca's Reverse Stock Split Proposal. Under 23/5 Trading, the Exchange will no longer have a substantial non-trading window during which it and other market participants can process these corporate actions before trading resumes. With only one hour between trading days, neither the Exchange nor other market participants would have sufficient time to process and incorporate corporate action-related information, resulting in a risk of price dislocations, investor confusion, erroneous executions, and broader operational issues. The Exchange believes that extending its reverse stock split regulatory framework to the additional corporate actions described herein would appropriately preserve, in a 23/5 Trading environment, the safeguard implicit in the current market structure—specifically, the overnight pause in trading that allows for coordinated processing and related systems and reference-data updates. Accordingly, the proposal would promote fair and orderly trading, mitigate operational risk, and help ensure that trading resumes only after those updates have been completed.

Implementation

The Exchange understands that the other Primary Listing Markets plan to implement substantially identical versions of this rule to ensure consistent treatment of corporate actions across the market. The Exchange proposes that the changes in this proposal and in the other Primary Listing Markets' similar filings would become operative at the commencement of 23/5 Trading.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[28] in general, and furthers the objectives of Section 6(b)(5) of the Act,[29] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes that the proposed rules will provide greater transparency and clarity with respect to the situations in which trading will be halted due to certain corporate actions and the process through which that halt will be implemented and terminated, as discussed below.

The Exchange believes that extending the reverse stock split regulatory halt framework to the additional, analogous corporate actions addressed in this proposal would promote free and open trade, protect investors, and serve the public interest by helping to ensure fair and orderly markets. Specifically, the proposal would preserve and apply an established, transparent framework for pausing and resuming trading in securities subject to reverse stock splits to certain corporate actions with analogous processing requirements, so that trading in an affected security does not occur before the corporate action has been processed and the related systems and reference-data updates have been completed and applied across the market.

With respect to the specific categories of corporate actions addressed in this proposal, the Exchange believes that it is reasonable and appropriate to extend the regulatory halt framework applicable to reverse stock splits to certain categories of corporate actions with analogous processing requirements, as more specifically described above. Like reverse stock splits, these corporate actions all involve non-discretionary changes to core security characteristics that require synchronized updates across Exchange and market-participant systems.

Under the current market structure, an overnight pause in trading has historically provided a defined non-trading window during which the Exchange and other market participants have sufficient time to process such corporate actions in an orderly and coordinated manner prior to the resumption of trading. But in the 23/5 Trading environment, with only one hour of non-trading time between trading days, there is a substantial chance that trading in an impacted security could occur based on incomplete, inconsistent, or partially updated information, giving rise to

[25] *See* proposed Rule 7.18(b)(5)(B)(iii).

[26] *See* NYSE Arca Reverse Stock Split Proposal, *supra* note 5, 89 FR at 22758.

[27] *See* proposed Rule 7.18(b)(1)(A)(iii).

[28] 15 U.S.C. 78f(b).

[29] 15 U.S.C. 78f(b)(5).

pricing anomalies, investor confusion, erroneous executions, and heightened operational risk. The Exchange believes the proposed approach promotes fair and orderly markets by helping to ensure that trading resumes only once systems and reference data concerning these corporate actions have been fully and consistently updated across the marketplace.

With respect to the mandatory regulatory halts specifically enumerated in proposed Rule 7.18(b)(1)(A)(iii)(1)–(8), if the corporate action falls within the categories enumerated in the rule, the Exchange will not have discretion about whether to declare a trading halt in the affected security.

In addition, proposed Rule 7.18(b)(1)(A)(iii)(9) is intended to operate as a residual provision covering issuer-related corporate actions not enumerated in Rule 7.18(b)(1)(A)(iii)(1)–(8) that nonetheless raise operational or market-integrity concerns comparable to those presented by the enumerated actions. Under that provision, when the Exchange determines, based on the totality of the circumstances and the information available to it, including information obtained from the issuer, that it is necessary or appropriate for the maintenance of fair and orderly markets, the protection of investors, or otherwise in the public interest, it would be required to declare a regulatory halt in that security. Once the Exchange makes that determination, the regulatory halt would be mandatory, thereby avoiding ad hoc treatment once the applicable standard has been met. In that respect, proposed Rule 7.18(b)(1)(A)(iii)(9) serves as a narrow residual mechanism designed to promote consistent regulatory treatment across comparable corporate actions and to preserve transparency and uniformity in the application of proposed Rule 7.18(b)(1)(A)(iii) in a 23/5 Trading environment by requiring the Exchange to declare a regulatory halt in such cases. The Exchange therefore believes that it is reasonable and appropriate to extend its authority to declare a regulatory halt in this instance.

In all cases under proposed Rule 7.18(b)(1)(A)(iii), a mandatory regulatory halt in he affected security would be implemented after the conclusion of the Late Trading Session and before the start of overnight trading on other markets at 9:00 p.m. ET on the date immediately preceding the market-effective date of the corporate action.

The Exchange also believes it is reasonable and appropriate to use a Trading Halt Auction under Rule 7.35 to re-open trading in a security that is subject to a regulatory halt pursuant to this proposal because it is consistent with the process that the Exchange currently uses to re-open a security after a reverse stock split regulatory halt, and the operational complexity and processing demands associated with such corporate actions are comparable to those involved regarding reverse stock splits. Furthermore, using a Trading Halt Auction to re-open trading after the regulatory halts addressed in this proposal is consistent with the process that is typically used by the Exchange when re-opening a security that has been halted under Rule 7.18. Applying a uniform, previously approved framework enhances transparency and predictability for issuers, investors, and market participants.

The Exchange believes that resuming trading in the corporate action-impacted securities addressed in this proposal at 8:00 a.m. ET would promote fair and orderly markets, protect investors, and serve the public interest by providing the Exchange and market participants sufficient time to process the relevant corporate actions correctly. The Exchange further believes that resuming trading in the affected securities through a Trading Halt Auction at 8:00 a.m. ET, rather than at 9:30 a.m. ET through a Core Open Auction, would provide a more focused re-opening window and a better opportunity to identify and address potential order-entry or processing issues before the broader market opening, when thousands of other securities are undergoing their opening process.

The Exchange's proposal to make conforming changes to its existing reverse stock split regulatory halt structure to harmonize the halt time and re-opening time with the times proposed in this filing is reasonable and would promote transparency and predictability for issuers, investors, and market participants. As described above, the current practice of implementing a mandatory regulatory halt for a security undergoing a reverse stock split at 7:50 p.m. ET has been feasible in the reverse stock split context, but this proposal would extend the mandatory regulatory halt framework beyond reverse stock splits to a broader set of corporate actions that, although differing in form, share the need for coordinated systems and reference-data updates before trading may resume in an orderly manner. Because some of those actions may involve entirely new symbols or CUSIPs that would not yet exist at 7:50 p.m. ET on the prior trading day, the Exchange does not believe that the current reverse stock split timing can practicably be applied across the full set of covered corporate actions. The Exchange therefore believes it is reasonable, in the context of 23/5 Trading, to adopt a single, uniform implementation time for all halts under proposed Rule 7.18(b)(1)(A)(iii)—after the Late Trading Session and before overnight trading begins on other markets at 9:00 p.m. ET—which would facilitate consistent treatment of comparable corporate actions, enhance transparency and predictability for issuers, investors, and market participants, and support the orderly and automated implementation of such halts. The Exchange also believes that the proposal is consistent with Section 6(b)(5) of the Act because the Exchange's existing issuer notification, market notice, and public dissemination mechanisms generally provide market participants with advance awareness of the types of corporate actions addressed herein, thereby supporting the orderly implementation of the proposed halt process and helping to protect investors and the public interest.

Similarly, the Exchange believes its proposal to move the re-opening time for a symbol after a reverse stock split regulatory halt to 8:00 a.m. ET from 9:00 a.m. ET would remove impediments to and perfect the mechanism of a free and open market and a national market system by creating uniformity in the re-opening times for securities after a corporate action regulatory halt. As discussed above, the Exchange believes that the proposed duration of the regulatory halt is appropriate to permit full processing of the proposed corporate actions and resuming trading in the security at an earlier time, as proposed, would provide the security with opportunities for enhancing price discovery and liquidity before participating in the Core Open Auction at 9:30 a.m. ET.

The Exchange notes that these timing harmonization changes are purely conforming and that, by aligning the reverse stock split provisions with the corporate action-related halts described in this filing, the proposal promotes a consistent and harmonized rule structure, enhances transparency and predictability for issuers, investors, and market participants, and reduces the potential for confusion.

Overall, establishing mandatory trading halts for securities that are subject to the corporate actions addressed in this filing and resuming trading thereafter promotes fair and orderly markets and the protection of investors, because it allows the Exchange to protect the broader interests of the national market system and addresses potential concerns that

system errors may affect immediate trading in those securities. The Exchange believes that with the advent of 23/5 Trading, the proposed rules will help the Exchange reduce the potential for errors resulting in a material effect on the market resulting from the challenge of processing such corporate actions with only a one-hour non-trading window between trading days. As discussed above, in a 23/5 Trading environment, overnight trading on other markets will begin only one hour after trading closes on the Exchange, meaning that there will no longer be a substantial overnight period during which the Exchange can process corporate actions of the type addressed in this proposal. By extending the existing reverse stock split regulatory halt framework to those categories of corporate actions, the proposal is designed to preserve the safeguards currently afforded by that overnight pause.

For these reasons, the Exchange believes that the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system by mitigating operational and market integrity risks that would otherwise arise in a nearly continuous trading environment. By helping to ensure that trading resumes only after corporate action processing has been completed in an orderly and coordinated manner, the proposed rule change promotes just and equitable principles of trade and protects investors and the public interest, consistent with Sections 6(b) and 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal will not impose a burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change is designed to protect investors and facilitate a fair and orderly market, which are both important purposes of the Act. To the extent that there is any impact on intermarket competition, it is incidental to these objectives.

Rather, the proposed changes will promote competition by ensuring that trading in corporate action-affected securities resumes only when the Exchange has processed corporate actions in a coordinated manner across Exchange and market participants' systems, consistent with its obligations as a Primary Listing Market, thereby avoiding concurrent trading and potential confusion with respect to the affected securities while such corporate action processing is underway. In addition, the Exchange believes that the proposal does not impose any burden on competition because it applies equally to all issuers and market participants. The proposal builds on an established, uniform, and transparent framework governing the timing of trading halts and resumptions in trading in connection with certain corporate actions and is designed to address operational and market-integrity concerns, rather than competitive considerations. In substance, the proposal preserves an operational safeguard implicit in the current market structure and adapts that safeguard to a nearly continuous trading environment by extending the well-established reverse stock split framework to analogous corporate actions. By helping to ensure that trading resumes only after systems and reference data have been updated in a coordinated manner, the proposal promotes fair and orderly markets and enhances, rather than burdens, competition.

The Exchange does not believe that the proposed rule change imposes a burden on intra-market competition because the provisions apply to all market participants and issuers equally. In addition, information regarding the halting and resumption of trading will be disseminated using several freely accessible sources to ensure the widespread availability of that information.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [30] and subparagraph (f)(6) of Rule 19b–4 thereunder.[31]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [32] 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–NYSETEX–2026–31 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–NYSETEX–2026–31. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSETEX–2026–31 and should be submitted on or before September 16, 2026.

[30] 15 U.S.C. 78s(b)(3)(A)(iii).

[31] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, 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.

[32] 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–17362 Filed 8–25–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36308; 812–16031]

ARK Venture Fund and ARK Investment Management LLC

August 24, 2026.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of an application to amend a prior order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order (''Order'') to amend and supersede a prior order that permits certain registered closed-end management investment companies (''funds'') to issue multiple classes of shares and to impose asset-based distribution and/or service fees and early withdrawal charges (''Prior Order''). In applying for the Prior Order, the applicants represented that ''[s]hares of the [f]unds will not be listed on any securities exchange, nor quoted on any quotation medium, and the [f]unds do not expect there to be a secondary trading market for their shares.'' Applicants seek to amend the Prior Order so that the funds may now offer (i) a class of shares (''Exchange Class'') listed on a national securities exchange (an ''Exchange''), and (ii) a class of tokenized shares (''Tokenized Class'') traded on one or more alternative trading systems (''ATSs'') or quoted on one or more other quotation mediums.

APPLICANTS ARK Venture Fund (the ''Initial Fund'') and ARK Investment Management LLC (the ''Adviser'' and together with the Initial Fund, the ''Applicants'').

FILING DATES: The application (''Application'') was filed on May 20, 2026, and amended on June 11, 2026 and August 7, 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 18, 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: Tom Staudt, ARK Investment Management LLC, 200 Central Avenue, Suite 220, St. Petersburg, FL 33701; Allison Fumai, Esq., William J. Bielefeld, Esq., Robert Shapiro, Esq., Dechert LLP, *allison.fumai@dechert.com, william.bielefeld@dechert.com, robert.shapiro@dechert.com,* respectively.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, Thomas Ahmadifar, Branch Chief, or Daniele Marchesani, Assistant Chief Counsel at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application, filed August 7, 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.

Applicants' Representations

1. The Initial Fund is a Delaware statutory trust that is registered under the Act as a continuously offered, non-diversified closed-end management investment company and operated as an interval fund pursuant to rule 23c–3 under the Act. The Initial Fund's investment objective is to seek long-term growth of capital. The Initial Fund seeks to achieve its investment objective by investing primarily in domestic and foreign equity securities of companies that are relevant to the Initial Fund's investment theme of disruptive innovation. Pursuant to the Prior Order, the Initial Fund is currently offering Class D, Class S and Class U shares, which are subject to different sales loads, distribution fees, and shareholder services fees.

2. The Adviser is a Delaware limited liability company and is an investment adviser registered with the Commission under the Investment Advisers Act of 1940. The Adviser serves as the Initial Fund's investment adviser pursuant to an advisory agreement.

3. On November 17, 2025, the SEC issued the Prior Order granting certain exemptions permitting the Initial Fund to issue multiple classes of shares and to impose early withdrawal charges (''EWCs'') and asset-based distribution and/or service fees with respect to certain classes.[1]

4. The application for the Prior Order included a representation that ''[s]hares of the [f]unds will not be listed on any securities exchange, nor quoted on any quotation medium, and the [f]unds do not expect there to be a secondary trading market for their shares.'' Applicants seek to amend the Prior Order so that the funds may now issue (i) Exchange Class shares that will be listed on an Exchange, and (ii) Tokenized Class shares that may be traded on one or more ATSs that are subject to Regulation ATS, registered with the SEC, and operated by broker-dealers that are registered with the SEC and members of the Financial Industry Regulatory Authority (''FINRA'') or quoted on one or more other quotation mediums. The Order would supersede the Prior Order, with the result that no person will continue to rely on the Prior Order if the Order is granted.

5. Applicants request that the Order, like the Prior Order, also apply to any continuously offered registered closed-end management investment company that has been previously organized or that may be organized in the future for which the Adviser or any entity controlling, controlled by, or under common control with the Adviser, or any successor in interest to any such

[33] 17 CFR 200.30–3(a)(12).

[1] ARK Venture Fund & ARK Inv. Mgmt. LLC, Investment Company Act Release No. IC–35744 (Sept. 9, 2025) (notice); Investment Company Act Release No. IC–35787 (Nov. 17, 2025) (order).

entity,[2] acts as investment adviser and that operates as an interval fund pursuant to rule 23c–3 under the Act or provides periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Securities Exchange Act of 1934, as amended (each, a ''Future Fund'', and together with the Initial Fund, the ''Funds'').[3]

6. Applicants state that the Exchange Class shares will be issued onto an Exchange pursuant to an at-the-market offering, will be sold without a sales load, and may be subject to distribution and shareholder services fees.

7. Applicants state that the Tokenized Class shares will be distributed either by registered broker-dealers or directly by the Fund's transfer agent, will be sold without a sales load, and may be subject to distribution and shareholder services fees. Applicants submit that Tokenized Class shares will be issued through the Initial Fund's subscription process and a shareholder's record of ownership of a Tokenized Class share will be recorded using distributed ledger technology. Applicants state that Tokenized Class shares may be traded on one or more ATSs or quoted on another quotation medium or be traded through peer-to-peer transactions between wallets that are approved, per condition 6 below.

8. Each Fund will allocate all expenses incurred by it among the various classes of shares based on the net assets of that Fund attributable to each such class, except that the net asset value and expenses of each class will reflect the expenses associated with the distribution plan of that class (if any), service fees attributable to that class (if any), including transfer agency fees, and any other incremental expenses of that class. Expenses of a Fund allocated to a particular class of shares will be borne on a pro rata basis by each outstanding share of that class. Applicants state that each Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company. Consistent with these representations, Applicants submit that each of the Exchange Class shares and Tokenized Class shares will be subject to ''Other Expenses'' related to the particular operations of the respective share class. Such expenses may include, among others, costs associated with Exchange listing; costs payable to the Depository Trust & Clearing Corporation (''DTC''); costs payable to transfer agents, tokenization agents and other service providers that provide class specific services; and, for the Tokenized Class shares, transaction (gas) fees associated with the sale and repurchase of shares or the distribution of dividends.

9. Applicants state that, depending upon the listing rules of the Exchange on which the Initial Fund lists the Exchange Class shares, the Initial Fund may be required to hold annual meetings of shareholders, which, because all classes of shares will have the same voting rights except with respect to matters solely related to that class, will require a meeting of shareholders of all classes of the Initial Fund's shares. Applicants state that, if such annual meetings of shareholders are required by the listing rules of the applicable Exchange, the holders of all classes of shares of the Initial Fund will be able to participate in and will benefit from such annual meetings, and the expenses associated with such annual meetings will be allocated across all shareholders of the Initial Fund consistent with rule 18f–3 under the Act. Applicants represent that, to the extent that the Initial Fund is required to hold an annual meeting of shareholders to comply with the listing rules applicable to the Exchange Class, the Initial Fund will disclose in its registration statement that the non-Exchange listed classes will pay a portion of the related expenses, even though they are only subject to the requirement due to the listing rules applicable to the Exchange Class.

10. Applicants submit that all classes of shares of the Initial Fund will be issued by the Initial Fund at the applicable class's then-current NAV, and investors will be able to purchase shares from the Initial Fund at such NAV plus any applicable sales or distribution charge. Applicants state that, to the extent that the Initial Fund offers shares of any class at a premium to such class's then-current NAV, it will offer shares of all classes subject to the same premium. Applicants further state that the Initial Fund will comply with section 23(b) of the Act in issuing its shares, including any Exchange Class shares and Tokenized Class shares, and will not sell any shares of its common stock at a price below the applicable class's then-current NAV unless the same offer is made to holders of all classes of the Initial Fund's common stock. Applicants also submit that any repurchase offers made by the Funds will be made equally to all holders of shares of each such Fund and of each class of such Fund, and the percentage taken up and paid for in any repurchase offer will be allocated on a Fund, not class, basis.

11. Applicants state that, from time to time, the Initial Fund may create additional classes of shares, the terms of which may differ from Class D, Class S, Class U, Exchange Class, and Tokenized Class, with respect to their arrangements for sales loads, distribution fees, or shareholders services fees pursuant to and in compliance with rule 18f–3 under the Act and the terms and conditions of the Application. Applicants represent that any asset-based distribution and/or service fees for each class of shares of the Funds will comply with the provisions of FINRA rule 2341(d) (the ''FINRA Sales Charge Rule'').[4]

Applicants' Legal Analysis[5]

Multiple Classes of Shares

1. Section 18(a)(2) of the Act provides that a closed-end investment company may not issue or sell a senior security that is a stock unless certain requirements are met. Applicants acknowledge that the creation of multiple classes of shares of the Funds may violate section 18(a)(2) because the Funds may not meet such requirements with respect to a class of shares that may be a senior security.

2. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants acknowledge that the creation of multiple classes of shares of the Funds may be prohibited by section 18(c), as a class may have priority over another class as to the distribution of assets or payment of dividends because: (i) shareholders of different classes would pay different fees and expenses and (ii) the record date for dividend distributions on non-Exchange Class shares will be one business day before the ex-dividend date, whereas, due to Exchange requirements, the record date on the Exchange Class shares is expected to be the ex-dividend date.

3. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and

[2] A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[3] Applicants represent that any of the Funds relying on this relief in the future will do so in compliance with the terms and conditions of the Application. Applicants further represent that each entity presently intending to rely on the requested relief is listed as an applicant.

[4] All references in the Application to the FINRA Sales Charge Rule include any Financial Industry Regulatory Authority successor or replacement rule to the FINRA Sales Charge Rule.

[5] Applicants do not believe that interval funds, such as the Initial Fund, require any specific relief to either list their shares on an Exchange or trade them on an ATS.

have equal voting rights with every other outstanding voting stock. Applicants acknowledge that multiple classes of shares of the Funds may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

5. Applicants request exemptive relief, consistent with the Prior Order, to the extent that a Fund's issuance and sale of multiple classes of shares might be deemed to result in the issuance of a class of ''senior security'' within the meaning of section 18(g) of the Act that would violate the provisions of section 18(a)(2) of the Act, violate the equal voting provisions of section 18(i) of the Act, and, if more than one class of senior security were issued, violate section 18(c) of the Act.

6. Applicants do not believe that the features of the Exchange Class or Tokenized Class of shares discriminate against any group of shareholders or otherwise raise the concerns that section 18 is intended to address. Applicants state that each Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company. Applicants further state that, while holders of Exchange Class or Tokenized Class shares may engage in secondary transactions in shares (via the Exchange, an ATS, or through a peer-to-peer transaction, as applicable), and may purchase such shares from third parties at prices above or below NAV in secondary market transactions, such transactions will not involve transactions with a Fund, and so will not create either potentially senior claims on the Fund's assets or dilution of the interests of other shareholders. In addition, Applicants note that holders of other classes of shares would be able to exchange their shares for Exchange Class or Tokenized Class shares if they wish to take advantage of these features.

7. With respect to the declaration and payment of dividends, Applicants do not expect the difference in record dates to have any material economic impact on a particular share class. Applicants state that the ex-dividend date will be the same for all classes of a Fund, and a Fund will adjust the NAV for all classes on the same day as a result of the dividends to be paid.

Early Withdrawal Charges

8. Applicants request exemptive relief, consistent with the Prior Order, from rule 23c–3(b)(1) to the extent that rule is construed to prohibit the imposition of an EWC by the Funds. No EWC will be charged on Exchange Class shares or Tokenized Class shares.

Asset-Based Distribution and/or Service Fees

9. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

10. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act.

11. Applicants request that the Order, like the Prior Order, provide relief, pursuant to section 17(d) and rule 17d–1 to the extent necessary for a Fund to pay asset-based distribution and/or service fees. Applicants represent that the Funds will comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies.

12. For the reasons stated above, Applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will ensure that Applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, Applicants state that the Funds' imposition of asset-based distribution and/or service fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

Applicants' Conditions

Applicants agree that any Order granting the requested relief will be subject to the following conditions:

1. Each Fund relying on the Order will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 22d–V1, and, where applicable, 11a–3 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the FINRA Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end management investment companies. In addition, each Fund relying on the Order will comply with the provisions of rule 18f–3, and any costs attributable specifically to a class will be allocated exclusively to that class, except that costs of annual shareholder meetings, if required by the Exchange-listing rules applicable to the Exchange Class, will be borne by all classes in accordance with the requirements of rule 18f–3.

2. Each business day, each Fund will disclose prominently on its website, which will be publicly available and free of charge, its current net asset value per share as of the end of the prior business day.

3. No Fund will impose any EWC on any Exchange Class shares or Tokenized Class shares.

4. Each Fund will clearly disclose in its registration statement and on its website that purchases and sales on an Exchange, an ATS, or in peer-to-peer transactions may be at prices other than NAV, which may result in shareholders purchasing shares for more than, or selling shares for less than, NAV.

5. To the extent that a Fund is required to hold an annual meeting of shareholders to comply with the listing rules applicable to the Exchange Class, such Fund will disclose in its registration statement that the non-Exchange listed classes will pay a portion of the related expenses, even though they are only subject to the requirement due to the listing rules applicable to the Exchange Class.

6. Each Fund (or its agent on the Fund's behalf) will, in a manner consistent with applicable law, perform anti-money laundering and know your customer reviews of all wallets that propose to hold Tokenized Class shares to confirm that the Initial Fund (or its agent) has sufficient identifying information on the owner of such

wallet, and only approved wallets will be permitted to hold Tokenized Class shares. In doing so, each Fund will comply with applicable laws concerning customer and investor identification, including any applicable laws concerning the prevention of money laundering and the application of sanctions controls.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026–17422 Filed 8–25–26; 8:45 am]

BILLING CODE 8011–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 774 (Sub-No. 2)]

Notice of Passenger Rail Advisory Committee Meeting

AGENCY: Surface Transportation Board.

ACTION: Notice of Passenger Rail Advisory Committee meeting.

SUMMARY: Notice is hereby given of a meeting of the Passenger Rail Advisory Committee (PRAC), pursuant to the Federal Advisory Committee Act (FACA).

DATES: The meeting will be held on September 17, 2026, at 9:00 a.m. E.T.

ADDRESSES: The meeting will be held at the Surface Transportation Board headquarters at 395 E Street SW, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Ryan Lee at (202) 245–0394 or *Ryan.Lee@stb.gov.* If you require an accommodation under the Americans with Disabilities Act for this meeting, please call (202) 245–0245 by September 10, 2026.

SUPPLEMENTARY INFORMATION: The PRAC was formed in 2023 to provide advice and guidance to the Board on passenger rail issues on a continuing basis to help the Board better fulfill its statutory responsibilities in overseeing certain aspects of passenger rail service. *Establishment of the Passenger Rail Advisory Comm.,* EP 774 (STB served Nov. 13, 2023). The purpose of this meeting is to facilitate discussions regarding ideas on how to improve efficiency on passenger rail routes, reduce disputes between passenger rail carriers and freight rail hosts, and improve regulatory processes related to intercity passenger rail. Potential agenda items for this meeting include presentations and discussions about rail system modeling and insurance for passenger services.

The meeting, which is open to the public, will be conducted in accordance with FACA, 5 U.S.C. app. 2; Federal Advisory Committee Management regulations, 41 CFR part 102–3; PRAC's charter; and Board procedures. Further communications about this meeting may be announced through the Board's website at *www.stb.gov.*

Written Comments: Members of the public may submit written comments to PRAC at any time. Comments should be addressed to PRAC, c/o Ryan Lee, Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001 or *Ryan.Lee@stb.gov.* Please submit any comments for review at the meeting by September 10, 2026, if possible.

Authority: 49 U.S.C. 1321, 11101, and 11121.

Decided: August 21, 2026.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2026–17371 Filed 8–25–26; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. MCF 21153]

Switzer-Carty Transportation US, Inc., et al.—Acquisition of Control—Agnes Corporation

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving and authorizing finance transaction.

SUMMARY: On July 27, 2026, Switzer-Carty Transportation US, Inc. (SCT–US), a noncarrier, together with its shareholders (collectively, Applicants), none of which are federally regulated carriers, filed an application to acquire control of Agnes Corporation (Agnes), a noncarrier that serves as a holding company for several interstate passenger motor carriers. Agnes is owned and controlled by eight individuals (collectively, Sellers). The Board is tentatively approving and authorizing the transaction. If no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by October 13, 2026. If any comments are filed, Applicants may file a reply by October 26, 2026. If no opposing comments are filed by October 13, 2026, this notice shall be effective on October 14, 2026.

ADDRESSES: Comments, referring to Docket No. MCF 21153, may be filed with the Board either via e-filing on the Board's website or in writing addressed to: Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, send one copy of comments to Applicants' representative: Andrew K. Light, Scopelitis, Garvin, Light, Hanson & Feary, P.C., 10 W Market Street, Suite 1400, Indianapolis, IN 46204.

FOR FURTHER INFORMATION CONTACT: Jonathon Binet at (202) 915–4348. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

SUPPLEMENTARY INFORMATION: According to the application, SCT–US is a corporation organized under the laws of the state of Delaware for the purpose of effectuating the proposed transaction. (Appl. 2.) The shareholders of SCT–US own and control Switzer-Carty Transportation, Inc. (SCT–CA), a Canadian affiliate corporation of SCT–US that primarily provides school bus transportation services under contracts with school districts in Canada. (*Id.*) [1] In addition to student transportation, the Applicants state that SCT–CA occasionally uses its buses for charter and other contract bus services. (Appl. 4.) SCT–CA operates exclusively within Canada and is not a federally regulated carrier. (*Id.*) SCT–CA, however, owns and controls 417 Bus Line Ltd. (417BL), which is a federally regulated carrier. (*Id.*) [2] The Applicants state that 417BL is

[1] The shareholders of SCT–US and SCT–CA are: Manufacturers Life Insurance Company (Manufacturers), Terramont SC Aggregator L.P. (Terramont), Siemens Financial Ltd. (Siemens), NST Holdings Inc. (NST), Hurds Lake Investments LLC (Hurds), and the Switzer Family Trust (Switzer). (*See* Appl., Ex. B.) The Applicants state that Manufacturers, a federally incorporated Canadian corporation, is a wholly owned subsidiary of Manulife Financial Corporation (Manulife), a Canadian public company. (*Id.* at 2.) Headquartered in Toronto, Canada, Manulife is an international financial services group that provides insurance, investment, and wealth management services. (*Id.*) Terramont is a Delaware limited partnership; its limited partners are Terramont Infrastructure Aggregator L.P. and Terramont SC Co-Invest, L.P., both Delaware partnerships which are owned by Terramont Infrastructure Management LLC, a Delaware limited liability company that provides financial advisory services. (*Id.* at 3.) Siemens, a federally incorporated Canadian corporation, is a subsidiary of Siemens AG, a German company headquartered in Munich, Germany. (*Id.*) Siemens is a global technology conglomerate focused on industry, infrastructure, transportation, and healthcare. (*Id.*) NST is an Ontario private holding corporation of Nicholas McRae, a senior executive of SCT–CA. (*Id.*) Hurds is a Delaware limited liability company of Douglas Carty, a co-founder of SCT–CA, and the Switzer Family Trust is an Ontario trust established by James Switzer, a co-founder of SCT–CA. (*Id.*) The Applicants state that none of the aforementioned entities have interstate carrier authority, a United States Department of Transportation (USDOT) Number, or a USDOT Safety Rating. (*Id.* at 2.)

[2] 417BL is assigned USDOT Number 523518. 417BL has interstate passenger motor carrier authority under Federal Motor Carrier Safety Administration (FMCSA) Docket No. MC–262861

an Ontario corporation that primarily provides passenger charter and tour services to groups and organizations in southeastern Ontario and southern Quebec, Canada. (*Id.* at 4.) 417BL also provides motor coach tour services involving interstate travel in the United States, operating primarily in New York, Pennsylvania, and New Jersey. (*Id.*) According to the Applicants, 417BL maintains a fleet of approximately 27 coaches and employs approximately 40 drivers. (*Id.*)

According to the application, Agnes, a holding company for several family-owned and operated motor carriers that primarily provide contract school bus transportation services, is a Minnesota corporation owned by the Sellers with its principal place of business in Owatonna, Minn. (*Id.* at 5.) In the proposed transaction, the Applicants will acquire all of the issued and outstanding stock of Agnes,[3] placing Agnes under the Applicants' control. (*Id.* at 6.)

The Applicants state that the school bus transportation services provided by Agnes' subsidiaries—which serve approximately ten school districts and schools/universities in the state of Minnesota, and one school district in the state of Iowa—currently represent over 90% of the group's annual revenue. (*Id.* at 5.)[4] Cavalier, a wholly owned subsidiary of Agnes, provides public charter and contract shuttle passenger motor carrier services, including interstate passenger transportation service primarily in the state of Minnesota (the ''Agnes Service Area''). (*Id.* at 5.)[5] The collective operations of Agnes' subsidiaries (including Cavalier), utilize a fleet of approximately 375 vehicles, of which approximately 330 are school buses and 45 are motor coaches, vans, and other miscellaneous vehicles. (*Id.* at 5–6.) Additionally, Agnes and its subsidiaries employ approximately 410 drivers. (*Id.* at 6.) The operations of Cavalier entail the use of approximately 20 passenger vehicles, (the majority of which are motor coaches) and the employment of approximately 48 drivers. (*Id.*) According to the application, other than 417BL and Agnes' subsidiary, Cavalier, there are no carriers with regulated interstate operations involved in this Application. (Appl. 6.)

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least (1) the effect of the proposed transaction on the adequacy of transportation to the public, (2) the total fixed charges that result from the proposed transaction, and (3) the interest of affected carrier employees. Applicants have submitted the information required by 49 CFR 1182.2, including information to demonstrate that the acquisition of Agnes is consistent with the public interest under 49 U.S.C. 14303(b), *see* 49 CFR 1182.2(a)(7), and a jurisdictional statement under 49 U.S.C. 14303(g) that the aggregate gross operating revenues of the involved carriers exceeded $2 million during a consecutive 12-month period ending not more than 6 months before the date of the agreement of the parties, *see* 49 CFR 1182.2(a)(5). (*See* Appl. 7–11.)

The application asserts that the proposed transaction will not have a material, detrimental impact on the adequacy of transportation services available to the public. (*Id.* at 7.) The Applicants state that, given their contractual nature, the services currently provided by Agnes' subsidiaries are expected to continue for the foreseeable future and will be provided under the same names used prior to the proposed transaction. (*Id.* at 8.) According to the Applicants, Agnes' subsidiaries will continue to operate, but going forward, will simply be operating under the ultimate control of Applicants, who are thoroughly experienced in passenger transportation operations. (*Id.*) In addition, Applicants assert that current key Agnes management personnel are expected to remain employed by Agnes or one or more of its subsidiaries. (*Id.*) The Applicants further explain that acquiring control of Agnes will result in improved operating efficiencies, increased equipment utilization rates, and cost savings, all of which will help to ensure the continued provision of adequate service to the public by Agnes' subsidiaries. (*Id.*)

The application asserts that the impact of the transaction on the regulated motor carrier industry will be negligible at most. (*Id.* at 11.) The Applicants state that demand for school, charter, and shuttle transportation services within the Agnes Service Area is strong and is expected to remain so in the foreseeable future. (*Id.* at 10.) Specifically, the application states that the school bus transportation market is very competitive in the Agnes Service Area, as there are a large number of school bus service providers in that market area. (*Id.*) Competitors include local, regional, and national providers such as Palmer Bus Service, Northstar Bus Lines, Monarch Bus Service, Minnesota Central School Bus, Elite School Transportation, Pride Transportation Bus Service, Superior Transportation Services, and American Student Transportation. (*Id.*) With respect to passenger charter and shuttle services, the application states that Agnes' coach transportation subsidiary, Cavalier, competes directly with other similar service providers in the Agnes Service Area. (*Id.*) These competitors include Minnesota Coaches, Lorenz Bus Service, LCS Coaches, Voigt's Bus Service, Southwest Coaches, Richfield Bus Company, Voyager Bus Co., and Lake Crystal Coaches. (*Id.*) According to the Applicants, Cavalier also competes with scheduled rail transportation and airline carriers within the Agnes Service Area. (*Id.*)

The Applicants also state that the Agnes Service Area is geographically dispersed from the areas serviced by SCT–US's affiliate motor carrier, 417BL, regarding interstate charter service offerings, and that there is little-to-no overlap in the service areas and no overlap in the customer bases among such carriers in that regard. (*Id.* at 10–11.) In addition, the Applicants note that the Agnes Service Area is geographically dispersed from the areas serviced by SCT–CA given that SCT–CA's school bus operations are all within Canada. (*Id.* at 11.) In light of the foregoing, Applicants argue that the impact of the proposed transaction on the regulated motor carrier industry will be minimal at most, and that neither competition nor the public interest will be adversely affected. (*Id.*)

The Applicants concede that the proposed transaction will increase fixed charges in the form of higher interest expenses, explaining that funds will be borrowed to finance the transaction. (*Id.* at 8.) The Applicants state that the increase in fixed charges will not affect the provision of transportation to the public. (*Id.*) Additionally, according to the application, the Applicants do not expect the transaction to have a substantial impact on employees or labor conditions because they intend to

and has a USDOT Safety Rating of ''Satisfactory.'' (Appl. 4.)

[3] The application states that Agnes does not have a USDOT Number, FMCSA Docket Number, or Safety Rating. (*Id.* at 5.)

[4] Agnes' subsidiaries are as follows: Cavalier Coaches, Inc. (Cavalier), Albert Lea Bus Company, Inc., Owatonna Bus Company, Inc., Medford Bus Company, Inc., St. Louis Park Transportation Inc., Blooming Prairie Bus Company, Inc., Hayfield Bus Company, Inc., North Iowa Bus Company, Inc., and Pinicon Services, Inc. (*Id.,* Ex. D.) Additional information about these motor carriers, including principal places of business, USDOT Numbers, FMCSA Docket Numbers, and USDOT safety fitness ratings, can be found in the application. (*See id.* at Ex. D.)

[5] According to the application, in addition to its interstate passenger motor carrier authority, Cavalier also holds intrastate passenger motor carrier authority issued by the Minnesota Department of Transportation. (*Id.*)

continue the existing operations of Agnes and its subsidiaries. (*Id.* at 8–9.) Further, the Applicants do not expect the transaction to result in a measurable reduction in force nor in changes to compensation levels or benefits. (*Id.* at 9.)

Based on the Applicants' representations, the Board finds that their proposed acquisition of control of Agnes is consistent with the public interest. The application will be tentatively approved and authorized. If any opposing comments are timely filed, these findings will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6. If no opposing comments are filed by expiration of the comment period, this notice will take effect automatically and will be the final Board action in this proceeding.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available at *www.stb.gov.*

It is ordered:

1. The acquisition of control of Agnes is approved and authorized, subject to the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective on October 14, 2026, unless opposing comments are filed by October 13, 2026. If any comments are filed, Applicants may file a reply by October 26, 2026.

4. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW, Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590.

Decided: August 20, 2026.

By the Board, Board Members Fuchs, Hedlund, Kloster, and Schultz.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2026–17360 Filed 8–25–26; 8:45 am]

BILLING CODE 4915–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2026–0529]

2026 Review of Notorious Markets for Counterfeiting and Piracy: Comment Request

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) requests comments that identify online and physical markets to be considered for inclusion in the 2026 Review of Notorious Markets for Counterfeiting and Piracy (Notorious Markets List). The Notorious Markets List identifies examples of online and physical markets that reportedly engage in or facilitate substantial copyright piracy or trademark counterfeiting. The issue focus for the 2026 Notorious Markets List will examine issues related to high-quality counterfeit trademark goods known as superfakes or superclones.

DATES:

October 7, 2026, at 11:59 p.m. ET: Deadline for submission of written comments.

October 21, 2026, at 11:59 p.m. ET: Deadline for submission of rebuttal comments and other information USTR should consider during the review.

ADDRESSES: You should submit written comments through the Federal eRulemaking Portal: *http://www.regulations.gov* (*Regulations.gov*). Follow the instructions for submitting comments in section III below. For alternatives to online submissions, please contact Claire Avery-Page at *notoriousmarkets@ustr.eop.gov* or 202.395.6862 before transmitting a comment and in advance of the relevant deadline.

FOR FURTHER INFORMATION CONTACT: Claire Avery-Page, Director for Innovation and Intellectual Property, at *notoriousmarkets@ustr.eop.gov* or 202.395.6862. You can find information about the Special 301 Review, including the Notorious Markets List, at *www.ustr.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The United States is concerned with trademark counterfeiting and copyright piracy on a commercial scale because these illicit activities cause significant financial losses for right holders, legitimate businesses, and governments. In addition, they undermine critical U.S. comparative advantages in innovation and creativity to the detriment of American workers, and can pose significant risks to consumer health and safety and privacy and security. Conducted under the auspices of the Special 301 program in section 182 of the Trade Act of 1974 (19 U.S.C. 2242), and the authority of the U.S. Trade Representative to address practices that have significant adverse impact on the value of U.S. innovation in section 141 of the Trade Act of 1974 (19 U.S.C. 2171), the Notorious Markets List identifies examples of online and physical markets that reportedly engage in or facilitate substantial copyright piracy or trademark counterfeiting that infringe on U.S. intellectual property (IP).

Beginning in 2006, USTR identified notorious markets in the annual Special 301 Report. In 2010, USTR announced that it would publish the Notorious Markets List as an Out-of-Cycle Review, separate from the annual Special 301 Report. USTR published the first Notorious Markets List in February 2011. USTR develops the annual Notorious Markets List based upon public comments solicited through the **Federal Register** and in consultation with Federal agencies that serve on the Special 301 Subcommittee of the Trade Policy Staff Committee.

The United States encourages owners and operators of markets reportedly involved in piracy or counterfeiting to adopt business models that rely on the licensed distribution of legitimate content and products and to work with right holders and enforcement officials to address infringement. USTR also encourages foreign government authorities to intensify their efforts to investigate reports of piracy and counterfeiting in such markets, and to pursue appropriate enforcement actions. The Notorious Markets List does not purport to reflect findings of legal violations, nor does it reflect the U.S. Government's analysis of the general IP protection and enforcement climate in the country or countries concerned. For an analysis of the IP climate in particular countries, please refer to the annual Special 301 Report, published each spring no later than 30 days after USTR submits the National Trade Estimate to Congress.

II. Public Comments

USTR invites written comments concerning examples of online and physical markets that reportedly engage in and facilitate substantial copyright piracy or trademark counterfeiting that infringe on U.S. intellectual property. USTR also invites written comments for the Notorious Markets List 'issue focus' that highlights an issue related to the

facilitation of substantial trademark counterfeiting or copyright piracy. The issue focus for the 2026 Notorious Markets List will examine issues related to high-quality counterfeit trademark goods known as superfakes or superclones. To facilitate the review, written comments should be as detailed as possible. Comments must clearly identify the market and the reasons why the commenter believes that the market should be included in the Notorious Markets List. Commenters should include the following information, as applicable:

For online markets that engage in or facilitate substantial counterfeiting:

- The domain name(s) of the market, the name(s) of the owner(s) or operator(s), the geographic area(s) where the market operates, and whether the market is owned, operated, or otherwise affiliated with a government entity.
- Estimate of the number of goods sold or otherwise made available on the market and any other indicia of the market's scale, reach, or relative significance in a given geographic area or with respect to a category of goods.
- Estimate of the number and types of goods sold or otherwise made available on the market that are counterfeit, either in aggregate or in relation to the total number and types of goods sold or otherwise made available on the market, a description of the methodology used to create the estimate and the timeframe the estimate was conducted, and information supporting the claims of counterfeiting.
- Estimate of economic harm to right holders resulting from the counterfeit goods and a description of the methodology used to calculate the harm.
- Whether the number and types of counterfeit goods or the economic harm has increased or decreased from previous years, and an approximate calculation of that increase or decrease for each year.
- Whether the counterfeit goods sold or otherwise made available on the market pose a risk to public health or safety.
- Any known contractual, civil, administrative, or criminal enforcement activity against the market and the outcome of that enforcement activity.
- Any actions taken by right holders, such as discussing concerns with the market, submitting takedown notices or requests to remove counterfeit goods, sending cease and desist letters, or requesting that the market enforce its terms of service or terms of use, and the outcome of these actions.
- Any actions taken by the market owners or operators to remove, limit, or discourage the availability of counterfeit goods, including policies to prevent or remove access to such goods, or to disable seller or user accounts, the effectiveness of market policies and guidelines in addressing counterfeiting, and the level of cooperation with right holders and law enforcement.
- Any other additional information relevant to the review.

For online markets that engage in or facilitate substantial piracy:

- The domain name(s) of the market, the name(s) and location(s) of the hosting provider(s), the name(s) and location(s) of the owner(s) or operator(s), the geographic area(s) where the market operates, and whether the market is owned, operated, or otherwise affiliated with a government entity.
- Revenue sources such as sales, subscriptions, donations, upload incentives, or advertising, the methods by which that revenue is collected, and the entities that help facilitate the market's revenue.
- Description and estimate of economic harm to right holders resulting from piracy and a description of the methodology used to calculate the harm.
- Whether the number of pirated goods or files, or the economic harm, has increased or decreased from previous years, and an approximate calculation of that increase or decrease for each year.
- Any known contractual, civil, administrative, or criminal enforcement activity against the market and the outcome of that enforcement activity.
- Any actions taken by right holders, such as discussing concerns with the market, submitting takedown notices or requests to remove URLs or pirated content, sending cease and desist letters, or requesting that the market enforce its terms of service or terms of use, and the outcome of these actions.
- Any actions taken by the market owners or operators to remove, limit, or discourage the availability of pirated goods or services, including policies to prevent or remove access to such goods or services, or to disable seller or user accounts, the effectiveness of market policies and guidelines in addressing piracy, and the level of cooperation with right holders and law enforcement.
- Any other additional information relevant to the review.

For physical markets that engage in or facilitate substantial counterfeiting or piracy:

- The market's name(s), street address, neighborhood or shopping district, city, and the identity of the principal owner(s) or operator(s).
- Whether the market is owned, operated, or otherwise affiliated with a government entity.
- Types of counterfeit or pirated products or services sold, traded, distributed, or otherwise made available at the market.
- Volume of counterfeit or pirated goods or services or other indicia of the market's scale, reach, or relative significance in a given geographic area or with respect to a category of goods or services.
- Description and estimate of economic harm to right holders resulting from the piracy or counterfeiting and a description of the methodology used to calculate the harm.
- Whether the volume of counterfeit or pirated goods or estimates of harm has increased or decreased from previous years, and an approximate calculation of that increase or decrease for each year.
- Whether the infringing goods or services sold, traded, distributed, or made available pose a risk to public health or safety.
- Any known contractual, civil, administrative, or criminal enforcement activity against the market and the outcome of that enforcement activity.
- Additional actions taken by right holders, such as discussing concerns with the market, sending cease and desist letters, sending warning letters to landlords or requests to enforce the terms of their leases, and the outcome of these actions.
- Additional actions taken by the market owners or operators to remove, limit, or discourage the availability of counterfeit or pirated goods or services, the effectiveness of market policies and guidelines in addressing counterfeiting and piracy, and the level of cooperation with right holders and law enforcement.
- Any other additional information relevant to the review.

III. Submission Instructions

All submissions must be in English and sent electronically via *Regulations.gov*. To submit comments, locate the docket (folder) by entering the docket number USTR–2026–0529 in the search bar on the *Regulations.gov* homepage and click 'search.' The site will provide a search-results page listing all documents associated with this docket. Locate the reference to this notice by selecting 'notice' under 'document type' on the left side of the search-results page, and click on the link entitled 'Comment'. You should provide comments in an attached document, and name the file according to the following protocol, as appropriate: Commenter Name or

Organization_2026 Notorious Markets. Please include the following information in the 'Start typing comment here' field: 2026 Review of Notorious Markets for Counterfeiting and Piracy. USTR prefers submissions in Microsoft Word (.docx) or Adobe Acrobat (.pdf) format. If the submission is in another file format, please indicate the name of the software application in the 'Start typing comment here' field. For further information on using *Regulations.gov*, please contact the *Regulations.gov* Help Desk via the 'Support' button in the upper right corner of any page.

Please do not attach separate cover letters to electronic submissions. Instead, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files.

Please include the name, email address, and phone number of an individual who USTR can contact if there are issues or questions with the submission. The contact information can be included in the submission or sent to Claire Avery-Page, Director for Innovation and Intellectual Property, at *notoriousmarkets@ustr.eop.gov* or 202.395.6862.

For any comment submitted electronically that contains business confidential information (BCI), the file name of the business confidential version should begin with the characters 'BCI'. Any page containing BCI must be clearly marked 'BUSINESS CONFIDENTIAL' on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business confidential. A filer requesting business confidential treatment must certify that the information is business confidential and that they would not customarily release it to the public. Additionally, the submitter should type 'Business Confidential 2026 Review of Notorious Markets for Counterfeiting and Piracy' in the 'comment' field. Filers of comments containing BCI also must submit a public version. Begin the file name of the public version with the character 'P'. USTR will place the non-business confidential version in the docket at *Regulations.gov* and it will be available for public inspection.

As noted, USTR strongly urges submitters to file comments through *Regulations.gov*. You must make any alternative arrangements in advance of the relevant deadline and before transmitting a comment by contacting Claire Avery-Page at *notoriousmarkets@ustr.eop.gov* or 202.395.6862.

USTR will post comments in the docket for public inspection, except properly designated BCI. You can view comments on *Regulations.gov* by entering docket number USTR–2026–0529 in the search field on the home page.

Daniel Lee,

Assistant U.S. Trade Representative for Innovation and Intellectual Property, Office of the United States Trade Representative.

[FR Doc. 2026–17351 Filed 8–25–26; 8:45 am]

BILLING CODE 3390–F4–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2020–0115]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Aviation Research Grants Program.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves information to be collected will be used to and/or is necessary for the purpose of the review, and administration of grants in accordance with applicable Government-wide, and Agency regulations, policies, and procedures.

DATES: Written comments should be submitted by October 26, 2026.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

Monica Y. Butler, FAA, 1200 New Jersey Avenue SE, E65, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Monica Y. Butler by email at: *9–ANG–ARG–Grants@faa.gov;* phone: 202–267–8614.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized 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.

OMB Control Number: 2120–0559.

Title: Aviation Research Grants Program.

Form Numbers: SF–272, 9550–5, SF–424, SF424a, SF–3881, SF–425.

Type of Review: Renewal.

Background: The Aviation Research Grants Program utilizes grant awards to support advanced research in areas of potential benefit to the long-term growth of civil aviation, and in areas related to the prevention of catastrophic failure of an aircraft. The objective of this program is to encourage and support innovative, advanced, and applied research and development in areas of potential benefit to the long-term growth of civil aviation. This program implements 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Federal Aviation Administration Research, Engineering and Development Authorization Act of 1990, Public Law 101–508; 49 U.S.C. 44511: Aviation research grants. Submission requirements, instructions, and a list of documentation required for applying for a grant is outlined in the Aviation Research Grant Program Notice of Funding Opportunity (NOFO) number FAA–12–01, posted on *www.grants.gov.* Eligible benefactors include colleges, universities, and non-profit research institutions. This collection removes common forms SF–424 and SF–425.

Respondents: 50 Colleges, Universities, Non-profit research institutions.

Frequency: On occasion.

Estimated Average Burden per Response: 5 hours.

Estimated Total Annual Burden: 5 hours per respondent.

Issued in Washington, DC, on August 21, 2026.

Monica Y. Butler,

Grants Program Analyst, ANG–A19/Federal Aviation Administration.

[FR Doc. 2026–17350 Filed 8–25–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2026–0892]

Agency Information Collection Activities: Notice of Request for Renewal of a Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for renewal of a currently approved information collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection that 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 26, 2026.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 0892 by any of the following methods:

Web Site: 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: Alexis Kuklenski, (202) 689–9229, Office of Administration, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 7 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Transportation Performance Management Biennial Report.

OMB Control: 2125–0656

Background: The MAP–21 (Pub. L. 112–141) and FAST Act (Pub. L. 114–94) transformed the Federal-aid highway program by establishing new requirements for transportation performance management (TPM) to ensure the most efficient investment of Federal transportation funds. Prior to MAP–21, there were no explicit requirements for State DOTs to demonstrate how their transportation program supported national performance outcomes. State DOTs were not required to measure condition or performance, establish targets, assess progress toward targets, or report on condition or performance in a nationally consistent manner that FHWA could use to assess the entire system. Prior to the requirement to report these factors, it was difficult for FHWA to examine the effectiveness of the Federal-aid highway program as a means to address surface transportation performance. The TPM requirements, as established by MAP–21 and FAST Act, require States to measure condition or performance, establish targets, assess progress towards targets and report on condition and performance.

State DOTs must submit biennial performance reports (23 U.S.C. 150(e) and 23 CFR 490.107). The information is provided to the DOT in an electronic format through an online data form called the Performance Management Form (PMF). Alternative formats are made available where necessary. As part of the rulemaking[s] implementing the MAP–21 and FAST Act requirements, FHWA evaluated all of the Biennial Reporting requirements in the individual regulatory impact assessments (RIA) and determined the following:

Respondents: 52 State DOTs, including Washington DC and Puerto Rico.

Frequency: Biennially.

Estimated Average Burden per Response: 2,040.

Estimated Total Annual Burden Hours: 106,080.

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 21, 2026.

Jazmyne Lewis,

Information Collection Officer.

[FR Doc. 2026–17356 Filed 8–25–26; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2023–0040]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Request for Comment; Consolidated Child Restraint System Registration for Defect Notifications and Labeling

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a reinstatement and revision of a previously-approved information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) summarized below will be submitted to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection and its expected burden. This document request for comments on a reinstatement and revision of a previously-approved information collection on Child Restraint System Registration for Defect Notifications and Labeling. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on December 5, 2023 (88 FR 84514). No comments were received.

DATES: Comments must be submitted on or before September 25, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection, including suggestions for reducing burden, should be submitted to the Office of Management and Budget at *www.reginfo.gov/public/do/PRAMain.* To find this particular information collection, select ''Currently under Review—Open for Public Comment'' or use the search function.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Mrs. Cristina Echemendia, Office of Crashworthiness Standards, at *cristina.echemendia@dot.gov.* You can

reach this official by phone at 202–366–1810. Address: National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), a Federal agency must receive approval from the Office of Management and Budget (OMB) before it collects certain information from the public, and a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. In compliance with those requirements, this notice announces that the following information collection request is being submitted to OMB.

Title: ''Consolidated Child Restraint System Registration, Labeling and Defect Notifications.''

OMB Control Number: 2127–0576.

Form Number: NHTSA 1053 A, NHTSA 1053 B.

Type of Request: Reinstatement and revision of a previously-approved information collection.

Type of Review Requested: Regular.

Length of Approval Requested: Three years from date of approval.

Summary of the Collection of Information

This information collection requires that manufacturers of child restraint systems (CRSs): (1) produce registration cards, labels and printed instructions (brochures), (2) collect CRS owner registration information, (3) design registration cards, labels and manuals, and (4) create and keep registration records so that, in the event of a safety recall, manufacturers can provide direct notification to owners. Child restraint manufacturers are required to provide an owner's registration card for purchasers of child safety seats in accordance with Title 49 of the Code of Federal Regulations (CFR), Part 571—Section 213, ''Child restraint systems'' or—section 213b, ''Child restraint systems.'' The registration card consists of two-parts (Figures 1 and 2 in FMVSS No. 213 and Figures 4 and 5 in FMVSS No. 213b). The FMVSS No. 213 information card contains a message and suitable instructions to be retained by the purchaser. The registration form part is to be returned to the manufacturer by the purchaser. The registration part includes prepaid return postage, the pre-printed name and address of the manufacturer, the pre-printed model and date of manufacture, and spaces for purchasers to fill in their name and address. The size, font, color, and layout of the top part are currently prescribed (see Figures 1 and 2) as is the attachment method (fold/perforation) of the information card to the lower part of the form (the mail-in card). The top part of the registration card sets forth: (a) prescribed wording advising the consumer of the importance of registering; (b) prescribed instructions on how to register; and (c) prescribed statements that the mail-in card is pre-addressed and that postage is already paid.

The bottom part (the mail-in card) is to be returned to the manufacturer by the purchaser. The bottom part includes prepaid return postage, the pre-printed name andaddress of the manufacturer, the pre-printed model and date of manufacture, and spaces for the purchaser to fill in his/her name and address. Optionally, child restraint manufacturers are permitted to add to the registration form: (a) Specified statements informing CRS owners that they may register online; (b) the internet address for registering with the company; (c) revisions to statements reflecting use of the internet to register; and (d) a space for the consumer's email address. For those CRS owners with access to the internet, online registration may be a preferred method of registering a CRS.

Child restraint manufacturers are also required to provide printed instructions with new CRSs, with step-by-step information on how the restraint is to be used, and a permanently attached label that gives ''quick look'' information on matters such as usage instructions and information on registering the CRS.

The December 5, 2023 final rule updating child restraint systems requirements established the standard FMVSS No. 213b. The final rule amended the requirements in FMVSS No. 213 and FMVSS No. 213b so that the wording advising the consumer about the importance of registering their CRS and instructing how to register is not prescribed. Instead, CRS manufacturers are given leeway to use their own words to convey the importance of registering the CRS and to instruct how registration is achieved. Updated requirements allow statements instructing consumers to use electronic (or any other means) of registering, as long as instructions are provided on using the paper card for registering (including that the mail-in card is pre-addressed and that the postage is prepaid). Updated requirements allow other means of electronic registration other than a web address, such as a QR code, tiny URL, or similar.

In the final rule, the agency also removed restrictions on the use of size, font, color, layout, and attachment method of the information card portion, allowing manufacturers greater flexibility in its design. NHTSA is continuing a current provision that prohibits any other information unrelated to the registration of the CRS, such as advertising or warranty information. With the changes to the information card (Figure 1 and Figure 2 of this notice) adopted in the December 5, 2023 final rule, NHTSA anticipates a change to the hour burden or costs associated with the revised information card, labels and printed instructions, which will be discussed in later sections of this notice.

In addition to the manufacturer-supplied registration card, NHTSA implemented a CRS registration system to assist owners who either lost the original registration card or purchased a previously owned CRS.[1] Upon an owner's request, NHTSA provides a substitute registration form that can be obtained either by mail or from the internet [2] (see Figure 3). When the completed registration is returned to the agency, the information is forwarded to the CRS manufacturer. In the absence of a substitute registration system, many CRS owners, especially any second-hand owners, might not be notified of safety defects and non-compliances. These owners would be less likely to have any defects and non-compliances remedied without notification.

Child seat owner registration information is retained in the event that owners need to be contacted for defect recalls or replacement campaigns. Chapter 301 of Title 49 of the United States Code specifies that if either NHTSA or a manufacturer determines that motor vehicles or items of motor vehicle equipment contain a defect that relates to motor vehicle safety or fails to comply with an applicable Federal Motor Vehicle Safety Standard, the manufacturer must notify owners and purchasers of the defect or noncompliance and the manufacturer must provide a remedy without charge. In title 49 of the Code of Federal Regulations (CFR), part 577, defect and noncompliance notification for equipment items, including child restraint systems, must be sent by first class mail to the most recent purchaser known to the manufacturer.

[1] While NHTSA no longer provides this form in its website, the agency continues to process any forms it receives from consumers.

[2] *https://www.nhtsa.gov/equipment/car-seats-and-booster-seats#car-seat-registration.*

Child restraint manufacturers also must provide printed instructions in a brochure containing step-by-step information on how the restraint is to be used. Without proper CRS usage, the effectiveness of these systems is greatly diminished. Each CRS must also have a permanent label. A permanently attached label gives ''quick look'' information on whether the restraint meets the safety requirements, recommended installation and use, and warnings against misuse. CRSs equipped with internal harnesses and components to attach to a vehicle's child restraint anchorage system are also required to be labeled with a child limit.

Description of the Need for the Information and Proposed Use of the Information

CRS manufacturers are required to label each CRS and provide brochures containing safety information and instructions on proper restraint usage. Such information mitigates the risk of misuse and consequently reduces injuries to and fatalities of children in crashes. This collection supports the Department of Transportation's (DOT) strategic goal for safety, by working towards the elimination of transportation related deaths and injuries involving children.

FMVSS No. 213 and FMVSS No. 213b each require that every new CRS has an owner registration form attached. The standards permit information regarding online product registration to be included on the owner registration form required under the standard. This enhances the opportunity for owners to register their CRSs online, which may increase registration rates and the effectiveness of recall campaigns. Manufacturers are also permitted to supplement (but not replace) recall notification via first-class mail with email notification, which increases the likelihood that owners learn of a recall. Manufacturers are also required to include a U.S. telephone number on a CRS label for the purpose of enabling consumers to register their products by telephone.

Increasing CRS registrations is an important part to protecting young children and infants. By registering CRSs, product manufacturers will to able to directly contact owners in the event of any safety recalls.

60-Day Notice

A **Federal Register** notice with a 60-day comment period soliciting public comments on the following information collection was published on December 5th, 2023 (88 FR 84514). The closing date for comments was February 3, 2024. No comments were received on the information collection.

Affected Public: Businesses, Individuals and Households.

Estimated Number of Respondents: 38 Manufacturers, 2,835,200 Consumers.[3]

Frequency: On occasion.

Estimated Number of Responses: 2,835,200.

Estimated Total Annual Burden Hours: 119,439 hours.

The total burden hours for this collection consist of: (1) the hours spent by consumers filling out the registration form, (2) the hours spent collecting registration information, (3) the hours spent designing registration cards, labels and manuals, and, (4) the hours spent determining the maximum allowable child weight for lower anchor use and adding the information to the existing label and instruction manual.

(1) *Annual Burden for filling out registration card.* NHTSA estimates that 16,000,000 CRSs are currently sold each year by 38 CRS manufacturers. Of the CRSs sold each year, NHTSA estimates that 2,369,660 are registered using registration cards and 465,540 are registered online. A consumer spends approximately 60 seconds (one minute) filling out the registration form. The estimated annual number of burden hours for consumers to fill out the registration form is 47,253 hours (rounded) (2,835,200 × (60 seconds/3,600 seconds/hour)).

(2) *Annual Burden for Reporting (collecting registration information).* Manufacturers must spend about 90 seconds (1.5 min) to enter the information from each returned registration card; while online registrations are considered to have no burden for the manufacturer, as the information is entered by the purchaser. Therefore, the estimated annual number of burden hours for CRS registration information collection is 59,242 hours (rounded) (2,369,660 × (90 seconds/3,600 seconds/hour)).

(3) NHTSA assumes for purposes of this burden analysis that each manufacturer would design the registration information on the information card five times per year, whether it is to use different registration cards designs in different CRS models or to adapt the design to improve registrations. The agency estimates 50 hours of additional burden per child restraint manufacturer for the designing of the registration card (information card portion) that no longer have prescribed text (50 hours × 5 designs/year × 38 CRS manufacturers = 9,500 hours annually).

(4) *Annual Burden for Reporting (determining maximum allowable child weight).* About 12,400,000 of the CRSs sold each year are equipped with internal harnesses. About half of the CRSs equipped with internal harnesses sold annually (6,200,000 = 12,400,000 × 0.5) would require a label with the maximum allowable child weight for using the lower anchors. Manufacturers must spend about two seconds to determine the maximum allowable child weight for lower anchor use and to add the information to the existing label and instruction manual. Therefore, the total annual burden hours for the information on the maximum allowable child weight in the existing label and instruction manual is 3,444 hours (rounded) (= 6,200,000 × (2 seconds/3,600 seconds/hour)).

The estimated total annual number of burden hours is 119,439 (= 47,253 + 59,242 + 9,500 + 3,444) hours. The total estimated hour burden increased from 109,939 hours to 119,439 hours (a 9,500-burden hour increase). The increase in burden is due to new requirements in FMVSS No. 213b that result in additional cost for designing the registration card, labels, and manuals.[4] The adopted changes include allowing manufacturers to use their own words, instead of using prescribed statements, to convey the importance of registering and providing instructions on how to register. NHTSA also removed restrictions on size, font, color, layout, and attachment method for the information card portion of the registration card.

Estimated Total Annual Burden Cost: $10,565,493 (Rounded)

The total burden cost for this collection consists of printing and material costs of labels and registration cards and the mailed-in registration cards postage costs.

[3] This is the number of registrations filled by consumers and the information collection by the CRS manufacturers of those received registrations.

[4] On December 5, 2023 NHTSA published a final rule (88 FR 84514) adopting changes to the CRS registration card. These changes require manufacturers to use their own language to convey the importance of registration and provide instructions on how to complete it, replacing the previously mandated NHTSA-prescribed statements. NHTSA also removed restrictions on size, font, color, layout and attachment method of the information card portion of the registration card. On October 9, 2024, a petitions for reconsideration response final rule (89 FR 81836) was published that delayed the compliance date of these new requirements from December 5, 2024 to June 30, 2025, when the requirements will be mandatory.

Printing and Material Costs of Labels and Registration Cards, and Postage Costs

The total annual printing and material cost to the respondents is estimated to be $9,120,000. NHTSA estimates that the printing and material cost of $0.23 per CRS labels and $0.34 per CRS registration card. The total annual printing and material cost to respondents is calculated by multiplying the printing and material cost ($0.57 = $0.23 + $0.34) by the estimated 16,000,000 responses (CRSs produced) per year ($0.57 × 16,000,000). The total estimated annual printing and material costs are detailed in the table below:

Number of CRS produced annually	Printing and material cost per CRS—labels	Printing and material cost per CRS—registration card	Annual printing and material cost
16,000,000	$0.23	$0.34	$9,120,000

The total annual postage cost for the mailed in registration cards is estimated to be $1,445,493.00. Approximately 16,000,000 CRSs are sold each year with an estimated registration rate of 17.72% (2,835,200). Of the total registrations received, 83.58% (2,369,660) are mailed in registration cards. The remainder are from online registrations. CRS manufacturers are required to provide printed mail-in registration cards with pre-paid postage. The total annual postage cost is calculated by multiplying the number of mailed in registration cards (2,369,660) by the postage cost ($0.61).[5] The total estimated postage cost is detailed in the table below:

ANNUAL POSTAGE COSTS

[Mailed-in registration cards]

Number of CRS produced each year	Annual number of returned CRS registrations (registration rate of 17.72%)	Registrations received from registration cards (83.58%) *	Registration card postage cost	Annual postage cost
16,000,000	2,835,200	2,369,660	$0.61	$1,445,492.70

The estimated total annual cost burden is $10,565,493. The total annual cost burden is calculated by adding the annual printing and material costs ($9,120,000) and the mailed-in registration card postage cost ($1,445,492.70).

The total estimated burden cost increased from $8,781,987.85 to $10,565,492.70 (a $1,783,505 (rounded) increase). The increase in burden is due to the increase in postage, material, and printing costs.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Jane Doherty,

Acting Associate Administrator for Rulemaking.

BILLING CODE 4910–59–P

[5] United States Postal Service Rates: *https://pe.usps.com/text/dmm300/Notice123.htm#_c096.*

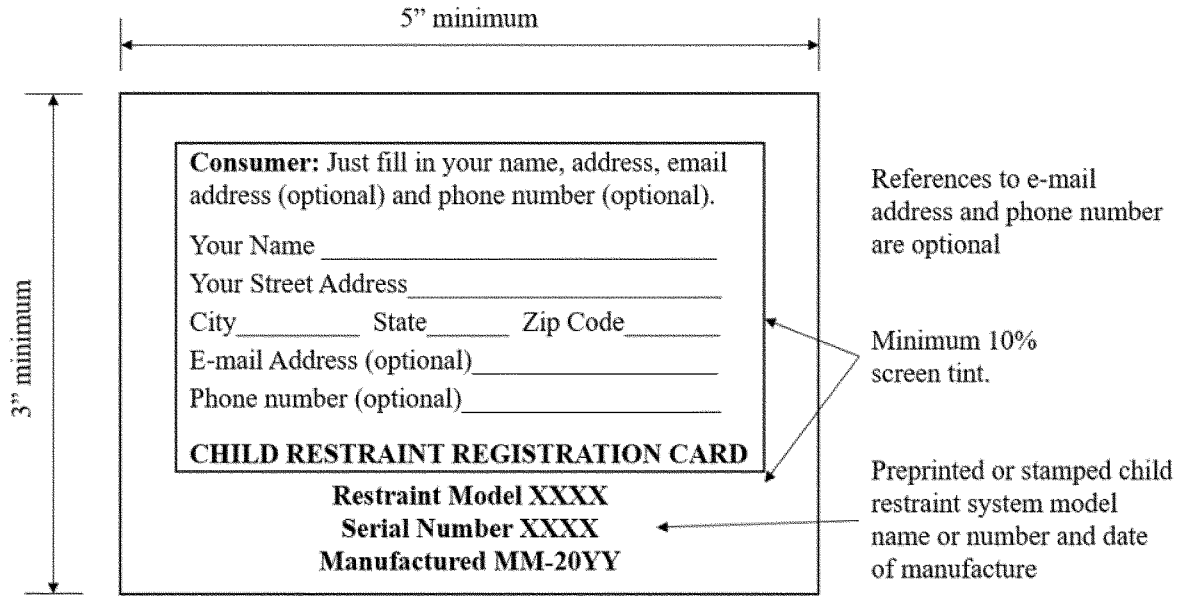


Figure 1 – Registration form for child restraint systems – product identification number and purchaser information side for CRSs certified to FMVSS No. 213b

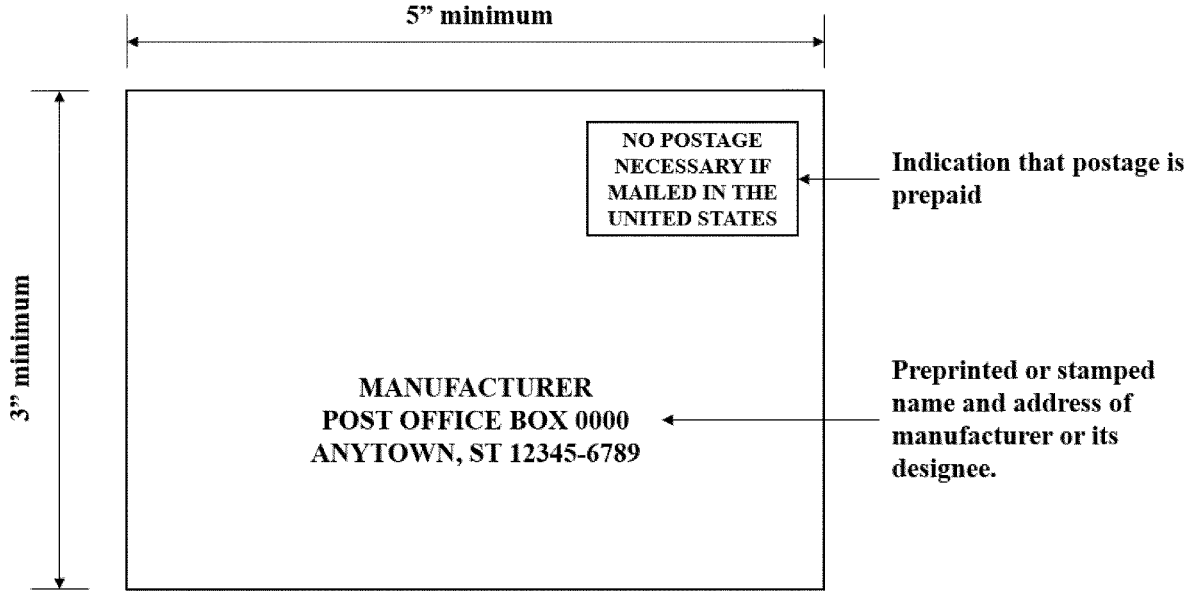
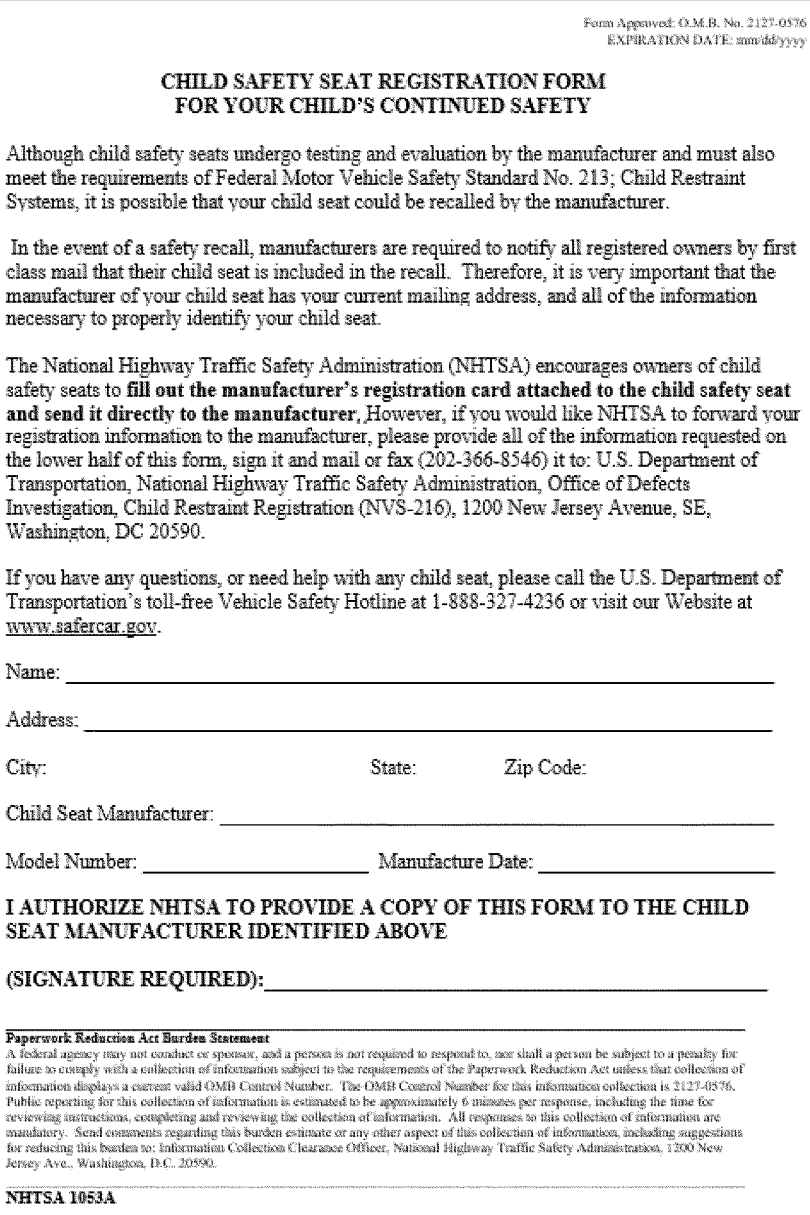


Figure 2 – Registration form for child restraint systems – address side for CRSs certified to FMVSS No. 213b



Form Approved: O.M.B. No. 2127-0576
EXPIRATION DATE: mm/dd/yyyy

CHILD SAFETY SEAT REGISTRATION FORM
FOR YOUR CHILD'S CONTINUED SAFETY

Although child safety seats undergo testing and evaluation by the manufacturer and must also meet the requirements of Federal Motor Vehicle Safety Standard No. 213; Child Restraint Systems, it is possible that your child seat could be recalled by the manufacturer.

In the event of a safety recall, manufacturers are required to notify all registered owners by first class mail that their child seat is included in the recall. Therefore, it is very important that the manufacturer of your child seat has your current mailing address, and all of the information necessary to properly identify your child seat.

The National Highway Traffic Safety Administration (NHTSA) encourages owners of child safety seats to **fill out the manufacturer's registration card attached to the child safety seat and send it directly to the manufacturer**. However, if you would like NHTSA to forward your registration information to the manufacturer, please provide all of the information requested on the lower half of this form, sign it and mail or fax (202-366-8546) it to: U.S. Department of Transportation, National Highway Traffic Safety Administration, Office of Defects Investigation, Child Restraint Registration (NVS-216), 1200 New Jersey Avenue, SE, Washington, DC 20590.

If you have any questions, or need help with any child seat, please call the U.S. Department of Transportation's toll-free Vehicle Safety Hotline at 1-888-327-4236 or visit our Website at www.safercar.gov.

Name: _____

Address: _____

City: State: Zip Code:

Child Seat Manufacturer: _____

Model Number: _____ Manufacture Date: _____

I AUTHORIZE NHTSA TO PROVIDE A COPY OF THIS FORM TO THE CHILD SEAT MANUFACTURER IDENTIFIED ABOVE

(SIGNATURE REQUIRED): _____

Paperwork Reduction Act Burden Statement
A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2127-0576. Public reporting for this collection of information is estimated to be approximately 6 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, National Highway Traffic Safety Administration, 1200 New Jersey Ave., Washington, D.C. 20590.

NHTSA 1053A

Figure 3 – Illustration of a child restraint system registration form

[FR Doc. 2026–17384 Filed 8–25–26; 8:45 am]
BILLING CODE 4910–59–C

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2025–0788]

Agency Information Collection Activities; Notice and Request for Comment; Title of Collection: Driver Monitoring System (DMS)—Applied Research To Develop Test Procedure for Drowsiness

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a request for approval of a new information collection.

SUMMARY: NHTSA invites public comments about our intention to request approval from the Office of Management and Budget (OMB) for a new information collection. Before a Federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of

previously approved collections. This document describes a collection of information for which NHTSA intends to seek OMB approval on Driver Monitoring System (DMS)—Applied Research to Develop Test Procedure for Drowsiness.

DATES: Comments must be submitted on or before October 26, 2026.

ADDRESSES: You may submit comments identified by the Docket No. NHTSA–2019–0146 through any of the following methods:

- *Electronic Submissions:* Go to the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail or Hand Delivery:* Docket Management, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W58, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. To be sure someone is there to help you, please call (202) 366–9826 before coming.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *https://www.transportation.gov/privacy.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets via internet.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Jeremiah Singer, Office of Vehicle Safety Research, National Highway Traffic Safety Administration, W46–430, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Phone: 202–366–7409.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) how to enhance the quality, utility, and clarity of the information to be collected; and (d) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB.

Title: Driver Monitoring System (DMS)—Applied Research to Develop Test Procedure for Drowsiness.

OMB Control Number: New.

Form Number(s): NHTSA Forms 2117, 2118, 2119, 2120, 2122, 2123, 2124, 2125, 2126, and 2127.

Type of Request: Approval of a new information collection request.

Type of Review Requested: Regular.

Requested Expiration Date of Approval: Three years from date of approval.

Summary of the Collection of Information: The National Highway Traffic Safety Administration (NHTSA) an operating mode of the U.S. Department of Transportation is seeking approval for a one-time voluntary information collection from 48 licensed drivers of various ages for a research study to identify approaches, procedures, and metrics to evaluate drowsy driver DMS performance with human subjects. Factors of interest include methods to induce drowsiness, test drive methods (*i.e.,* driving simulator, closed course), measures to identify drowsiness, level of drowsiness to detect, sensitivity and specificity of detection, and driver characteristics and testing conditions that are important for inclusion. This collection will not develop an objective test procedure for use in a Federal Motor Vehicle Safety Standard. The data collection will include integrated studies that feature test track driving in the Phoenix, Arizona area and a driving simulator driving in Iowa City, Iowa. For the test track portion of the study, participants will be assigned to one of three drive times (11 p.m., 1:30 a.m., 4 a.m.), will be asked to wake at least 16 hours before the start of the study drive, and will also be asked to refrain from napping or consuming caffeine within the final 13 hours before their study drive. The test track portion of the data collection will include a consenting process, a food, drink, and activity log, a breathalyzer test, a 2-hour study drive during dark, nighttime conditions, and a final debrief. The participants' driving data will be collected in the study-provided vehicle using a GoPro camera, an infrared (IR) camera, and a driver monitoring system (DMS). NHTSA expects to provide screening questionnaires to 100 potential participants to determine their eligibility for the test track portion of the study. Recruiting participants for the test track portion of the study has an estimated burden of approximately 25 hours for the screening questions. While the goal is 24 final participants, the research team will ensure eligibility and interest of 36 participants to account for potential attrition. Total burden for the test track portion of the study is 133 hours and the average over the three-year approval is 44 hours.

For the driving simulator portion of the study, NHTSA expects to provide screening questionnaires to 150 potential participants to determine their eligibility for the study. Recruiting participants for the driving simulator portion of the study has an estimated burden of approximately 22.5 hours for the screening questions. While the goal is 24 final participants, the research team will ensure eligibility and interest of 100 participants to account for potential attrition. Prior to the overnight visit, participants will be asked to wake at least 16 hours before the start of their study drive (*e.g.,* wake at 7 a.m. for a 11 p.m. drive time) and to refrain from napping, exercise, caffeine, alcohol, and other drug use before the visit. Participants will complete questionnaires throughout the visit that collect information regarding demographics, sleep and food intake over the last 24 hours, and how they feel related to sleepiness and well-being. Participants will complete a 10-minute screening drive then wait in a conference room until their scheduled study drive time. Participants will drive

for two hours in the simulator. During the drive, participants will complete sleepiness questionnaires every 10 minutes on the simulator's integrated display. The total burden for the driving simulator portion of the study is 187.5 hours and the average over the three-year approval is 62.5 hours. The total expected burden for this collection (test track + driving simulator driving) is 320.5 hours. This collection will be used to conduct a final evaluation of the test protocol for DMS detection and classification of drowsiness to aid NHTSA's goal for the protocol to be deployed by different groups of testers (manufacturers, researchers, regulators) to evaluate DMS efficacy. NHTSA will use the information to produce a technical report that will provide summary figures and tables, as well as the results of data analysis of the information. No personally identifiable information or individual responses will be reported or published. The technical report will be made available to the public through the NHTSA website and the National Transportation Library. This project involves approval by an institutional review board, which the contractor will obtain before contacting potential participants. This data collection will directly support NHTSA's goal of developing a test protocol that different groups of testers (manufacturers, researchers, government entities) can implement with a robust and validated approach to inducing different levels of drowsiness, collecting ground truth and driving data, and using the data to evaluate DMS efficacy.

Description of the Need for the Information and Proposed Use of the Information: NHTSA's mission is to save lives, prevent injuries, and reduce economic costs due to road traffic crashes, through education, research, safety standards and enforcement activity. Drowsiness plays a large and often underestimated role in traffic crashes, injuries, and deaths in the United States. While driver drowsiness is recorded as a factor in only about 2.5%of fatal crashes nationwide, research by the American Automobile Association's Foundation for Traffic Safety (AAA FTS) has estimated that as many as 6–10% of all police-reported crashes and 16%–21% of fatal crashes may involve driver drowsiness. In 2016, NHTSA released the Drowsy Driving Research and Program Plan that described efforts related to quantifying the problem, building public awareness and education, developing policy, identifying high-risk populations, and advancing vehicle technology and infrastructure. One technology solution is a driver monitoring system (DMS), which refers to technologies intended to detect impairment and/or classify the state of the driver, whether drowsy, distracted, or otherwise impaired.

There is no consensus approach to how DMS should be tested for drowsiness detection. Testing has been conducted across a range of sample sizes and population characteristics in varied and often poorly controlled environments. As more DMS systems are deployed, it is critical that developers, manufacturers, designers, and other evaluators be able to assess them in a rigorous, repeatable way. The European New Car Assessment Procedures (Euro NCAP) [1] specify that DMS manufacturers should provide data that support the ability of their systems to classify a driver as drowsy based on subjective ratings, microsleep detection (specifically eyelid closures), and sleep detection (eyelid closures longer than 3 seconds). However, Euro NCAP does not specify the conditions under which DMS should be evaluated, including the type of driving task, specific driver characteristics, and environmental conditions. Furthermore, the criteria used to define drowsiness reflect the late stages of drowsiness, once drivers are near sleep and where countermeasures may no longer be effective. Whereas severe drowsiness may be relatively easy to detect due to clear symptoms (*e.g.,* long eye closures), countermeasures may be more useful when the driver is mildly or moderately drowsy. This data collection will directly support NHTSA's goal of developing a test protocol that different groups of testers (manufacturers, researchers, government entities) can implement with a robust and validated approach to inducing different levels of drowsiness, collecting ground truth and driving data, and using the data to evaluate DMS efficacy.

Affected Public: Study volunteers in the Phoenix, Arizona and Iowa City, Iowa area. The study plans to recruit participants aged 18 and older. Efforts will be made to enroll a diverse age sample that broadly represents the age of the U.S. driving population and includes those at greater risk of crashing (*e.g.,* less than 25 years of age and greater than 65 years of age).

Estimated Number of Respondents: The total number of estimated respondents is 66 (36 test track participants and 30 driving simulator participants). For the test track portion of the study, we anticipate screening 100 potential participants to obtain 36 individuals who meet study inclusion criteria. It is estimated that 35% of those who begin the screening process will be eligible and agree to participate in the test track portion. As such, we anticipate conducting a maximum of 100 individual eligibility interviews to recruit the necessary participants for the test track portion of the study. While the goal is 24 final participants, the research team will ensure eligibility and interest of up to 36 participants to account for potential attrition. For the driving simulator portion of the study, we anticipate screening 150 potential participants to obtain 30 individuals who meet study inclusion criteria. It is estimated that 67% of those who begin the screening process will be eligible and agree to participate in the study. We anticipate conducting a maximum of 150 individual eligibility interviews to recruit the necessary participants for the driver simulator portion of the study. While the goal is 24 final participants, the research team will ensure eligibility and interest of 30 participants to account for potential attrition. Based on experience with similar studies, the screening process via phone provides sufficient information to participants to determine their interest in the study, thus little to no attrition is expected during the informed consent process.

Frequency: This study is a one-time information collection.

Estimated Number of Responses: Each respondent will complete the full study procedure one time. The study procedure contains multiple information collections, with different collections applicable to test track participants and driving simulator participants. Table 1 provides the full list of collections, including which ones apply to test track and which apply to driving simulator.

Estimated Annual Burden Hours: 106.8

The annual estimated burden is 106.8 hours. This is calculated as follows. First, as stated above, the research team will ensure eligibility and interest of 100 participants for the test track portion of the study and 150 participants for the driving simulator portion of the study to account for potential attrition, and therefore burden calculations are reflective of 250 participants in order to provide a conservative estimate. This estimate includes 47.5 hours for 250 potential participants to complete the initial screening for the test track and driving simulator portions of the study. Second, the test track study tasks include a 15-minute food, drink, and activity log, a 5-minute breathalyzer test, a 15-minute vehicle familiarization and KSS

[1] Euro NCAP (2023). Assessment Protocol–Safety Assist (Implementation 2023, version 10.1.2)

training, a 120-minute study drive, and a 10-minute final debriefing. The burden estimate for the test track portion of the study is 133 hours, including 9 hours for the consenting process and 99 hours to complete all test track tasks. Third, the driving simulator study tasks include a 5-minute food, drink, and activity log, a 1-minute demographic questionnaire, a 2-minute wellness questionnaire, a 15-minute simulator training and acclimation procedure, a waiting period (averaging 150-minutes), a 1-minute KSS questionnaire, a 125-minute driving behavior assessment, and a 2-minute end of visit release agreement. The burden estimate for the driving simulator portion of the study is 187.5 hours, including 7.5 hours for the consenting process and 157.50 hours to complete all driver simulator tasks. The total burden estimate is the sum of both the test track and the driving simulator driving activities and includes screening, consenting, and completing all of the test track and driving simulator driving activities for a total estimate of 320.5 hours. The details are presented in Table 1 below.

TABLE 1–ANNUAL COMBINED STUDY BURDEN HOURS

Form No.	Information collection	Annual number of respondents	Time per response (minutes)	Opportunity cost per response [2]	Frequency of response	Annual burden hours	Annual opportunity costs [3]
2117	Eligibility Questionnaire—simulator.	150/50	9	4.94	1	7.5	246.90
2118	Eligibility Questionnaire—closed course.	100/33	15	8.23	1	8	271.59
2119	Informed Consent—simulator.	30/10	15	8.23	1	2.5	82.30
2120	Informed Consent—closed course.	36/12	15	8.23	1	3	98.76
N/A	Intake & Eligibility Confirmation—simulator.	30/10	10	5.49	1	1.67	54.87
2122	Sleep and Food Intake—simulator.	30/10	5	2.74	1	0.84	27.43
2123	Sleep and Food Intake Form—closed course.	36/12	15	8.23	1	3	98.76
2124	Demographic Questionnaire—simulator.	30/10	1	0.55	1	0.17	5.49
2125	Wellness Questionnaire—simulator.	30/10	2	1.10	3	1	32.92
N/A	Breathalyzer Test	36/12	5	2.74	1	1	32.88
N/A	Simulator Training & Acclimation (Pre-Drive Orientation, Screening Drive).	30/10	15	8.23	1	2.5	82.30
N/A	Waiting Period	30/10	150	82.30	1	25	823.00
2126	Karolinska Sleepiness Scale (KSS)—simulator.	30/10	1	0.55	1	0.17	5.49
N/A	Driving Behavior Assessment (Study Drive with integrated KSS)—simulator.	30/10	125	68.58	1	20.84	685.83
N/A	Study Drive (Vehicle Familiarization/KSS Training, Test Track Drive, KSS Ratings)—closed course.	36/12	135	74.07	1	27	888.84
2127	End of Visit Release Agreement—simulator.	30/10	2	1.10	1	0.34	10.97
N/A	Debrief	36/12	10	5.49	1	2	65.88
Total ...	.....	.....	.....	.....	.....	106.8	3,514.21

Estimated Total Annual Burden Cost: 0.

Participation in this study is voluntary, and there are no costs to respondents beyond the time spent completing the questionnaires and visits to the study facility. Further, there is no preparation of data required or expected of respondents, thus there are no record keeping costs to the respondents. Participants do not incur capital and start-up costs, nor do they incur fuel costs as the vehicles being driven during the study are not the participants vehicles. For individuals who participate in the test track portion of the study, they will be offered 400 as compensation for completing the study requirements, plus up to 25 in transportation compensation to cover their ride to and from the test facility. For the driving simulator portion of the study, participants will be offered 230, 290, or 350 as compensation for completing the study requirements, depending on their overnight visit start time. Previous experience indicates that anything less than the proposed total compensation would likely result in failure to recruit enough participants to provide meaningful results. This level of

[2] Costs are calculated on the fraction of the hourly wage with rounding being done only on the final computed number.

[3] Cost rounded to the hundredth's place.

compensation is in line with past similar efforts given the activities it requires of participants while not being coercive. This compensation amount also helps offset any transportation costs (*e.g.,* travel time, gas, etc.) that participants may incur.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Cem Hatipoglu,

Associate Administrator for Vehicle Safety Research

[FR Doc. 2026–17423 Filed 8–25–26; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Superfund Tax on Chemical Substances; Request To Modify List of Taxable Substances; Notice of Filing for Poly(divinylbenzene-ethylvinylbenzene); x=1.33x10^{17}, y=3.27x10^{16}

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of filing and request for comments.

SUMMARY: This notice of filing announces that a petition has been filed requesting that poly(divinylbenzene-ethylvinylbenzene) ($(C_{10}H_{10})_x(C_{10}H_{12})_y$; x=1.33x10^{17}, y=3.27x10^{16}), also known as ''DVB-EVB,'' be added to the list of taxable substances. This notice of filing also requests comments on the petition. This notice of filing is not a determination that the list of taxable substances is modified.

DATES: Written comments and requests for a public hearing must be received on or before October 26, 2026.

ADDRESSES: Commenters are encouraged to submit public comments or requests for a public hearing relating to this petition electronically via the Federal eRulemaking Portal at *https://www.regulations.gov* (indicate public docket number IRS–2026–1025 or Poly(divinylbenzene-ethylvinylbenzene); x=1.33x10^{17}, y=3.27x10^{16} by following the online instructions for submitting comments. Comments cannot be edited or withdrawn once submitted to the Federal eRulemaking Portal. Alternatively, comments and requests for a public hearing may bemailed to: Internal Revenue Service, Attn: CC:PA:01:PR (Notice of Filing for Poly(divinylbenzene-ethylvinylbenzene); x=1.33x10^{17}, y=3.27x10^{16}, Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. All comments received are part of the public record and subject to public disclosure. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. You should submit only information that you wish to make publicly available. If a public hearing is scheduled, notice of the time and place for the hearing will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jacob W. Peeples at (202) 317–6855 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Request To Add Substance to the List

(a) *Overview.* A petition was filed pursuant to Rev. Proc. 2022–26 (2022–29 I.R.B. 90), *as modified by* Rev. Proc. 2023–20 (2023–15 I.R.B. 636), requesting that DVB-EVB be added to the list of taxable substances under section 4672(a) of the Internal Revenue Code (List). The petition requesting the addition of DVB-EVB to the List is based on weight and contains the information detailed in paragraph (b) of this document. The information is provided for public notice and comment pursuant to section 9 of Rev. Proc. 2022–26. The publication of petition information in this notice of filing is not a determination and does not constitute Treasury Department or IRS confirmation of the accuracy of the information published.

(b) *Petition Content.*

(1) *Substance name:* Poly(divinylbenzene-ethylvinylbenzene) ($(C_{10}H_{10})_x(C_{10}H_{12})_y$; x=1.33x10^{17}, y=3.27x10^{16}).

The substance is also known as DVB-EVB.

(2) *Petitioner:* Purolite LLC is an importer of DVB-EVB.

(3) *Proposed classification numbers:*

(i) *HTSUS number:* 3903.90.5000.

(ii) *Schedule B number:* 3903.90.0000

(iii) *CAS number:* 9043–77–0.

(4) *Petition filing dates:*

(i) *Petition filing date for purposes of making a determination:* November 18, 2025.

(ii) *Petition filing date for purposes of section 11.02 of Rev. Proc. 2022–26, as modified by section 3 of Rev. Proc. 2023–20:* April 1, 2025.

(5) *Description from petition:* DVB-EVB is a copolymer composed of divinylbenzene (''DVB'') and ethylvinylbenzene (''EVB'') monomers. DVB-EVB is mainly used for the production of ion exchange resins, but can also be used as a column packing material in liquid chromatography, a separation medium in thin-layer chromatography, and an adsorbent.

(6) *Process identified in petition as predominant method of production of substance:* The predominant method of producing DVB-EVB is through the polymerization of DVB and EVB monomers. DVB is produced by the dehydrogenation of diethylbenzenes. Diethylbenzenes arise as side-products of the alkylation of benzene with ethylene. EVB is produced by the partial dehydrogenation of diethylbenzenes.

(7) *Stoichiometric material consumption equation, based on process identified as predominant method of production:* (x+y) C_6H_6 (benzene) + 2(x+y) C_2H_4 (ethylene) → $(C_{10}H_{10})x(C_{10}H_{12})y$ (DVB-EVB) + (2x+y) H_2 (hydrogen).

(8) *Tax rate calculated by Petitioner, based on Petitioner's conversion factors for taxable chemicals used in production of substance:*

(i) *Tax rate:* $10.03 per ton.

(ii) *Conversion factors:* 0.60 for benzene and 0.43 for ethylene.

(9) *Public docket number:* IRS–2026–1025.

Michael H. Beker,

Senior Counsel (Energy, Credits, and Excise Tax), IRS Office of Chief Counsel.

[FR Doc. 2026–17430 Filed 8–25–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Superfund Tax on Chemical Substances; Request To Modify List of Taxable Substances; Notice of Filing for Methylene Diphenyl Diisocyanate; n=2.0–3.0

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of filing and request for comments.

SUMMARY: This notice of filing announces that a petition has been filed requesting that methylene diphenyl diisocyanate ($(C_8H_6NO)(C_8H_5NO)_{n-2}(C_7H_4NO)$; n=2.0–3.0), also known as ''MDI,'' be added to the list of taxable substances. This notice of filing also requests comments on the petition. This notice of filing is not a determination that the list of taxable substances is modified.

DATES: Written comments and requests for a public hearing must be received on or before October 26, 2026.

ADDRESSES: Commenters are encouraged to submit public comments or requests for a public hearing relating to this petition electronically via the Federal eRulemaking Portal at *https://www.regulations.gov* (indicate public docket number IRS–2026–1028 or Methylene Diphenyl Diisocyanate; n=2.0–3.0) by following the online instructions for submitting comments. Comments cannot be edited or withdrawn once submitted to the Federal eRulemaking Portal. Alternatively, comments and requests for a public hearing may bemailed to: Internal Revenue Service, Attn: CC:PA:01:PR (Notice of Filing for Methylene Diphenyl Diisocyanate; n=2.0–3.0), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. All comments received are part of the public record and subject to public disclosure. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. You should submit only information that you wish to make publicly available. If a public hearing is scheduled, notice of the time and place for the hearing will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jacob W. Peeples at (202) 317–6855 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Request to Add Substance to the List:

(a) *Overview.* A petition was filed pursuant to Rev. Proc. 2022–26 (2022–29 I.R.B. 90), *as modified by* Rev. Proc. 2023–20 (2023–15 I.R.B. 636), requesting that MDI be added to the list of taxable substances under section 4672(a) of the Internal Revenue Code (List). The petition requesting the addition of MDI to the List is based on weight and contains the information detailed in paragraph (b) of this document. The information is provided for public notice and comment pursuant to section 9 of Rev. Proc. 2022–26. The publication of petition information in this notice of filing is not a determination and does not constitute Treasury Department or IRS confirmation of the accuracy of the information published.

(b) *Petition Content.*

(1) *Substance name:* Methylene diphenyl diisocyanate ($(C_8H_6NO)(C_8H_5NO)_{n-2}(C_7H_4NO)$; n=2.0–3.0).

The substance is also known as MDI.

(2) *Petitioner:* Huntsman International LLC is an exporter and importer of MDI.

(3) *Proposed classification numbers:*

(i) *HTSUS number:* 2929.10.8010.

(ii) *Schedule B number:* 2929.10.8010.

(iii) *CAS number:* 101–68–8, 9016–87–9.

(4) *Petition filing dates:*

(i) *Petition filing date for purposes of making a determination:* November 21, 2025.

(ii) *Petition filing date for purposes of section 11.02 of Rev. Proc. 2022–26, as modified by section 3 of Rev. Proc. 2023–20:* July 1, 2024.

(5) *Description from petition:* MDI is a homologous series of aromatic diisocyanates, which enter the market in several forms from pure (or monomeric) MDI through to polymeric MDI. MDI is used in the production of a variety of polyurethane products including coatings, adhesives, sealants, rigid, flexible, semi-rigid, and polyisocyanurate foams.

On average, MDI's degree of functionality (n) varies from n = 2.0 for pure (or monomeric) MDI to n = 2.1 to 3.0 for polymeric MDI. This petition uses the lowest degree of functionality for MDI (*i.e.,* n = 2.0) to demonstrate that more than 20% of the substance is made from taxable chemicals, and the midpoint degree of functionality for MDI (*i.e.,* n = 2.5) to calculate the tax rate for the entire range.

(6) *Process identified in petition as predominant method of production of substance:* The predominant method of producing MDI is via the reaction of aniline and formaldehyde to produce methylenedianiline (''MDA''), which is treated with phosgene with evolution of hydrochloric acid followed by fractionated distillation or distillation followed by crystallization. Aniline is made from mononitrobenzene and hydrogen. Mononitrobenzene is made from benzene and nitric acid. Hydrogen is made from steam-methane reforming. Formaldehyde is made from the oxidation of methanol. Methanol is made from the oxidation of methane. Phosgene is made from chlorine and carbon monoxide.

(7) *Stoichiometric material consumption equation, based on process identified as predominant method of production:* n C_6H_6 (benzene) + n HNO_3 (nitric acid) + [3/4n+1/2(n-1)] CH_4 (methane) + n Cl_2 (chlorine) + [n+(n-1)] CO (carbon monoxide) + 1/2(n-1) O_2 (oxygen) → $(C_8H_6NO)(C_8H_5NO)_{n-2}(C_7H_4NO)$ (MDI)+ [3/2n +(n-1)] H_2O (water) + [3/4n+1/2(n-1)] CO_2 (carbon dioxide) + 2n HCl (hydrochloric acid)

(8) *Tax rate calculated by Petitioner, based on Petitioner's conversion factors for taxable chemicals used in production of substance:*

(i) *Tax rate:* $10.20 per ton

(ii) *Conversion factors:* 0.62 for benzene, 0.50 for nitric acid, 0.13 for methane and 0.56 for chlorine.

(9) *Public docket number:* IRS–2026–1028.

Michael H. Beker,

Senior Counsel (Energy, Credits, and Excise Tax), IRS Office of Chief Counsel.

[FR Doc. 2026–17432 Filed 8–25–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Superfund Tax on Chemical Substances; Request To Modify List of Taxable Substances; Notice of Filing for Acrylate Monomer Synthetic Rubber; x=587.30, y=583.29, z=258.18, a=1.58

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of filing and request for comments.

SUMMARY: This notice of filing announces that a petition has been filed requesting that acrylate monomer synthetic rubber ($(C_5H_8O_2)_x$-$(C_7H_{12}O_2)_y$-$(C_6H_{10}O_3)_z$-$(C_{35}H_{62}O_3)_a$; x=587.30, y=583.29, z=258.18, a=1.58), also known as ''ACM Rubber,'' be added to the list of taxable substances. This notice of filing also requests comments on the petition. This notice of filing is not a determination that the list of taxable substances is modified.

DATES: Written comments and requests for a public hearing must be received on or before October 26, 2026.

ADDRESSES: Commenters are encouraged to submit public comments or requests for a public hearing relating to this petition electronically via the Federal eRulemaking Portal at *https://www.regulations.gov* (indicate public docket number IRS–2026–1027 or Acrylate Monomer Synthetic Rubber; x=587.30, y=583.29, z=258.18, a=1.58 by following the online instructions for submitting comments. Comments cannot be edited or withdrawn once submitted to the Federal eRulemaking Portal. Alternatively, comments and

requests for a public hearing may bemailed to: Internal Revenue Service, Attn: CC:PA:01:PR (Notice of Filing for Acrylate Monomer Synthetic Rubber; x=587.30, y=583.29, z=258.18, a=1.58), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. All comments received are part of the public record and subject to public disclosure. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. You should submit only information that you wish to make publicly available. If a public hearing is scheduled, notice of the time and place for the hearing will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jacob W. Peeples at (202) 317–6855 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Request To Add Substance to the List

(a) *Overview.* A petition was filed pursuant to Rev. Proc. 2022–26 (2022–29 I.R.B. 90), *as modified by* Rev. Proc. 2023–20 (2023–15 I.R.B. 636), requesting that ACM Rubber be added to the list of taxable substances under section 4672(a) of the Internal Revenue Code (List). The petition requesting the addition of ACM Rubber to the List is based on weight and contains the information detailed in paragraph (b) of this document. The information is provided for public notice and comment pursuant to section 9 of Rev. Proc. 2022–26. The publication of petition information in this notice of filing is not a determination and does not constitute Treasury Department or IRS confirmation of the accuracy of the information published.

(b) *Petition Content.*

(1) *Substance name:* Acrylate monomer synthetic rubber ($(C_5H_8O_2)_x$-$(C_7H_{12}O_2)_y$-$(C_6H_{10}O_3)_z$-$(C_{35}H_{62}O_3)_a$≧ x=587.30, y=583.29, z=258.18, a=1.58).

The substance is also known as ACM Rubber.

(2) *Petitioner:* Zeon Chemicals L.P. is an importer of ACM Rubber.

(3) *Proposed classification numbers:*

(i) *HTSUS number:* 4002.99.0000.

(ii) *Schedule B number:* 4002.99.0000.

(iii) *CAS number:* 93410–24–3.

(4) *Petition filing dates:*

(i) *Petition filing date for purposes of making a determination:* November 18, 2025.

(ii) *Petition filing date for purposes of section 11.02 of Rev. Proc. 2022–26, as modified by section 3 of Rev. Proc. 2023–20:* April 1, 2023.

(5) *Description from petition:* ACM Rubber is a synthetic rubber comprised of acrylate monomers, primarily ethyl acrylate and butyl acrylate. Often, the ACM Rubber has small quantities of cure site monomers which affect physical properties and performance, but the tax rate is unaffected. ACM Rubbers are primarily used for automotive parts (*e.g.,* hoses, transmission gaskets).

(6) *Process identified in petition as predominant method of production of substance:* The predominant method of producing ACM Rubber is by emulsion polymerization of ethyl acrylate, butyl acrylate, and methoxy ethyl acrylate in the presence of an emulsifier and a free-radical initiator. Ethyl acrylate monomer is produced by acidcatalyzed esterification of acrylic acid with ethanol. Acrylic acid is produced by the oxidation of propylene. Ethanol is produced by biological processes (fermentation of sugars with yeast). Butyl acrylate monomer is produced by the acid-catalyzed esterification acrylic acid with butanol. Butanol is produced by the hydroformylation of propylene to butanal, which is then reduced with hydrogen. Hydrogen is produced from steam-methane reforming. Methoxyethyl acrylate monomer is produced by acidcatalyzed esterification of acrylic acid with methoxyethanol. Methoxyethanol is produced from methanol and ethylene glycol. Methanol is produced from carbon monoxide and hydrogen. Ethylene glycol is produced from ethylene oxide and water. Ethylene oxide is produced by the oxidation of ethylene. Octadecyl 3-(3,5-di-*tert*-butyl-4-hydroxyphenyl) propionate is produced from 3,5-di-*tert*-butyl-4-hydroxyphenylpropianic acid and stearyl alcohol. 3,5-di-*tert*-butyl-4-hydroxyphenylpropianic acid is produced from methyl 3-(3,5–3,5-di-tert-butyl-4-hydroxyphenyl) propionate and water. Methyl 3-(3,5–3,5-di-*tert*-butyl-4-hydroxyphenyl) propionate is produced from 2,6-di-*tert*-butylphenol and methyl 3-methoxypropionate. 2,6-di-*tert*-butylphenol is produced from phenol and isobutylene. Phenol is produced via the Hock process (*i.e.,* the partial oxidation of cumene via the Hock rearrangement). Cumene is produced via the Friedel-Crafts alkylation of benzene with propylene. Isobutylene is produced from the dehydration of *tert*-butyl alcohol. *tert*-Butyl alcohol is derived commercially from isobutane as a coproduct of propylene oxide production. Isobutane is obtained by the isomerization of butane. Methyl 3-methoxypropionateis produced from methyl acrylate and methanol. Methyl acrylate is produced from acrylic acid and methanol. Stearyl alcohol is produced from the hydrogenation of stearic acid. Stearic acid is obtained from fats and oils by saponification of triglycerides using hot water.

(7) *Stoichiometric material consumption equation, based on process identified as predominant method of production:* (x+2y+z+2a) C_3H_6 (propylene) + (1/2y+1/2z+3/2a) CH_4 (methane) + z C_2H_4 (ethylene) + a C_6H_6 (benzene) + 2a C_4H_8 (butylene) + x C_2H_6O (ethanol) + (3/2x+3/2y+2z+5/2a) O_2 (oxygen) + (y+z+2a) CO (carbon monoxide) + a $C_{18}H_{36}O_2$ (stearic acid) → $(C_5H_8O_2)_x$-$(C_7H_{12}O_2)_y$-$(C_6H_{10}O_3)_z$-$(C_{35}H_{62}O_3)_a$ (ACM Rubber) + (2x+y+z) H_2O (water) + (1/2y+1/2z+3/2a) CO_2 (carbon dioxide) + a C_3H_6O (acetone) + 2a CH_3OH (methanol).

(8) *Tax rate calculated by Petitioner, based on Petitioner's conversion factors for taxable chemicals used in production of substance:*

(i) *Tax rate:* $5.55 per ton.

(ii) *Conversion factors:* 0.50 for propylene, 0.04 for methane, 0.04 for ethylene, 0.0007 for benzene, and 0.001 for butylene.

(9) *Public docket number:* IRS–2026–1027.

Michael H. Beker,

Senior Counsel (Energy, Credits, and Excise Tax), IRS Office of Chief Counsel.

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Part II

Department of Homeland Security

U.S. Customs and Border Protection

19 CFR Parts 103, 113, 123, et al.
Automated Commercial Environment (ACE) Electronic Export Manifest for Rail Cargo; Final Rule

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Parts 103, 113, 123, and 192

[Docket No. USCBP–2024–0030; CBP Dec. 26–15]

RIN 1651–AB52

Automated Commercial Environment (ACE) Electronic Export Manifest for Rail Cargo

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: U.S. Customs and Border Protection (CBP) is revising its regulations pursuant to the Trade Act of 2002 requiring the transmission of export manifest data electronically in the Automated Commercial Environment (ACE) for cargo transported by rail for any train departing the United States. This rule mandates the electronic transmission of rail export manifest information, identifies the parties eligible to transmit information, and describes the time frames prior to departure in which the information is due. This rule enables CBP to address important cargo security concerns while providing efficiencies to the trade.

DATES: *Effective date:* This rule is effective on October 26, 2026.

Compliance date: CBP will begin enforcing this rule on October 26, 2027.

FOR FURTHER INFORMATION CONTACT: David Garcia, Program Manager, Outbound Enforcement and Policy Branch, Office of Field Operations, CBP, via email at *cbpexportmanifest@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose of Revising the Regulations for Electronic Export Manifest for Rail Cargo

Current regulations are insufficient to adequately capture cargo data for rail shipments leaving the United States. U.S. Customs and Border Protection (CBP) is finalizing this rule to reduce the data gaps existing under current regulations, and to address important cargo security concerns resulting from incomplete data. This rule will apply to all rail cargo exports and provide efficiencies to the trade. CBP does not presently require the pre-departure electronic transmission of data for all exported cargo as it does for imported cargo. This can result in a threat to cargo and broader U.S. national security because CBP has no regulations prescribing any method or means of review for cargo being exported by rail. The electronically transmitted cargo data that is transmitted prior to departing the United States by rail is limited significantly in its scope. Currently, 19 CFR 192.14 requires a U.S. Principal Party in Interest (USPPI), the USPPI's agent, or the authorized filing agent of a Foreign Principal Party in Interest (FPPI) to transmit Electronic Export Information (EEI) to CBP through the Automated Commercial Environment (ACE). While this pre-departure data is helpful, EEI is generally only required by the Bureau of Census regulations on shipments that exceed $2,500, per Schedule B number and is generally not required for shipments to Canada unless certain controlled items are involved or the shipment is being transshipped to another destination. 15 CFR Parts 30 and 758. Because of these limitations, there is a significant lack of electronic manifest data which inhibits the enforcement efforts by CBP for such exports. This rule creates an integrated pre-departure electronic export manifest which includes receiving advance information for risk assessment purposes from the source most likely to have correct information about the cargo. This rule closes the gap which currently exists and requires all information to be manifested which enhances the security of the rail cargo and aligns the security of exported rail cargo with the regulations that are required of rail cargo imported into the United States.

B. Statutory Authority

Pursuant to Section 343(a) of the Trade Act of 2002, as amended (''Trade Act'') (19 U.S.C. 1415), CBP is authorized to promulgate regulations providing for the mandatory transmission of electronic cargo information by way of a CBP-authorized electronic data interchange (EDI) system before cargo arrives or departs the United States by any mode of commercial transportation (sea, air, rail, or truck). The required cargo information is reasonably necessary to ensure cargo safety and security pursuant to the laws enforced and administered by CBP. 19 U.S.C. 1415(a)(2)). CBP needs to obtain timely and sufficient data prior to cargo arriving or departing the United States via any mode of commercial transportation to review and conduct risk assessments to identify high-risk shipments and inspect cargo effectively.

C. Summary of the Rule

This rule mandates the transmission of electronic export manifest (EEM) data, in addition to the EEI data required under 15 CFR part 30, for all cargo prior to departing the United States for Canada and Mexico in the rail environment in lieu of paper submissions. The new regulation, to be codified at 19 CFR 123.93, mandates the electronic transmission of rail export manifest information, identifies the parties eligible to transmit such information, describes the time frames prior to departure of the train in which the information is due, requires a bond to secure compliance with the new regulation, and identifies an initial filing that must occur as early as practicable, but no later than 24 hours prior to departure from the U.S. port of export while requiring the remaining data to be transmitted at least two hours prior to such departure. The new regulation designates information as transportation data, cargo data, or empty container data, and lists the data elements to be transmitted while identifying and classifying them as mandatory, conditional, or optional. The data elements identified as mandatory must be transmitted, while elements identified as conditional shall be transmitted if applicable, and optional elements may be transmitted at the discretion of the party making the transmission. These data elements will allow CBP to inspect cargo effectively, ensure compliance with U.S. export control laws and regulations, and identify high-risk shipments for purposes of ensuring cargo safety and security.

In the notice of proposed rulemaking (NPRM), 90 FR 2874, 2917 (Jan. 13, 2025), CBP proposed that the initial filing ''must be transmitted as early as practicable, but no later than 24 hours prior to departure of the train from the United States.'' Subsequent filings were due ''no later than two hours prior to departure of the train from the United States.'' *Id.* In this final rule, consistent with the NPRM preamble and to provide greater clarity regarding these deadlines, CBP has revised the regulatory text such that the 24-hour and 2-hour deadlines are keyed to the ''departure of the train from the United States port of export,'' rather than simply ''departure of the train from the United States.'' [1] This change is intended to make explicit that

[1] *See, e.g.,* 90 FR at 2880 (''The proposed regulation would . . . identify an initial filing that must occur 24 hours prior to departure from the *port of export* while requiring the remaining data to be transmitted at least two hours prior to *such departure*.'' (emphases added)).

the operative deadline is the train's scheduled departure from the designated U.S. port of export and to avoid any ambiguity regarding inland rail yards or other locations.

Also in the NPRM, CBP proposed to add 19 CFR 123.93(c), which identifies the parties that can transmit the cargo and conveyance data. The outbound carrier is responsible for transmitting the export manifest transportation data and empty container data. If no other party elects to transmit the initial filing data and the export manifest cargo data, then the outbound carrier must transmit this data. If another eligible party elects to transmit either the initial filing data or export manifest cargo data, the outbound carrier may also choose to, but is not required to, transmit such data. Other eligible parties include the USPPI and FPPI, or an authorized agent, as those parties are defined in section 30.1 of the Federal Trade Regulations (FTR) of the Department of Commerce, Bureau of the Census (15 CFR 30.1). Other eligible transmitters also include any other party with direct knowledge of the export information, such as a customs broker, Automated Broker Interface (ABI) filer, Non-Vessel Operating Common Carrier (NVOCC) as defined by 19 CFR 4.7(b)(3)(ii), or a freight forwarder as defined in 19 CFR 112.1. If another party does not transmit advance export information, then the party that arranges for and/or delivers the cargo to the outbound carrier must fully disclose and present to the outbound carrier the data elements for the initial filing. Based on the comments received after the publication of the NPRM regarding certain parties such as freight forwarders or NVOCCs, CBP is amending 19 CFR 123.93(c) to reflect that these parties will not be acting as customs brokers but, in this instance, acting as EEM transmitters. Specifically, in section 123.93(a), CBP is adding a provision stating that ''[t]he transmission of such EEM data for the purpose of complying with this section does not constitute customs business.''

Section 123.93(d) requires a mandatory initial filing of seven data elements identified below to be transmitted as early as practicable, but no later than 24 hours prior to departure from the United States, by either the carrier, USPPI, or another qualified party or their authorized agent. The results of the Test have shown that some rail carriers would have the export manifest data available days in advance prior to departure and therefore would have all the necessary information to transmit the initial filing data to CBP and all other export manifest data well in advance of the 24-hour prior to departure deadlines.[2] Except for the initial data elements, CBP would require electronic export manifest information in sections 123.93(e), and (f) to be transmitted two hours prior to train departure from the U.S. port of export.

Based upon comments submitted, CBP is making the following changes in paragraphs (d), (e), and (f) as compared to the NPRM:

- In paragraphs (d)(1)(v) and (vi) (which were paragraphs 123.93(d)(5) and (6) in the NPRM), CBP is removing the identification number from these data elements to remove any potential uncertainty and to provide CBP with the necessary information that is sought.
- In paragraph (d)(2), CBP is revising its approach to exemption statements. This revision introduces a conditional element to be transmitted with the initial filing at the time of the initial filing, or as soon as the information becomes applicable: the Automated Export System (AES) Internal Transaction Number (ITN) or FTR exemption/exclusion code. (As proposed, there was a mandatory data element for ''Automated Export System (AES) Exemption Statement, as applicable.'') Making this data element conditional will allow the filer to complete the initial EEM filing even when the ITN or FTR exemption/exclusion code is not yet available.
- In paragraph (d)(1)(vii), and in paragraphs (e), and (f), CBP now includes a new data element, ''Employer Identification Number (EIN) or Importer Record Number (IRN) or CBP assigned number,'' that will help CBP identify the transmitter's required bond, which will be obligated to secure the filing, and will be a mandatory data element for the initial filing, transportation data filing, and cargo data filing. CBP will determine the obligated bond as follows: if the transmitter has an active international carrier bond, the transmitter's international carrier bond will be obligated to secure the filing; if the transmitter does not have an active international carrier bond but does have an active basic custodial bond, the transmitter's basic custodial bond will be obligated to secure the filing; and if the transmitter has neither an active international carrier bond nor an active basic custodial bond but does have an active basic importation and entry bond, the transmitter's basic importation and entry bond will be obligated to secure the filing.

Section 123.93(g) provides for two types of referrals that may be issued by CBP after a risk assessment of an outbound export manifest data transmission. Should any rail cargo be identified by CBP as requiring review, the cargo will not depart until the required additional information related to the shipment is transmitted or some other appropriate action is taken, as specified by CBP. Once the cargo is cleared for loading, a release message will be generated and transmitted to the filer. Section 123.93(h) provides for additional procedures for when a CBP officer determines during the review that cargo or a rail car may contain a potential threat to the train and its vicinity, so that a Do-Not-Load (DNL) instruction can be issued. A DNL instruction prohibits the rail carrier from transporting that cargo or rail car so that further examination can be conducted. These examinations allow CBP to secure the cargo, conduct risk assessments, and inspect cargo effectively. CBP is changing paragraph (h), as compared to the NPRM, by:

- Making clear that DNL and Hold instructions are issued ''to the outbound rail carrier and any other transmitter as soon as applicable''; and
- Providing that ''[a]ll outbound rail carriers and transmitters who receive a DNL or Hold instruction must contact CBP at the port of export.''

As an enforcement tool, CBP is also changing the relevant bond provisions in 19 CFR 113.62 (basic importation and entry bond), 19 CFR 113.63 (basic custodial bond), and 19 CFR 113.64 (international carrier bond) to provide CBP with authority to assess liquidated damages when parties do not provide the mandatory EEM data in the manner and in the time frame required. Specifically, CBP is amending 19 CFR 113.62 to add new paragraph (k)(3), and amending 19 CFR 113.63(g) and 19 CFR 113.64(d), to add new parameters for failure to electronically provide outbound information in the manner and time frame required because these provisions currently address electronic transmissions for merchandise or cargo which is inbound. With each of these regulations, CBP may assess liquidated damages if a violation occurs. CBP's primary goal is compliance and CBP seeks to work alongside rail carriers and other parties to ensure that the proper data is provided in a timely manner, for CBP to properly review the data, conduct risk assessment of high-risk shipments, and enforce U.S. export laws and regulations on U.S. rail exports. As compared to the NPRM, CBP is also changing proposed 19 CFR 113.64(d)(1) by removing the references to ''§§ 4.7 and 4.7(a) of this chapter'' and changing the language to read ''applicable regulations'' so that CBP can rely on this

[2] The results of the rail EEM test are discussed in further detail under Section VII below.

regulation to enforce violations in other modes of transportation without further amendment. Similarly, in sections 113.62(k)(3), 113.63(g)(2), and 113.64(d)(1) and (2), CBP is removing the references to ''under § 123.93 of this chapter'' and changing the language to read ''by regulation'' so that CBP can rely on those regulations to enforce violations in other modes of transportation without further amendment. This final rule will also require a party transmitting the EEM data to CBP to have an appropriate bond on file with CBP that contains the condition to transmit advance export information in the manner required by regulation. This rule goes into effect 60 days after publication, but CBP will not begin enforcing this rule until one year after publication, which gives a party expecting to need an appropriate bond when CBP begins enforcing this rule 300 days to obtain such a bond, either by terminating and replacing an existing continuous bond or by obtaining a new bond (continuous or single transaction). At one year, a bond that does not contain the condition to transmit advance export information in the manner required by regulation will be deemed insufficient.

For CBP, this requirement to transmit an electronic export manifest will enhance cargo security because it provides improvements in risk assessment capabilities by allowing CBP to use its Automated Targeting System (ATS) to screen all of the data transmitted. Port operations will enjoy considerable efficiencies through the elimination of paper manifests. Storage space currently reserved for manifest documents will be freed. Coordination and information exchange among CBP, the Department of Commerce, and other partner government agencies with export jurisdiction will improve. Carriers, USPPIs, NVOCCs, and other interested parties who transmit information will receive more thorough and rapid examination decisions from CBP and improved communication between CBP and trade members. The trade will benefit through the ease of making information corrections and additions electronically in contrast to the more time-consuming process that is required with paper submissions. These benefits, including improved targeting capabilities, which are necessary for security purposes, outweigh the flexibility of allowing parties to file submissions either by paper or electronically.

CBP has also made a couple of other conforming changes as compared to the NPRM. First, CBP is amending § 192.14(b)(1)(iv) to clarify that, for rail cargo, Electronic Export Information (EEI) included in an initial data transmission of electronic export manifest (EEM) information must be filed in accordance with the provisions of § 123.93. This change aligns the EEI filing requirements for rail exports with the new electronic export manifest procedures. The purpose of the change is to avoid any potential conflict or confusion regarding the applicable filing deadlines.

Second, as compared to the NPRM, CBP is making a clarifying change to § 103.31a(a) to add a reference to § 123.93. Specifically, CBP is listing advance electronic information for outbound rail cargo submitted under the new electronic export manifest requirements as information that is covered by the availability of information provisions in § 103.31a.

D. Costs and Benefits

CBP anticipates that during the time period of analysis, including the Test period and the regulatory period (2016–2030), this final rule will result in costs, cost savings, and benefits to CBP and trade members engaging in exporting merchandise out of the United States in the rail environment.[3] CBP estimates present value total costs to CBP and trade members will range from $10.3 million (discounted 2025 U.S. dollars) using a three percent discount rate to around $7.0 million (discounted 2025 U.S. dollars) using a seven percent discount rate. The annualized total costs are estimated to range from $859,845 using a three percent discount rate to around $764,026 using a seven percent discount rate. CBP identified some other potential costs from this rule and some comments from the public voiced concerns about these costs but did not provide monetized values for costs to trade members. Therefore, CBP was unable to monetize these costs, including time burdens to CBP officers if the final rule results in additional cargo examinations and costs to trade members participating in the rail EEM from adjusting business practices, requiring participants to hold or obtain an appropriate bond, requiring outbound rail carriers to have staff available to respond to CBP questions, and trade members potentially being liable for liquidated damages for any violations. Present value total cost savings to CBP and trade members are expected to range between around $47.7 million (discounted 2025 U.S. dollars) using a three percent discount rate, and $29.6 million (discounted 2025 U.S. dollars) using a seven percent discount rate. Annualized cost savings are estimated to range from $4.0 million using a three percent discount rate and $3.3 million using a seven percent discount rate. CBP expects that there will be additional cost savings to trade members that CBP was unable to monetize such as reduced paper, printing and storage costs related to paper forms, and reducing or eliminating instances where trains need to be deconstructed in order for CBP to examine cargo that typically results in a delay of up to two hours and around $3,000 in freight movement costs. CBP anticipates that benefits from this final rule will include improving CBP's security efforts by using ATS to conduct risk assessments on all rail exports, improving communication between federal agencies with export jurisdiction, and improving efficiencies to participating trade members from transitioning from a paper to an electronic process. However, CBP was unable to monetize the expected benefits from this final rule. Present value total net cost savings from the implementation of this final rule will range from $37.5 million (discounted 2025 U.S. dollars) using a three percent discount rate and $22.7 million (discounted 2025 U.S. dollars) using a seven percent discount rate. Annualized net cost savings from this final rule are expected to range from $3.1 million using a three percent discount rate to $2.5 million using a seven percent discount rate.[4] Table 1 below displays CBP's estimates for annualized costs, cost savings, benefits, and net costs from this final rule using a three and seven percent discount rate over the period of analysis (2016–2030). Additionally, based on CBP's perpetual time horizon calculations, the present value of net cost savings from this final rule will be $128.6 million and the annualized value of net cost savings will be $9.01 million using a seven percent discount.

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[3] In the Regulatory Impact Analysis for this final rule, CBP also discusses and provides estimates for the costs, cost savings, and benefits compared to the baseline (prior to the introduction of the rail EEM test) during both the rail EEM test pilot period (2016–2025) and for the regulatory period (2026–2030).

[4] In the economic analysis for this final rule, CBP used a three and seven percent discount rate for estimated future quantified and monetized costs, cost savings, and benefits based on guidance from OMB Circular A–4.

Table 1. Estimated Annualized Cost, Cost Savings, Benefits using 3% and 7% Discount Rate (2016–2030) (discounted 2025 U.S. dollars)

	3% Discount Rate	7% Discount Rate
Costs		
Annualized monetized costs	$859,845	$764,026
Annualized quantified, but non-monetized costs	None	None
Qualitative (non-quantified) costs	If additional cargo examinations occur estimated cost to CBP will be around $88.45 per additional exam. Rail carriers and other participants may have to adjust business practices when moving from a paper to electronic process* Securing a bond is required to participate. Rail carriers and other participants must have someone available to respond to CBP questions about data transmitted. Liquidated damages, $5,000 for each violation up to a maximum of $100,000 per departure.	If additional cargo examinations occur estimated cost to CBP will be around $88.45 per additional exam. Rail carriers and other participants may have to adjust business practices when moving from a paper to electronic process* Securing a bond is required to participate. Rail carriers and other participants must have someone available to respond to CBP questions about data transmitted. Liquidated damages, $5,000 for each violation up to a maximum of $100,000 per departure.
Cost Savings		
Annualized monetized cost savings	$3,999,584	$3,252,455
Annualize quantified, but non-monetized cost savings	None	None
Qualitative (non-quantified) cost savings	Reduce paper, printing and storage costs related to paper forms. Rail carriers may avoid CBP cargo examinations on already constructed trains, resulting in delays (up to 2 hours) and costs ($3,000 per occurrence).	Reduce paper, printing and storage costs related to paper forms. Rail carriers may avoid CBP cargo examinations on already constructed trains, resulting in delays (up to 2 hours) and costs ($3,000 per occurrence).
Benefits		
Annualized monetized benefits	None	None
Annualized quantified, but non-monetized benefits	None	None
Qualitative (non-quantified) benefits	Improve CBP's security efforts on rail exports, electronic data transmissions will allow CBP to use its ATS to conduct risk assessment on all rail exports** Gained efficiencies from trade by switching from paper to electronic data transmission. Improved communication among federal agencies with export jurisdiction.	Improve CBP's security efforts on rail exports, electronic data transmissions will allow CBP to use its ATS to conduct risk assessment on all rail exports** Gained efficiencies from trade by switching from paper to electronic data transmission. Improved communication among federal agencies with export jurisdiction.
Net Cost Savings	$3,139,739	$2,488,429

* These costs are discussed in further detail under Regulatory Period Costs in Section VII below. Additionally, CBP will require all rail carriers to participate but other trade members involved in the export process may elect to provide data to CBP electronically.
** Details on how CBP conducts targeting and risk assessment prior to this final rule using paper forms are discussed under Baseline in Section VII below.

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II. Statutory Authority

Section 343(a) of the Trade Act (19 U.S.C. 1415) authorizes CBP to promulgate regulations providing for the mandatory transmission of electronic cargo information by way of a CBP-authorized EDI system before the cargo is brought into or departs the United States by any mode of commercial transportation (sea, air, rail, or truck). The required cargo information is reasonably necessary to enable CBP to ensure cargo safety and security pursuant to the laws enforced and administered by CBP. 19 U.S.C. 1415(a)(2).

CBP consulted with carriers throughout the process of developing the proposed regulation and during the course of the ACE Export Manifest for Rail Cargo Test that has been administered since 2015. 19 U.S.C. 1415(a)(3)(A). As the statute requires, in general, the regulation imposes requirements on the party most likely to have direct knowledge of information to be provided. When requiring information from the party with direct knowledge of that information is not practicable, the regulations take into account how, under ordinary commercial practices, information is acquired by the party on which the requirement is imposed, and whether and how such party is able to verify the information. Where information is not reasonably verifiable by the party on which a requirement is imposed, the regulations permit that party to transmit information on the basis of what it reasonably believes to be true. 19 U.S.C. 1415(a)(3)(B). The regulation that CBP is promulgating will require the transmission of the export manifest data electronically in ACE for cargo transported by rail, pursuant to section 343(a), of the Trade Act. 19 U.S.C. 1415(a)(3)(E). Under section 343(a)(3)(G) of the Trade Act (19 U.S.C. 1415(a)(3)(G)), CBP is required to promulgate regulations that protect the privacy of business proprietary and any other confidential cargo information provided to CBP. Data electronically presented to CBP in accordance with 19 CFR 123.93 is specifically exempt from disclosure as either trade secrets or privileged or confidential commercial or financial information under 19 CFR 103.31a, unless CBP receives a specific request for such records pursuant to 6 CFR 5.3, and the owner of the information expressly agrees in writing to its release. The regulations avoid imposing requirements that are redundant with one another or that are redundant with requirements in other provisions of law, as seen below. 19 U.S.C. 1415(a)(3)(I).

III. Background

A. Current Regulations

Under the existing regulations, commercial rail carriers are not required to submit a paper or electronic manifest for cargo exported from the United States by rail. CBP does have regulations which support the transmission of EEI required by the Bureau of the Census Foreign Trade Regulations (FTR) or the Bureau of Industry and Security's Export Administration Regulations (EAR). Section 192.14 of title 19 of the Code of Federal Regulations implements the requirements of the Trade Act regarding cargo departing the United States. Under 19 CFR 192.14, the USPPI, or its authorized agent, or the authorized filing agent of the FPPI is required to transmit certain advance information to CBP for export cargo leaving the United States by rail.[5]

Under 19 CFR 192.14, the USPPI or its authorized agent must transmit and verify system acceptance of this EEI, generally no later than two hours prior to the arrival of the train at the border. *See* 19 CFR 192.14(b)(1)(iv). A commercial rail carrier may not load cargo without first receiving from the USPPI or its authorized agent either the related EEI filing citation, covering all cargo for which the EEI is required, or exemption legends, covering cargo for which EEI need not be filed. *See* 19 CFR 192.14(c)(4)(i). While the rail carrier is not required to transmit a rail cargo export manifest to CBP, the outbound rail carrier must annotate the carrier's outward manifest, waybill, or other export documentation with the applicable AES proof of filing, post departure, downtime, exclusion, or exemption citations, conforming to the approved data formats found in the Bureau of the Census FTR. *See* 15 CFR part 30.

The current regulations found in 19 CFR 192.14 also require the USPPI, the USPPI's authorized agent, or the authorized filing agent of the FPPI to electronically transmit to CBP through AES certain EEI. This information supports statistical gathering; however, it falls short of addressing important cargo security considerations because almost all shipments with a value less than $2,500.00 per Schedule B number and shipments directed to Canada are exempt from EEI filing requirements, other than, for example, those containing certain items controlled under the EAR or intended for transshipment through Canada, creating a gap in security which this new regulation will resolve by requiring information on all exports for rail cargo. CBP will require the transmission of manifest information, providing CBP the opportunity to more effectively target *all* shipments that are exported by rail, which will increase CBP's ability to discover and interdict contraband such as narcotics, weapons, or ammunition, thereby enhancing the security of the United States. This new regulation will close the security gap by requiring compliance with the regulation in order to export the cargo as parties will have to provide pre-departure electronic manifest information which CBP can screen and inspect for the safety and security of the United States and its neighboring countries. This new regulation also aligns with the current regulation for rail cargo imported into the United States. *See* 19 CFR 123.91.

The transmission of EEI is a Bureau of the Census filing regulated by 15 CFR part 30 and, with few exceptions, is only submitted when the value of merchandise is above $2,500.00 per Schedule B commodity classification number. *See, e.g.,* 15 CFR 30.1(c) (definition of ''shipment''), 30.37(a).

The requirement to transmit EEI also does not apply to rail shipments bound for Canada, unless such shipments contain certain export-controlled items or are destined for transshipment to third countries. *See* 15 CFR 30.36. This regulatory gap leaves many shipments outside of CBP security review. The lack of pre-departure information, which includes commodity information submitted by rail carriers into CBP targeting systems, hinders CBP's ability to conduct risk assessments and inspect cargo effectively to ensure cargo safety and security. This new regulation creates an integrated pre-departure electronic export manifest which includes receiving advance information for risk assessment purposes from the source most likely to have correct information about the cargo.

Currently, for exporting purposes, each carrier submits a train consist in a format that the carrier develops and with the data elements that the carrier believes should be reported. The train consist identifies what is on the train, the order of the train, and what the train is consisted of as it prepares to depart the country. These data elements provide export information similar to that required by the provisions of 19

[5] The USPPI is defined in the Bureau of the Census FTR as the person or legal entity in the United States that receives the primary benefit, monetary or otherwise, from the export transaction. Generally, that person or entity is the U.S. seller, manufacturer, or order party, or the foreign entity while in the United States when purchasing or obtaining the goods for export. 15 CFR 30.1.

CFR 123.91, which describes electronic information for rail cargo required in advance of arrival, and 19 CFR 123.6, which includes a train sheet for arriving railroad trains.

B. The ACE Export Manifest for Rail Cargo Test

On September 9, 2015, CBP published a general notice in the **Federal Register** (80 FR 54305) announcing the National Customs Automation Program (NCAP) Test for the transmission through ACE of EEM information for rail shipments, the ACE Export Manifest for Rail Cargo Test (''Test''), which was limited to nine rail carriers.

In part, the Test was used in furtherance of International Trade Data System (ITDS) key initiatives, set forth in section 405 of the Security and Accountability for Every Port Act of 2006, Public Law 109–347, 120 Stat. 1884, 1929–1931 (SAFE Port Act), codified at 19 U.S.C. 1411(d), and Executive Order 13659, Streamlining the Export/Import Process for America's Businesses, 79 FR 10655 (Feb. 25, 2014). The purpose of ITDS, as stated in section 411(d)(1)(B) of the SAFE Port Act, is to eliminate redundant information requirements, efficiently regulate the flow of commerce, and effectively enforce laws and regulations relating to international trade, by establishing a single portal system operated by CBP for the collection and distribution of standard electronic import and export data required by all participating federal agencies. ACE was developed by CBP as the ''single window'' for the trade community to comply with the ITDS requirement established by the SAFE Port Act. *See* 19 U.S.C. 1411(d)(1)(B).

The data elements in the original Test have been mandatory unless otherwise indicated below. The Test has required that the five conditional data elements be transmitted to CBP only if the particular information pertains to the shipment or cargo. The data elements are required to be transmitted at the lowest bill level. The data elements in the Test for all shipments, including empty rail cars, consist of:

(1) Mode of Transportation (containerized rail cargo or non-containerized rail cargo)
(2) Port of Departure from the United States
(3) Date of Departure
(4) Manifest Number
(5) Train Number
(6) Rail Car Order
(7) Car Locator Message
(8) Hazmat Indicator (Yes/No)
(9) 6-character Hazmat Code (conditional) (If the hazmat indicator is yes, then UN (for United Nations Number) or NA (North American Number) and the corresponding 4-digit identification number assigned to the hazardous material must be provided.)
(10) Marks and Numbers
(11) SCAC (Standard Carrier Alpha Code) for exporting carrier
(12) Shipper name and address (For empty rail cars, the shipper may be the railroad from whom the rail carrier received the empty rail car to transport.)
(13) Consignee name and address (For empty rail cars, the consignee may be the railroad to whom the rail carrier is transporting the empty rail car.)
(14) Place where the rail carrier takes possession of the cargo shipment or empty rail car
(15) Port of Unlading
(16) Country of Ultimate Destination
(17) Equipment Type Code
(18) Container Number(s) (for containerized shipments) or Rail Car Number(s) (for all other shipments)
(19) Empty Indicator (Yes/No)

If the empty indicator is no, then the following data elements must also be provided, as applicable:

(20) Bill of Lading Numbers (Master and House)
(21) Bill of Lading Type (Master, House, Simple, or Sub)
(22) Number of House Bills of Lading
(23) Notify Party name and address (conditional)
(24) AES Internal Transaction Number or AES Exemption Statement (per shipment)
(25) Cargo Description
(26) Weight of Cargo (may be expressed in either pounds or kilograms)
(27) Quantity of Cargo and Unit of Measure
(28) Seal Number
(29) Split Shipment Indicator (Yes/No)
(30) Portion of split shipment (*e.g.,* 1 of 10, 4 of 10, 5 of 10—Final, etc.) (conditional)
(31) In-bond Number (conditional)
(32) Mexican Pedimento Number (only for shipments for export to Mexico) (conditional)

On August 14, 2017, CBP extended the Test and began accepting additional applications for all parties that met the eligibility requirements of the original nine stakeholders composed of rail carriers. (82 FR 37893). CBP consulted with the Commercial Customs Operations Advisory Committee (COAC) to address issues concerning the quality, accessibility, and timeliness of export manifest data received during the Test.

After evaluating the initial phase of the Test and considering COAC's comments, CBP determined that, to better test the functionality and feasibility of transmitting the specified export data two hours prior to loading of the cargo on the train, the filing condition for nine of the data elements should be changed. The modified filing conditions enabled CBP to better determine the appropriate reporting requirements for each data element.

CBP modified the Test to change the following eight mandatory or conditional data elements to optional:

- Mode of Transportation (containerized rail cargo or non-containerized rail cargo) (Data Element #1)
- Place where the carrier took possession (Data Element #14)
- Country of Ultimate Destination (Data Element #16)
- Equipment Type Code (Data Element #17)
- Number of House Bills of Lading (Data Element #22)
- Split Shipment Indicator (Data Element #29)
- Portion of Split Shipment (Data Element #30)
- Mexican Pedimento Number (Data Element #32)

CBP also modified the Test to change Data Element #10, Marks and Numbers, from mandatory to conditional.

The remaining data elements under the extended Test continued to be mandatory, conditional, or optional as provided in the September 9, 2015 notice.

CBP identified in the expansion and modification of the Test that it would reevaluate the filing conditions for each data element to determine the feasibility of requiring that data element to be filed electronically in ACE within a specified timeframe before the cargo is loaded on the train, should CBP decide to conduct rulemaking. Accordingly, this regulation changes the timing of presentation of most electronic export manifest data from two hours prior to loading on the train to two hours prior to departure of the train from the U.S. port of export.

Since its inception, the Test evaluated the practicality of requiring rail carriers to transmit export manifest data in a standardized format by utilizing ACE ITDS initiatives. A key challenge was that CBP had not yet established regulations for the specific data elements needed, and carriers were providing train manifests in their own chosen formats. ACE resulted in the creation of a single automated export processing platform for certain export manifest, commodity, licensing, export control, and export targeting transactions. Transmitting export

manifest data through ACE reduces costs for CBP, partner government agencies, and the trade community, and improves facilitation of export shipments through the supply chain.

Additionally, the Test examined the feasibility of requiring the rail carrier to transmit manifest information electronically in ACE, generally within a specified timeframe before the cargo has been loaded on the train. Test participants were required to transmit export manifest data electronically to ACE at least two hours prior to loading of the cargo or, for empty rail cars, upon assembly of the train. This time frame enabled CBP to link the EEI transmitted by the USPPI with the export manifest information. Much of that success resulted from the fact that a high percentage of information is transmitted well before the deadline of two hours prior to departure. CBP found that nearly 94 percent of data transmissions occurred more than 24 hours prior to conveyance departure.[6]

The success of the Test allowed CBP to determine that the electronic transmission of manifests provides improvements in capabilities at the departure level. As a result of these improvements, CBP is now codifying this program with the regulations in this document. Upon the effective date of this rule, the ACE Export Manifest for Rail Cargo Test will end.

IV. Purpose and Need of the Rule

On January 13, 2025, CBP published a notice of proposed rulemaking which proposed a new regulatory requirement because there are no regulations in place requiring the submission of an electronic export manifest for cargo transported by rail to assess cargo security. 90 FR 2874. The regulatory changes are the culmination of CBP's efforts with the Test described above in Section III.

This regulation leverages the data elements and train consist requirements in advance of departure to Mexico and Canada in order for CBP to make the best use of the data. The data elements are already included in the current Test, which has been operational since September 9, 2015. 80 FR 54305. This regulation identifies the mandatory, conditional, and optional data elements and who is required to transmit the data. The regulation also adds seven mandatory data elements to be provided and presented as the initial filing as early as practicable, but no later than 24 hours prior to departure of the train and one conditional data element to be presented as soon as it is available.

For CBP, the requirement to transmit an electronic export manifest will enhance cargo security because it improves risk assessment capabilities at the port level. Port operations will enjoy considerable efficiencies through the elimination of paper manifests. Storage space currently reserved for manifest documents will be freed. Coordination and information exchange among CBP, the Department of Commerce, and other partner government agencies with export jurisdiction will improve. Carriers, USPPIs, NVOCCs, and other interested parties who transmit information will receive more thorough and rapid examination decisions from CBP. The trade will benefit through the ease of making information corrections and additions electronically, a process that requires cumbersome manifest discrepancy reporting in a paper world.

CBP uses the ACE Export Manifest data transmission, for instance, to conduct risk assessments to identify high-risk rail cargo, but even for this purpose, ''high risk'' is not limited to weapons, ammunition, currency or narcotics. High-risk shipments are identified based on the totality of the review which includes the party name, country of destination, cargo description, and/or a combination of data elements. Data supports the conclusion that Test participants have access to the manifest data early in the planning stages of an export rail cargo transaction and are able to comply with these time frames. Where concerns were revealed through comments received after the NPRM was published, CBP adjusted certain factors required to be included within the initial filing. CBP added a conditional data element to the regulation, previously a mandatory element, the AES Exemption statement, and amended it to, AES ITN or FTR exemption/exclusion code based on the comment that filers may not have such information to meet the initial filing requirement at the 24-hour mark. CBP recognized that this was a distinct possibility and therefore amended the regulation in this final rule. As stated, CBP anticipates that these timeframes will provide adequate time to perform proper risk assessments and identification of shipments to be inspected early enough in the supply chain to enhance security while minimizing disruption to the flow of goods. Current regulations do not provide any method to screen or secure rail cargo exports, which this regulation seeks to address. ACE Export Manifest pre-departure data transmission allows CBP to use its ATS to screen all of the data transmitted, which allows CBP to make better examination decisions while also reducing the time required to make such decisions. Although CBP aims to identify shipments for inspection prior to loading, inspections could potentially happen at any time before the train departs the United States.

Any rail cargo identified by CBP as requiring review will be held until the required additional information related to the shipment is transmitted to clarify non-descriptive, inaccurate, or insufficient information, a physical inspection is performed, or some other appropriate action is taken, as specified by CBP. Once the cargo is cleared for loading, a release message will be generated and transmitted to the filer.

V. Discussion of Final Rule

CBP is promulgating a new regulation, 19 CFR 123.93, requiring the transmission of export manifest data electronically in ACE for cargo transported by rail, pursuant to section 343(a) of the Trade Act. The regulation mandates the electronic transmission of rail export manifest information, identifies the parties eligible to transmit information, describes the time frames prior to departure of the train in which the information is due, requires a bond to secure compliance with the new regulation, and identifies an initial filing that must occur as early as practicable, but no later than 24 hours prior to departure from the U.S. port of export while requiring the remaining data to be transmitted at least two hours prior to such departure.

Further, consistent with section 343 of the Trade Act, this new regulation requires parties with the most direct knowledge to provide certain information to CBP. In furtherance of that goal, the regulatory language sets forth differences between transportation data (always required of the carrier and carrier only) and cargo data, which can be provided by the party with direct knowledge of that information.

Consistent with the provisions of 19 U.S.C. 1415(a)(3)(B), when requiring information from the party with direct knowledge of the information is not practicable, the regulation takes into account how, under ordinary commercial practices, information is acquired by the party on which the requirement is imposed and whether and how such party is able to verify the information. Where information is not reasonably verifiable by the party, the regulation permits the party to transmit

[6] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on May 9, and June 21, 2022. CBP conducted a random sample of train conveyances participating in the rail EEM test and found that around 94 percent of data transmissions were submitted 24 hours prior to departure.

information on the basis of what it reasonably believes to be true.

The regulation designates information as transportation data, cargo data, or empty container data, and lists the data elements to be transmitted while identifying them as mandatory, conditional, or optional. The data elements that are identified as mandatory must be transmitted. These elements are necessary for CBP to inspect cargo effectively, ensure compliance with U.S. export control laws and regulations, and identify high-risk shipments for purposes of ensuring cargo safety and security. Data elements that are identified as conditional must be provided if applicable. Data elements identified as optional provide additional information for purposes of clarity and may facilitate the clearance process but are not required to be transmitted.

The regulation provides direction regarding enforcement referrals, DNL messages, and Hold messages. Any rail cargo identified by CBP as requiring review will be held until the required additional information related to the shipment is transmitted to clarify non-descriptive, inaccurate, or insufficient information, a physical inspection is performed, or some other appropriate action is taken, as specified by CBP. If the cargo is cleared for loading, a release message will be generated and transmitted to the filer(s). If a potential high-risk cargo is identified, then a CBP officer will conduct an examination. The rail carriers, and any other filers, will be notified of these holds through the integrated system if a mandatory examination of the cargo and/or freight car is required or if CBP needs to conduct further review of the data transmitted. In addition to holds, if a CBP officer determines during review that cargo or a rail car may contain a potential threat to the train and its vicinity, a DNL instruction will be issued, which prohibits the rail carrier from transporting that cargo or railcar. The rail carrier should not transport any cargo or rail car with a DNL instruction. The advance transmission of EEM data helps CBP review and issue holds before cargo is loaded, or before a train reaches the U.S. port of export, thus facilitating a more efficient export process.

Specifically, CBP is requiring seven data elements, characterized as an initial filing, to be transmitted as early as practicable, but no later than 24 hours prior to train departure. As a result of comments received, CBP amended the initial filing to include an AES ITN or FTR exemption/exclusion code as a conditional element recognizing that such information may not be available to the filer at the 24-hour mark. Because compliance is CBP's goal, CBP changed this data element to be conditional and must be transmitted as soon as it is available. CBP replaced the seventh original data element with EIN or IRN or CBP assigned number which was another suggestion based upon comments received from the NPRM. Recognizing that there is more than one type of bond that may be used to secure legal compliance, it is important that CBP records the party transmitting the information to verify that that party has at least one of the required bonds on file. Therefore, CBP added this requirement as the seventh initial data element as well as a mandatory element within transportation and cargo data. The seven data elements chosen for mandatory transmission at least 24 hours prior to departure are those data elements that provide CBP with the cargo information it needs to perform the appropriate security analysis, including: Bill of Lading Number, Total Quantity, Total Weight, Cargo Description, Shipper's name and address, Consignee name and address, and EIN or IRN or CBP assigned number. The AES ITN or FTR Exemption/Exclusion Statement, which is another security-based data element, is another conditional data element to be supplied if and when it is obtained by the filer.

The rule provides for the transmission of transportation, conveyance, and empty container information two hours prior to departure of the train rather than two hours prior to loading (or on assembly of the train in the case of information pertinent to empty rail cars). This change in transmission timing for all other data elements combined with the initial transmission affords CBP the ability to better assess risk and effectively target and inspect shipments prior to the cargo departing the United States to ensure cargo safety and security.

A. Eligible Parties

Section 123.93(c) identifies the parties that can file the cargo and conveyance data. The outbound carrier is responsible for transmitting export manifest transportation data and empty container data. The outbound carrier must also transmit the initial filing data and the export manifest cargo data if no other eligible party elects to do so. If another eligible party elects to transmit either the initial filing data or export manifest cargo data, the outbound carrier may also choose to, but is not required to, transmit such data. Other eligible parties include the USPPI and FPPI, as defined by the provisions of section 30.1 of the FTR of the Department of Commerce, Bureau of the Census (15 CFR 30.1), or its authorized agent. Other eligible filers also include any other party with direct knowledge of the export information, such as a customs broker, ABI filer, NVOCC as defined by 19 CFR 4.7(b)(3)(ii), or a freight forwarder as defined in 19 CFR 112.1. Based upon comments received, CBP changed proposed 19 CFR 123.93(a) to clarify that filing EEM data does not constitute customs business, as defined in 19 U.S.C. 1641(a)(2). If another party does not transmit advance export information, then the party that arranges for and/or delivers the cargo to the outbound carrier must fully disclose and present to the outbound carrier the data elements for the initial filing. Any party transmitting any of the data described in sections 123.93(d)–(f) must have on file with CBP either a CBP basic importation and entry bond containing the provisions found in 19 CFR 113.62, a basic custodial bond containing the provisions found in 19 CFR 113.63, or an international carrier bond containing the provisions found in 19 CFR 113.64.

B. Initial Data Elements

Different from the Test's time periods for data presentation, 19 CFR 123.93 requires a mandatory initial filing of seven data elements identified below to be transmitted as early as practicable, but no later than 24 hours prior to departure from the U.S. port of export, by either the carrier, USPPI, or other qualified parties or their authorized agents. As reflected in 19 CFR 123.93(b)(1), CBP determined that requiring this initial filing in the time frame prescribed is necessary to allow for complete vetting of cargo and transportation information for security purposes. The high percentage of data available for transmission 24 hours prior to departure supports the feasibility of requiring this initial filing. In further support of this approach, CBP intends to relax validations that relate to transportation data until the carrier links the master bill and house bill to allow for the transmission of advance data. Upon receipt of the initial filing transmission, CBP will validate and notify the filer of the master bill and house bill data, if any data is required, or if the house bill has been placed on hold pending the updating of the bill. Under the new regulation, the carrier will have the ultimate responsibility to load, hold, or not load the cargo. The carrier, USPPIs, and other parties qualified to transmit data (or their authorized agent) will be eligible to transmit the initial data filing as discussed above.

CBP added 19 CFR 123.93(d) which identifies the seven data elements from the Test that are required in the mandatory initial filing. Descriptions of those data elements were revised in the proposed rule to clarify the kind and character of data that is required. The revised data elements have been further amended based upon comments received from the NPRM for the initial filing to identify the party transmitting the information and provide for additional time in the situation where an AES ITN or FTR exemption/exclusion code are not available at the 24-hour mark. Below are the data elements with the Test data elements to which they correspond in brackets:

(1) Bill of lading number, which is necessary to link the transmission to the cargo throughout the entire electronic manifest process;

(2) The numbers and quantities of the cargo laden aboard the train as contained in the carrier's bill of lading, either master or house, as applicable (this means the quantity of the lowest external packaging unit; numbers or quantities of containers and pallets do not constitute acceptable information; for example, a container holding 10 pallets with 200 cartons should be described as 200 cartons) [Test data element of Quantity of Cargo and Unit of Measure];

(3) Total weight of cargo expressed in pounds or kilograms [Test data element of Weight of Cargo (may be expressed in either pounds or kilograms)];

(4) A precise cargo description (or the Harmonized Tariff Schedule (HTSUS) number(s) to the 6-digit level under which the cargo is classified if that information is received from the shipper and weight of the cargo; or for a sealed container, the shipper's declared description and weight of the cargo (generic descriptions, specifically those such as ''FAK'' (freight of all kinds), ''general cargo'', and ''STC'' (said to contain) are not acceptable)) [Test data element of Cargo Description];

(5) The shipper's complete name and address, or identification number, from the bills of lading (for each house bill in a consolidated shipment) [Test data element of Shipper name and address];

(6) The consignee's complete name and address, or identification number, from the bill(s) of lading. (The consignee is the party to whom the cargo will be delivered in a foreign country. However, in the case of cargo shipped ''to order of [a named party],'' the ''to order'' party must be named as the consignee; and if there is any other commercial party listed in the bill of lading for delivery or contact purposes, the carrier must also report this other commercial party's identity and contact information including address in the ''Notify party'' field.) [Test data element of Consignee name and address];

(7) EIN or IRN or CBP assigned number. [Data element recommended by commenter]; and

Conditional data. The following initial data is conditional and must be transmitted if and as soon as applicable. The AES ITN or FTR exemption/exclusion code. [Test data element of AES Exemption Statement (per shipment)].

Except for these eight data elements described above, CBP requires electronic export manifest information in sections 123.93(e), and (f) to be transmitted two hours prior to train departure from the U.S. port of export. That data comprises all additional data elements required to be described as export manifest transportation data, cargo data, and empty container data.

C. Transportation Data Elements

Section 123.93(e)(1) establishes the obligation on the carrier or its agent to supply transportation data. The transportation data elements carried forward from the Test to the current rule include the following:

(1) Port of Departure from the United States (mandatory);

(2) Date of Departure (mandatory);

(3) Mode of Transportation (containerized rail cargo or non-containerized rail cargo) (optional);

(4) Equipment Type Code (optional);

(5) Place where the rail carrier takes possession of the cargo shipment or empty rail car (optional);

(6) Carrier-assigned conveyance name, equipment number and trip number (mandatory);

(7) 6-character Hazmat Code. (If the Hazmat Code is provided, then UN (for United Nations Number) or NA (North American Number) and the corresponding 4-digit identification number assigned to the hazardous material must be provided.) (conditional);

(8) Marks and Numbers (conditional);

(9) SCAC (Standard Carrier Alpha Code) for the exporting carrier (mandatory);

(10) Container or Equipment Numbers (for containerized shipments) or Rail Car Numbers (for all other shipments) (mandatory);

A transportation data element carried over from the Test to section 123.3(e) with an expanded definition is as follows:

Seal Number (conditional, only required if container was sealed). The seal numbers for all seals affixed to containers and/or rail cars to the extent that CBP's data system can accept this information (for example, if a container has more than two seals, and only two seal numbers can be accepted through the system per container, electronic presentation of two of these seal numbers for the container would be considered as constituting full compliance with this data element).

In 19 CFR 123.93(e), CBP added the transportation data element of ''Estimated Time of Departure'' (mandatory) to be supplied by the carrier or its agent that was not required in the Test but provides important information to CBP.

Based upon comments received from the NPRM, CBP clarifies that 19 CFR 123.93(e)(1)(ii), date of departure, means the date that the train crosses the international border.

Final 19 CFR 123.93(e)(1)(v), which adds the mandatory transportation data element of ''Train Consist,'' provides CBP with what is on the train from the engine through the last car and how the cargo is lined up for departure from the United States. The Train Consist is composed of the following data elements that were required in the Test and remain in the regulation:

(1) Manifest Number
(2) Train Number
(3) Rail car order
(4) Empty containers.

D. Cargo Data Elements

Section 123.93(f) establishes the obligation to transmit manifest cargo data by any eligible party or its agent identified in section (c). The cargo data elements carried forward from the Test to the rule in addition to the seven data elements forming the initial data filing include the eighteen data elements listed below. CBP recognizes that some cargo data elements are already requested in the initial data filing; however, those data elements would not need to be transmitted again unless there are updates or changes made. While a comment was received asking about the deadline for updating information, CBP has chosen not to insert a deadline as the most relevant and updated information will always be sought. The final cargo data elements are as follows:

(1) Shipper name and address (for empty rail cars, the shipper may be the railroad from whom the rail carrier received the empty rail car to transport) (mandatory);

(2) Consignee name and address (for empty rail cars, the consignee may be the railroad to whom the rail carrier is transporting the empty rail car) (mandatory);

(3) Port of Lading (mandatory);

(4) Port of Unlading (mandatory);
(5) Bill of Lading Type (Master, House, Simple, or Sub) (mandatory);
(6) Bill of Lading Numbers (Master, House, Simple, or Sub) (mandatory);
(7) AES ITN or In-bond Number (per shipment) (mandatory);
(8) Cargo description (mandatory);
(9) Weight of cargo (may be expressed in either pounds or kilograms) (mandatory);
(10) Quantity of cargo and unit of measure (mandatory);
(11) Employer Identification Number (EIN) or Importer Record Number or CBP assigned number (mandatory)
(12) In-bond type (conditional);
(13) Notify party name and address (conditional);
(14) Secondary notify party name and address (conditional);
(15) Mexican Pedimento Number (only for shipments for export to Mexico) (optional);
(16) Secondary notify party SCAC (optional);
(17) Country of ultimate destination (optional); and
(18) Number of house bills of lading (optional).

E. Examination Referrals

Two types of referrals may be issued by CBP after a risk assessment of an outbound export manifest data transmission, pursuant to 19 CFR 123.93(g). A referral for information will be delivered to the data transmitter, the last party to file the outbound rail manifest data for which referral is sought, if the information provided fails to appropriately describe the cargo or if the information provided is inaccurate or insufficient. The data transmitter must then add or correct the information prior to the departure of the train from the United States. A referral for screening will be issued if the potential risk of the cargo is deemed high enough to warrant enhanced screening. In this instance, the rail carrier is notified of these holds, and the notification lets the rail carrier know that a mandatory examination of the cargo and or freight car is required or if CBP needs to conduct further review of the data transmitted.

F. Do-Not-Load (DNL)/Hold Instructions

CBP is also adding 19 CFR 123.93(h), which provides procedures for when a CBP officer determines during the review that cargo or a rail car may contain a potential threat to the train and its vicinity, so that a DNL instruction can be issued, which prohibits the rail carrier from transporting that cargo or rail car. The rail carrier should not transport any cargo or rail car with a DNL instruction. A Hold instruction will be issued, even after loading, if further examination is required. In order to address such issues, data transmitters must respond and fully cooperate when such an instruction or hold is issued. Based upon comments received in the NPRM, CBP removed the requirement that telephone numbers and email addresses be provided because the system will electronically and automatically transmit to the rail carrier and any other transmitter. CBP has changed section 123.93(h)(1)–(3) to clarify that if there is any other filer, in addition to the rail carrier, all filers will be notified electronically of such an issue. It is incumbent upon all parties who receive a DNL/Hold instruction to contact CBP at the port of export.

G. Other Technical Amendments to Part 123

Because CBP is adding new subpart J, CBP is revising the scope provision of the new regulation (19 CFR 123.0) to reflect that customs procedures at the Canadian and Mexican borders would include electronic information for cargo in advance of departure which is not addressed in the current regulation.

H. Proposed Amendments to CBP Bond Conditions

As an enforcement tool, CBP is also changing the relevant bond provisions in 19 CFR 113.62 (basic importation and entry bond), 19 CFR 113.63 (basic custodial bond), and 19 CFR 113.64 (international carrier bond) to provide CBP with authority to assess liquidated damages when parties do not provide the mandatory EEM data in the manner and in the time frame required. Specifically, CBP amends 19 CFR 113.62 to add new paragraph (k)(3) to address electronically provided outbound information. Section 113.62(k) currently addresses electronic transmissions for merchandise or cargo which is inbound. CBP also amends 19 CFR 113.63(g) to include reference to advance outbound information provided to CBP electronically and in the manner and in the time period required under 19 CFR 123.93. Finally, CBP amends 19 CFR 113.64(d) to include outbound reference to information provided electronically by international carriers in the manner and time period required under 19 CFR 123.93. CBP has amended certain language in section 113.64(d) so that CBP can rely on that section to enforce violations in other modes of transportation without further amendment in the future. CBP is not amending section 113.64(e) because that provision, as already promulgated, provides for enforcement of violations when advance outbound information is not provided to CBP electronically and in the manner and in the time period required under 19 CFR 123.93. With each of these regulations, CBP may assess liquidated damages if a violation occurs. Any party that violates the bond conditions for outbound data transmission as described above in this final rule agrees to pay liquidated damages of $5,000 for each violation and up to a maximum of $100,000 per departure. CBP notes that the $100,000 per departure cap on liquidated damages applies only to international carrier bonds (19 CFR 113.64), and not to basic importation and entry bonds (113.62) or basic custodial bonds (113.63). This distinction reflects longstanding regulatory practice and is based on the different types of obligations secured by each bond. International carrier bonds secure obligations related to the movement of conveyances, such as trains, vessels, or aircraft, and the cap is intended to limit liability for each discrete movement. In contrast, basic importation and entry bonds and basic custodial bonds secure obligations that may involve the full value of imported merchandise or the custody and control of goods, where no per-movement cap is appropriate. Compliance is CBP's goal and CBP aspires to work alongside rail carriers and other parties to ensure that trade members provide the proper data in a timely manner, so that CBP can properly review the data, conduct risk assessment of high-risk shipments, and enforce U.S. export laws and regulations on U.S. rail exports. Consistent with this approach, CBP will begin enforcing this rule on October 26, 2027.

I. Severability

CBP intends for the requirements contained in this rule to be severable from each other and to be given effect to the maximum extent possible, such that if a court holds that any provision is invalid or unenforceable—whether in their entirety or as to a particular entity or circumstance—the other provisions will remain in effect as to any other person or circumstance.[7] The various requirements in this final rule are designed to function sensibly without the others, and CBP intends for them to be severable so that each can operate independently.

[7] Courts have uniformly held that the APA, 5 U.S.C. 706(2), authorizes courts to sever and set aside ''only the offending parts of the rule.'' *Carlson* v. *Postal Regulatory Comm'n,* 938 F.3d 337, 351 (D.C. Cir. 2019); *see, e.g., K Mart Corp.* v. *Cartier, Inc.,* 486 U.S. 281, 294 (1988).

For example, CBP would intend to be able to implement as much of the rule as possible, even if it could not implement some of the rule (such as a conditional data element) due to a court order. This approach ensures that CBP can make necessary security improvements to the greatest extent possible.

Even if a court order were to render the requirement to transmit a particular data element invalid or unenforceable and EEM transmitters' responses under that data element inform transmitters' responsibilities to transmit other data elements, CBP would intend that EEM transmitters continue to provide the other data elements, using the preamble of this final rule as guidance for the applicability of any conditions to the extent this conditionality interpretation does not violate a court order.

If a stricken provision creates a question of whether or not a conditional data element should be transmitted, CBP intends that EEM transmitters would interpret the stricken provision as satisfied such that transmission of the conditional data element is required.

VI. Discussion of Comments

A. Overview

In response to the NPRM, CBP received eleven comments during the 60-day public comment period. Commenters consisted of individuals, customs brokers and freight forwarders associations, standards and compliance organizations, and trade associations. CBP reviewed the public comments received in response to the rulemaking and has addressed relevant comments in this final rule. CBP's responses are grouped by subject area, with a focus on the most common issues and suggestions raised by commenters. Some commenters expressed support for the rule and strongly support CBP's efforts to move forward with the NPRM because it modernizes and helps automate processes, enabling both trade members and CBP to generate efficiencies in international trade. These comments also offered suggestions for additional clarity and improvement. While some commenters expressed general opposition to the proposed rule citing significant costs, voicing concerns with potential disruptions to trade flows, bonding requirements, lack of clarity on certain details, ability to meet certain data reporting requirements and unnecessary added costs, these commenters also provided some suggestions for improvement. One commenter strongly opposed the NPRM and suggested revisions to reduce the impact on its trade members. Comments submitted regarding any topic other than the proposed rule, (*i.e.,* comments on topics unrelated to, for instance, EEM data, process, and costs and benefits of the EEM) are out of scope for this rule and were not considered.

B. Discussion of Comments

1. Generally Supportive With Suggested Changes/Improvements

Comment: One commenter provided suggested revisions to the regulation text for section 113.63 and multiple paragraphs within section 123.93(a), (c), (g), and (h) to simplify the language and improve clarity.

Response: CBP appreciates the comment, but considers the language used to be clear and concise, and therefore CBP is not making the suggested edits.

Comment: One commenter who was supportive of the rule suggested that CBP should offer financial or technical assistance to small and medium sized rail carriers who are likely to face difficulties in adopting new digital infrastructure.

Response: CBP appreciates the positive feedback. Additionally, CBP plans to provide compliance resources and technical assistance to all interested parties, including rail carriers, during the transition to providing EEM data to CBP.

Comment: A few commenters requested that CBP ensure that the rail manifest process aligns with the ocean manifest process, particularly in determining the data element used to connect an NVOCC's submission to the rail or ocean manifest.

Response: CBP agrees with the comment and states that CBP strives to align the EEM process to the extent feasible for all modes of transportation which are the subject of separate rulemakings.

Comment: One commenter suggested that CBP align the proposed rule with internationally recognized standards, particularly those related to the use of the commenter's suggested identifiers for tracking and identifying cargo. The commenter cited ''GS1 identifiers (*e.g.,* Global Trade Item Numbers [GTINs] and Serial Shipping Container Codes [SSCCs]) for tracking and identifying cargo'' (brackets are the commenter's). The commenter wrote that these globally unique identifiers are widely used across the industry and can be leveraged to support enhancing data accuracy, interoperability and efficiency. The commenter added that ''GS1 data carriers (*e.g.,* GS1–128 barcodes and RFID tags) and GS1 standards for data sharing (*e.g.,* EDI/XML, EPCIS) can be utilized'' and that use of such standards ''would ensure harmonization with global trade systems and enhances interoperability, ultimately reducing costs and paperwork while improving operational efficiency for all stakeholders involved in the export process including, but not limited to, rail carriers and exporters.''

Response: CBP appreciates this comment and CBP's goal is to align with recognized standards, but CBP believes its use of the Automated Commercial Environment (ACE) as the platform for the electronic export manifest and specific data elements, which are internationally recognized, meets the standards being utilized by other trade systems.

Comment: One commenter supportive of the rule requested that CBP adopt data quality standards that ensure that all required information is provided in an accurate and timely manner, thus reducing the potential for costly delays and non-compliance issues.

Response: CBP agrees and notes that as shown in the NPRM and this final rule, CBP has adopted standards which provide the best information in an orderly and accurate manner.

Comment: A number of commenters request that CBP allow sufficient time and a transition period for trade members to prepare for full implementation, specifically for them to adjust business practices and adjust their systems such that they can provide the EEM data to CBP.

Response: CBP understands the concerns from these comments and in response will make this rule effective 60 days after the date of publication; however, enforcement will not begin for at least one year to allow the trade members a period of transition so they may prepare for full implementation. Additionally, CBP notes that its primary goal is compliance and seeks to work alongside rail carriers and other parties to ensure that the proper data is provided in a timely manner, for CBP to properly review the data, conduct risk assessment of high-risk shipments, and enforce U.S. export laws and regulations on U.S. rail exports.

2. Issues With Eligible Parties

Comment: A number of commenters expressed concern about the specific list of parties eligible to participate in the rail EEM, specifically commenters stated that the USPPI, FPPI, customs brokers and ABI filers were not likely to be EEM filers. Some of the commenters suggested that CBP should remove references to the FTR except in instances where the EEM filing must connect with the EEI filing. These

commenters reasoned that because reporting requirements under the FTR are different, distinguishing between FTR requirements and EEM requirements is important to avoid confusion about who is responsible for the EEM filing.

Response: CBP emphasizes that the regulatory language describes who is eligible to file and does not gauge whether the eligible filers will or will not engage in this data transmission activity. Any of these parties could be the party that has direct knowledge of the information, and the regulation will not exclude them from eligibility. CBP has added language to section 123.93(a) to clarify that the act of transmitting EEM is not customs business, but brokers will still be eligible to file EEM. Because USPPIs and FPPIs may be filers, the FTR language will stay in this rule.

Comment: One commenter, who was generally supportive of the rule, asked for additional clarity on which parties are responsible for filing export manifest cargo data, specifically whether each of the NVOCCs with house bills are required to file EEM data or only the lowest level house bill filer must do so.

Response: CBP has afforded the export filers choices as to whether to take responsibility over the transmission of data pertaining to a shipment. While the outbound rail carrier is the default transmitter, other parties may step forward and take responsibility for data transmission. CBP only seeks a party with knowledge of the shipment to be the transmitter; any eligible party may transmit the data. In any situation, CBP encourages the party with the most direct knowledge of the cargo to provide accurate and complete cargo data either directly to CBP as an EEM participant or to another party that will act as the EEM participant.

3. Availability of Filing Parties

Comment: A number of commenters were concerned about the requirement that the EEM ''transmitter'' must have 24/7 access to the phone number and email address provided on the EEM transmission. They suggest that the rail carrier should be the entity required to monitor a phone and email address 24/7, not the house-level filers. One commenter specifically suggested that the house-level filers need not have the same level of availability to CBP as the rail carriers.

Response: CBP understands the concern of the commenters and is adjusting the language of the regulatory text in sections 123.93(h)(1) through 123.93(h)(3) as part of this final rule to reflect this concern. All parties who transmit EEM data will be notified, should an instruction of Do-Not Load (DNL) or Hold be issued. CBP will update the regulatory text to include all transmitters and/or outbound rail carriers, as applicable, must respond and fully cooperate when a DNL or Hold instruction is issued. The parties that receive such instructions must contact CBP at the port of export. The party with physical possession of the cargo will be required to carry out the DNL or Hold protocols and the directions provided by law enforcement authorities. It is incumbent on the parties who have received a DNL or Hold instruction to contact CBP at the port of export.

4. Data Changes

Comment: Several commenters requested further guidance on section 123.93(b)(3). In the NPRM, CBP states that updates are required ''upon discovery of data changes,'' but it does not specify a timeframe for when such updates must be made. The comments recommend that CBP should provide further guidance on whether there is a cutoff period for updates, particularly in cases where discrepancies are identified long after departure, such as during an audit conducted after delivery, perhaps after a year or more.

Response: CBP appreciates this comment, but CBP sees value in allowing trade members to update export manifest data at any time in the future, which is consistent with CBP treatment of import manifest data. This approach is similar to Foreign Trade Regulations at 15 CFR part 30 which also seek updates without time constraints. Specifically, under those regulations, ''corrections, cancellations, or amendments to . . . information shall be electronically identified and transmitted . . . for all required fields as soon as possible.'' 15 CFR 30.9(a).

5. Bond Conditions

Comment: A few commenters were concerned with proposed section 113.62 (k)(3) which states ''If the principal elects to provide advance outbound information to CBP electronically, the principal agrees to provide such information in the manner and in the time period required under section 123.93 of this chapter. If the principal defaults with regard to these obligations, the principal and surety (jointly and severally) agree to pay liquidated damages of $5,000 for each violation.'' These commenters recommend that this be removed as the basic importation and entry bond is not applicable to the parties who will be transmitting EEM filings.

Response: CBP believes that this recommendation is inconsistent with the statutory provisions governing the transmission of advance electronic cargo information. The information can come from a party with direct knowledge of that information, who may be the principal on a basic importation and entry bond. CBP does not limit the transmitter by role but rather by knowledge of the information. To ensure accuracy, CBP permits any party with that knowledge to come forward and transmit the required electronic export manifest information, but to ensure the electronic export manifest regulations are complied with, the transmitter must have a bond on file.

Comment: One commenter stated that it is not appropriate to include export-related obligations within the bond conditions controlling importation or entry of merchandise. The commenter suggests that a new subsection be created to incorporate bond conditions that ensure compliance by parties that elect to file, or are required to file, export-related information in accordance with CBP regulations. Commenters further argued that imposing export-related obligations within import bond conditions could create practical problems. For example, one commenter explained that export cargo is often unrelated to imported merchandise, so requiring export filers to use bonds designed for imports is ''contradictory and out of place.'' Some commenters wrote that parties such as shippers, consignees, or freight forwarders may not have, or may not wish to use, import bonds for export filings. They cited the Importer Security Filing (ISF) process, where CBP created a separate bond appendix for parties without standard bonds, and suggested a similar approach for export manifest filings. A commenter wrote that requiring export filers to obligate import bonds could force them to obtain unnecessary bonds or create confusion when multiple bonds are active.

Response: The statutory framework of section 343 of the Trade Act of 2002, as amended (19 U.S.C. 1415) addresses both import and export making the inclusion of bonds consistent with the statutory text. Under Trade Act of 2002, when CBP requires the provision of advance electronic export cargo information, CBP shall impose the requirement on the party most likely to have direct knowledge of the information. The rail electronic export information requirements described in the rule are consistent with this statutory framework as they seek the information from the party best positioned to have it. The rule

encourages transmission by the party most likely to have direct knowledge of the information, and the current bond structure is sufficient to ensure compliance with it, with the amendments to the bonds made in this rule. When a party holding a Basic Importation and Entry Bond has this information and chooses to provide it, having a consolidated bond that secures the party's compliance with this rule, rather than requiring a new, separate bond, is the best way to ensure the information transmitted is accurate and timely and involves less cost to the transmitter and less administrative burden on all parties.

Furthermore, CBP directs the commenter to 19 CFR 113.64 which has imposed export-related obligations within import bond conditions; this regulation became effective on February 18, 1985 (49 FR 41171). For instance, under 19 CFR 113.64(j), an agreement to deliver export documents provides that ''[i]f the principal's vessel, vehicle, or aircraft is granted clearance without filing a complete outward manifest and all required export documents, the principal agrees to file timely the required manifest and all required export documents.'' Section 113.64(m)(1) states that the ''[p]rincipal agrees that it will not allow seized or detained merchandise, marked with warning labels of the fact of seizure or detention, to be placed on board a vessel, vehicle, or aircraft for exportation or to be otherwise disposed of without written permission from CBP, and that if it fails to prevent such placement or other disposition, it will redeliver the merchandise to CBP within 30 days, upon demand made within 10 days of CBP discovery of the unlawful placement or other disposition.''

Finally, CBP does not want to create a separate bond when the new provisions can be absorbed within the current bond structure. Many parties wanting to transmit information already hold a CBP bond and will not be required to incur the expense of acquiring a separate bond to handle export transactions only.

Comment: One commenter suggested that if CBP anticipates more than one bond activity code may be used for the rail EEM, it will be important that CBP records the party transmitting the information and specify the bond the filer intends to obligate. The commenter suggests that CBP could add an additional data element for the identification of the filing party and filer's bond being obligated in each of the three categories of data elements: sections 123.93(d) (used for the initial filing), 123.93(e) (used for transportation data), and 123.93(f) (used for cargo data). The commenter further suggests that these three subsections should also include a mandatory data element that identifies the filer's bond being obligated because it is not uncommon for outbound carriers, or non-carrier information filers (*e.g.,* shipper, consignee, freight forwarder, etc.), to have multiple active continuous bonds that would contain export rail manifest-related bond conditions. Lastly, the commenter suggests that, as is done with the Importer Security Filings, the information filer should identify the bond that it chooses to secure its filing obligations.

Response: CBP appreciates these suggestions and believes adding the transmitter's identifying information as a data element will assist CBP in identifying the transmitter's required bond. As such, CBP will add a new data element for the transmitter's identifying information to sections 123.93(d)(1)(vii) for the initial filing, 123.93(e)(1)(viii) for transportation data, and 123.93(f)(1)(xi) for cargo data. CBP will determine the obligated bond as follows: if the transmitter has an active international carrier bond, the transmitter's international carrier bond will be obligated to secure the filing; if the transmitter does not have an active international carrier bond but does have an active basic custodial bond, the transmitter's basic custodial bond will be obligated to secure the filing; and if the transmitter has neither an active international carrier bond nor an active basic custodial bond but does have an active basic importation and entry bond, the transmitter's basic importation and entry bond will be obligated to secure the filing. CBP considered the commenter's suggestion to allow filers to designate which of their bonds to obligate but has decided to use this standardized hierarchy to promote administrative simplicity and consistent enforcement.

Comment: One commenter suggested that the expansion of existing bond conditions in certain sections of Part 113 of the CBP regulations should be included to ensure compliance by parties that elect to file or are required to file export information including to ensure clarity and remove doubt.

Response: CBP appreciates this suggestion and believes that the addition of the reference to ''(k)(3)'' to section 113.62(n) clarifies the consequences of default and the calculation of liquidated damages for each violation.

Comment: One commenter suggested that the proposed rule would change carriers' bonding requirements and could result in unfair enforcement against rail carriers because they could conceivably be liable for liquidated damages based on the transmission of data of which the carrier did not have direct knowledge. The commenter wrote that the proposed rule also creates a disincentive for any other data transmitter to actually transmit the data for which they have the most direct knowledge because they are not *required* to submit the data.

Response: The rule treats bonding for exports for rail carriers in a manner consistent with vessel and air carriers. In all modes, any party with knowledge may step forward and transmit the necessary data as long as that party has at least one of the three bonds that are being amended to secure advance export information. Otherwise, the rail carrier will be responsible for knowing what is on its train and transmitting the data required. The bonding structure for outbound rail transmissions is consistent with all bonding schemes for other modes of transport. Additionally, as required by section 343 of the Trade Act of 2002, as amended (19 U.S.C. 1415), the regulations provide that, CBP will take into consideration how, in accordance with ordinary commercial practices, a rail carrier acquired the information, and whether and how the rail carrier is able to verify the information. The regulations also provide that, where a rail carrier is not reasonably able to verify such information, CBP will permit the rail carrier to electronically transmit the information based on what that party reasonably believes to be true.

6. Issues Regarding Initial Filing

Comment: A few commenters suggested that for ocean shipments routed via rail (specifically when an NVOCC has an ocean shipment departing the U.S. via rail to a Canadian or Mexican seaport), CBP utilize the Vessel Operating Common Carrier (VOCC) master bill of lading as the linkage point in section 123.93(d) as it would be the least disruptive and most operationally feasible approach. The commenters stated that there is no feasible way for the NVOCC to obtain the waybill number before the initial filing of house-level data.

Response: CBP appreciates the suggestion in these comments; however, the waybill number exists before the initial filing of house-level data and trade members may need to adjust business practices to obtain that information to transmit in the initial filing in order to comply with this rule. In co-loading scenarios, CBP recognizes

that master-loader NVOCCs may not have visibility into the lowest-level house bill data, and CBP expects that, where practicable, the NVOCC that issued the lowest-level house bill will provide that house-level data either directly to CBP or through another EEM transmitter.

Comment: A few commenters request additional clarification for section 123.93(d)(4) regarding potential risks of holds, delays, or other issues if the cargo description in the EEM does not exactly match the descriptions in other export documents. The commenters requested clarification on whether such differences between the EEM and EEI filings would hinder CBP's targeting objectives or result in shipment holds, and if so, how such discrepancies should be addressed to ensure smooth processing.

Response: CBP is interested in the cargo description from a security aspect, not a statistical one. CBP utilizes both EEM and EEI in its risk assessment as CBP considers all available data sets which inform enforcement and facilitation determinations. CBP expects that the additional data will improve and not hinder CBP objectives.

Comment: A few commenters stated that the requirement in proposed section 123.93(d)(4), as written, indicates that the description provided in EEM for a sealed container should be the ''shipper's declared description'' and asked CBP to clarify whether the ''shipper's declared description'' should match the description in the bill of lading. Commenters stated that if the shipper's declared description should match the description in the bill of lading, the description may not provide the desired details.

Response: CBP notes that the EEM filer (transmitter) is expected to meet the requirements of the regulation, and whether or not the container is sealed is not the controlling factor in providing that data. CBP expects that the party with the most direct knowledge of the house-level bills will provide the EEM data either directly to CBP or to another party which will transmit the EEM data to CBP.

Comment: A few commenters requested additional clarification for sections 123.93(d)(5) and 123.93(d)(6). Commenters requested clarification on what constitutes an acceptable ''identification number'' for the shipper and consignee, noting that using an EIN may not correspond to the party listed on the bill of lading and that there is no standard identification number for foreign consignees. The commenters noted that the consignee field in a bill of lading can vary, creating potential uncertainty in reporting.

Response: CBP appreciates the comment and acknowledges the potential uncertainty. To address this concern, CBP will remove ''identification number'' from sections 123.93(d)(5) and 123.93(d)(6), and both sections are restructured to sections 123.93(d)(1)(v) and 123.93(d)(1)(vi) in this final rule.

Comment: A few commenters suggested that CBP adjust language in section 123.93(d)(7) to include ITN or FTR exemption/exclusion codes. These commenters further suggested that CBP should accept initial filing even when the AES, ITN, or FTR exemption/exclusion statement is not yet available. Commenters suggested CBP move this data element to the mandatory cargo data section, allowing an NVOCC to transmit it in the initial filing when available or as part of a supplemental filing at a later time, as long as it remains within the required transmission timeframe. The commenters ask CBP to verify that appropriate processes are in place to ensure rail carriers' manifest filings can accommodate all applicable ITNs and exemption/exclusion statements.

Response: CBP acknowledges this concern and as a result will amend section 123.93(d) of the initial filing to include both mandatory and conditional elements in this final rule. CBP is revising this provision such that the data element ''The Automated Export System (AES) Exemption Statement, as applicable'' is amended to conditional and revised to state that ''AES, ITN, or FTR exemption/exclusion code must be transmitted if, and as soon as, applicable.''

Comment: One commenter suggested that there is no need to have the initial data elements transmitted 22 hours prior to the transportation data elements and cargo data elements. Rail carriers may have a rail yard that is only an hour or two from the point of export, or where a train maybe traveling to Canada and may have to pick up cars for export along the way. In this case, the rail carrier will construct the train and transmit the initial filing and then need to hold the train for over 20 hours in the yard or somewhere else less secure between the yard and the point of export. The commenter also remarks that this was not how the Test program worked and suggested that transmission time for all three data elements should be aligned at two hours prior to departure from the country.

Response: CBP disagrees as the deadlines for data elements are based on hours prior to the train departure from the U.S. port of export, not crossing the border. 19 CFR 123.93(d) requires an initial filing of eight data elements (7 mandatory and 1 conditional) identified to be transmitted as early as practicable, but no later than 24 hours prior to departure from the U.S. port of export, by either the carrier, USPPI, or other qualified parties or their authorized agents. The results of the Test have shown that some rail carriers will have the export manifest data available days in advance prior to departure and therefore will have all the necessary information to transmit the initial filing data to CBP and all other export manifest data well in advance of the 24 hours prior to departure deadlines. As noted, during the duration of the Test, CBP has kept such disruptions to a minimum.

Comment: One commenter suggested that the rule will create major disruptions for railroads. The commenter argued that:

- Because the rule prohibits carriers from transporting cargo subject to a DNL or Hold instruction, and because CBP will only know whether to issue such an instruction after it has received and reviewed all three sets of data (initial filing at 24 hours, and transportation and cargo data at 2 hours before departure), carriers would in practice need to hold trains until CBP has completed its review and communicated whether any DNL/Hold applies.
- Moreover, according to the commenter, it appears that a referral or DNL/Hold decision will be made by CBP after all data elements are collected from the data transmitters.
- As a result, export trains assembled in a yard could be forced to sit for more than 24 hours while awaiting CBP's review and a de facto ''all-clear,'' which is inconsistent with how rail yards are designed—*i.e.,* for high throughput and minimal dwell time.
- The commenter further stated that if trains or cars must be held at or near border crossings for inspections triggered by DNL/Hold decisions or referrals, this would require complex switching or live-lift operations at locations that often have single-track constraints and limited infrastructure, causing cascading delays and missed ''slots'' for both export and other traffic on the line.
- In the commenter's view, these effects would substantially increase dwell time, force carriers to redesign their train-slotting practices, and decrease overall network fluidity.

The commenter stated that the timing of data set transmissions is also problematic as there is no need to have

the initial data elements transmitted 22 hours prior to the transportation data elements and cargo data elements.

Response: CBP notes that the outbound electronic rail manifest requirements do not obligate carriers to wait for an affirmative ''all-clear'' message from CBP prior to movement, and do not obligate CBP to wait for all data to be submitted before CBP can issue a DNL or Hold instruction. Under 19 CFR 123.93, carriers must meet the prescribed filing deadlines and must not transport cargo that is subject to a DNL or Hold instruction, but they are not required to hold trains solely to await a separate notification that no such instruction has been issued. Additionally, CBP notes that feedback obtained from the rail EEM Test participants indicates they did not experience disruptions while participating in the Test.

In general, CBP does not anticipate that the final rule will impose the prolonged yard dwell times, widespread slotting conflicts, or systemic network disruptions described by the commenter. When EEM data is provided within the deadlines set forth in this rule, cargo inspections will be conducted at a U.S. port of export location determined by CBP. Therefore, CBP anticipates that cargo inspections occurring between the U.S. port of export and the actual border crossing would be rare instances where a significant imminent threat is identified after the train is given clearance and has departed the United States from the final port of export.

CBP acknowledges that certain ports of export and border crossings have unique yard and infrastructure constraints such that carriers may need to adjust operational procedures as needed to minimize unwarranted disruption.

CBP acknowledges that carriers remain free to build in their own buffers, but notes that such self-imposed dwell is not required by the rule and is too speculative for CBP to quantify.

Regarding the commenter's objection to requiring initial data elements at least 22 hours prior to the transportation and cargo data elements, this comment is contrary to the long-stated trade desire for progressive filings when information is known.

Comment: One commenter suggested that CBP's assumption that a 24-hour transmission timeframe for the initial data elements was based on a flawed Test program design. The commenter further suggested that CBP expand its Test program to incorporate different points of export to learn from real-world experiences how rail carriers operate at the border and that continuing to expand the Test program could provide for better outcomes in the long run.

Response: The time frames set out in this rule are a compromise that allows commerce to flow while providing CBP the ability to identify risks and to examine cargo in the export process. CBP opened participation in the Test program to any and all rail carriers as well as other members of the trade as of 2017. The only limitation was that participation from rail carriers and other trade members needed to be voluntary. There were no restrictions with regard to the participant's organization size, location, or commodity type for participation in the test. 82 FR at 37894. CBP does not support the idea of further extending the Test where additional voluntary participation is unlikely to occur.

7. Date of Departure

Comment: A few commenters requested additional clarification on section 123.93(e) ''Date of departure''. They stated that CBP does not specify whether this data element refers to the departure date from the United States. To ensure consistency and clarity, the data should explicitly state that it represents the date the train crosses the international border, leaving the United States.

Response: CBP agrees that for this rule the term ''Date of departure'' constitutes the date that the train crosses the international border, exiting the United States.

8. Assistance for Stakeholders

Comment: A number of commenters urged CBP to release an EEM business process document to allow affected parties to more accurately formulate compliant and effective business processes internally and with their business partners.

Response: CBP agrees and intends to cooperate and provide support to trade members during the transition process where the trade will be providing EEM data to CBP. CBP agrees that providing an EEM business process document will be beneficial and intends to provide that documentation to trade members.

Comment: One commenter requested that CBP engage with supply chain stakeholders, including manufacturers, distributors, shippers, exporters, logistics providers, and technology solution developers, throughout the rulemaking process and provide adequate support and education on compliance requirements, especially for smaller players in the supply chain.

Response: CBP has engaged with stakeholders throughout the rulemaking process and will continue to do so during the implementation phase of this rule.

9. General Opposition to Rule With Suggested Changes/Improvements

Comment: One commenter who opposed the rule stated that statutory principles should guide the rulemaking and that ''the requirement to provide particular information shall be imposed on the party most likely to have direct knowledge of that information . . . [and] [w]here information is not reasonably verifiable by the party on which a requirement is imposed, the regulations shall permit that party to transmit information on the basis of what it reasonably believes to be true.''

The commenter suggested that, to comply with the congressional directive, the only information a rail carrier should be required to provide is the mandatory data subset of the export manifest transportation data. The commenter further suggests that the rule should be revised to only permit enforcement on the rail carrier for misstatements regarding the mandatory data subset of the export manifest transportation data. The commenter objected that the proposal places the onus on the rail carrier to transmit all data elements.

Response: CBP agrees that statutory principles guide this rulemaking, including the authority to promulgate regulations providing for the mandatory transmission of electronic cargo information, pursuant to section 343(a) of the Trade Act. Furthermore, this rule encourages the parties with the knowledge to supply the data. While all eligible parties are encouraged to transmit data, the ultimate obligation must rest with at least one party. Furthermore, there must be a responsible party to reach should questions about the data arise and/or violations involving false or inadequate transmission of data occur. Without a clear identification of the transmitter of the data whose bond is liable, CBP would never be able to identify the party responsible for any data transmission deficiencies. As with other data transmission rules, this regulation allows any party with the necessary information to transmit it, but if no other party comes forward and elects to transmit the data, the ultimate responsibility must fall on the carrier as the party transporting the shipment out of the United States. If the carrier does not provide the necessary information, the carrier has the ability to remove the cargo as the conveyance will not be authorized to leave the United States.

10. DNL/Holds

Comment: One commenter stated that the rule would have unintended consequences to the fluidity of the rail network and supply chain, citing the following concerns: if there is a referral made under proposed 19 CFR 123.93(g), then the car, unit, or empty container may not be exported; if a DNL/Hold instruction is made, then the rail carrier may not even transport the car, unit, or empty container at all under proposed 19 CFR 123.93(h); it appears that a referral or DNL/Hold decision will be made by CBP after all data elements are collected from the data transmitters, but CBP will not have all data elements until two hours prior to departure, at which point a rail carrier under normal circumstances would already have the train underway. This commenter suggests that CBP eliminate the DNL/Hold instruction provision of the rule.

Response: CBP disagrees that it should eliminate the DNL/Hold instruction provision as the regulation does not state that CBP will make decisions only after all elements are collected. In fact, one of the purposes of the rule is to provide trade members with the ability to provide data on a continuous basis as information becomes available, which allows CBP to review the data on a continuous basis as it is transmitted. Additionally, under the rule at 19 CFR 123.93(h), if a CBP officer determines during the review that cargo or a rail car may contain a potential threat to the train and its vicinity, then a DNL instruction may be issued. Any such warning will assist in avoiding a catastrophic event; so, in those instances, any transportation delay and resultant inconvenience will be insignificant when compared to a possible catastrophe averted.

Comment: One commenter stated that the rule should be modified to allow rail carriers and CBP to designate inspection areas to reduce the need for infrastructure, facilities, manpower, and equipment at the actual border crossing or point of export.

Response: CBP will be flexible in working cooperatively with carriers to accomplish necessary inspections with as minimal disruption as possible, but inspectional decisions reside solely with the agency. The transmission of EEM data in advance helps CBP review and allows CBP to issue holds before cargo is loaded or before a train reaches the U.S. port of export, thereby limiting the number of issues that CBP must address at the U.S. port of export and reducing potential delays.

11. Timing

Comment: One commenter was concerned about the timing of CBP referrals if the train is in route to the point of export where such an inspection will occur. The commenter wrote that NPRM seems to contemplate that inspections could just occur at the port of export, which is not that simple for the rail carriers.

Response: CBP understands this concern and will endeavor to perform all inspections with the least inconvenience to the trade. CBP anticipates that the deadline requirements of this rule for transmitting information allows CBP to conduct most, if not all risk assessments, and identify potential cargo that may be inspected prior to the train departing the port of export. If, however, a CBP officer determines that an inspection needs to occur while in transit to avoid a catastrophic threat, any transportation delay and inconvenience that might be caused will be insignificant when compared to averting a disaster.

12. Resources

Comment: One commenter stated CBP does not have the necessary resources for a rule of this magnitude and expressed concern at how CBP will inspect at points of export.

Response: CBP notes that resource management and inspection techniques fall outside the scope of this regulation and do not need to be considered. However, CBP will inspect cargo in a manner that causes the least amount of disruption to the flow of commerce. CBP anticipates that inspections will occur before the train departs the port of export but acknowledges that there could be instances where an inspection needs to occur between the port of export and crossing the border. CBP does not anticipate that this will be a common event, especially when data is provided within the deadlines of this rule.

13. Burden on Carriers

Comment: One commenter stated that the burden imposed on carriers regarding the application of the EEI proposal to empty containers is not justified by the risk because providing that data will be onerous for rail carriers, especially when most rail equipment including containers are not owned by the rail carrier, but instead by shippers, equipment manufacturers, or lessors. The commenter expressed concern that because such data is not provided by rail carriers to CBP for empty containers, an entire system will need to be developed to do so.

Response: CBP maintains the right to make security and enforcement decisions on the level of risk involved. Additionally, empty containers are listed in the train consist currently being provided by participants now, and do not require any additional data to be provided in accordance with this rule. As identified above, this rule will be effective 60 days from the date of publication, and a longer time period will be provided to facilitate the transition before enforcement begins.

14. Uniform Enforcement

Comment: One commenter suggested that CBP take steps to ensure that it enforces the final rule uniformly across all points of export because some rail carriers export cargo to northern, southern, and maritime borders.

Response: CBP's goal is to make enforcement uniform in the rail export environment and to have consistent enforcement procedures where feasible. CBP notes that each port of export is unique and presents its own challenges. CBP will endeavor to have uniform enforcement at every port to the best of its ability.

15. Comments on Cost Benefit Analysis

Comment: A few commenters expressed concern about the requirement for house-level data. They recognized CBP's need for house-level data and stated that implementing this change for NVOCCs will necessitate ''significant investments'' in programming, process adjustments, training, and associated costs and will require time to effectuate. These commenters encouraged CBP to address these concerns in the submission of the final rule to ensure effective and practical implementation that aligns with industry operations.

Response: CBP acknowledges that the modernization of the export manifest process, may result in trade members adjusting their business practices in order to comply with this regulation. However, CBP believes this final rule provides the best option to transition to electronic environments and implement the Trade Act authority in a way that also improves CBP's enforcement efforts on cargo security and smuggling prevention. CBP notes that the data elements being requested exist before the deadlines established for the data transmission. Trade members may need to adjust their current processes in order to meet the EEM data requirements. CBP agrees with the concern raised by these commenters that there could be significant investments required for NVOCCs and other non-rail carrier trade members that elect to participate and

directly transmit EEM data to CBP. However, CBP notes that for these trade members direct participation is voluntary and therefore they will only directly participate if it makes business sense for them to do so.

In the NPRM, CBP specifically requested comments from trade members on these potential costs to adjust business practices; however, no specific monetized estimates were provided. These commenters suggest there would be ''significant investments,'' but this statement lacks the specificity needed for CBP to monetize such investments in the economic analysis for this rule. However, CBP acknowledges that the investments for these parties if they choose to participate directly as rail EEM transmitters could be significant, and they would likely also incur some cost savings as well. CBP's economic analysis for the NPRM included a discussion of these costs and CBP has added to that discussion based on the information received in this public comment.

Comment: One commenter stated that the cost-benefit analysis provided was flawed and failed to account for significant costs that would be imposed by this rule. The commenter asserted that the rail network is not designed for disconnecting rail cars for inspection outside of the port of export/rail yard. The commenter suggested that implementing the necessary infrastructure and equipment at all points of export would cost millions of dollars in land acquisition and rail construction, and significant delays in rail transportation at certain points of export. The commenter also suggested that trade members would be required to develop new programming to provide the new data elements to CBP. Furthermore, the commenter stated that because this NPRM introduced a CBP system-generated inspection not currently done at export, it would result in increased delays of rail traffic and not time benefits to the rail carriers.

Response: CBP disagrees that the rule will necessitate the disconnection of rail cars for inspection outside of the port of export/rail yard. CBP believes this rule provides sufficient time for the data to be provided so CBP can complete a proper risk assessment such that all cargo inspections will be conducted before the train departs from the final port of export. CBP retains the authority to conduct inspections, when necessary, even if it must be conducted between the train's departure from the final port of export and crossing the international border. In such an instance, this will result in a delay in the train's departure from the United States and will result in a cost to the rail carrier. CBP notes that these scenarios would be in the very rare cases where a significant imminent threat is identified after the train is given clearance to depart the United States from the final port of export and has not yet crossed the international border, and CBP will request the train be routed to where an inspection can be conducted. CBP does not quantify these costs because they are very unlikely to occur. CBP's goal is to conduct such inspections with the least amount of disruption to the trade whenever possible.

Additionally, CBP notes that the rule's requirements for data transmissions prior to departing the U.S. port of export will further limit the number of inspections that will need take place between the U.S. port of export and crossing the international border. CBP plans to move forward with the existing infrastructure at border crossings and does not expect rail carriers or CBP to invest in these significant costs as stated by this commenter.

CBP acknowledges that rail carriers will incur systems costs, and CBP has accounted for the systems costs to rail carriers in the analysis for this rule. Regarding the system costs to other trade members, CBP notes that their participation in providing EEM data directly to CBP is voluntary and as such CBP assumes that they will only do so if it were beneficial to their business. CBP requested feedback on those potential costs but did not receive specific feedback during public comments to provide an estimated amount to the average non-rail carrier participant. The feedback received from the rail EEM Test participants suggested that providing the EEM data to CBP did not result in any increased delays of rail traffic.

Comment: One commenter stated that the rule is based on a Test pilot program that was limited in its application and does not account for concerns raised in the comment provided. Because the pilot was limited in application and scope, the commenter stated that the Test pilot program is not a good representation of costs to trade members when this rule is finalized. The commenter stated that not all Class I carriers were involved in the Test and those that were, did not have every possible point of export included in the Test. The commenter stated that no points of export at the southern border were included in the Test because these are more difficult points of export. Lastly, the commenter stated that CBP wrongfully overestimated the high compliance rate for rail carriers transmitting data 24 hours before departure and noted that one participant had to redesign its operations to account for an inspection at the border crossing rather than the yard.

Response: CBP has been conducting the Electronic Export Manifest Test for Rail Cargo since 2015. The rail EEM Test data received was limited by what Test participants were willing to provide. CBP did not limit Test participants to provide rail EEM Test data only at specific ports of export. Because participation in the Test was voluntary, the participants, not CBP, determined what data to provide to CBP. CBP based its cost estimates on the information that was available from the Test and based on feedback from the rail EEM Test participants. CBP provided its best estimates on the costs associated with this rule based on the information available to CBP and the participation in the pilot. CBP acknowledges there may be a range of estimates because not all experiences may be the same. However, CBP will endeavor to perform all inspections with the least inconvenience to the trade. CBP anticipates that the deadline requirements of this rule will allow CBP to conduct most, if not all, risk assessments and identify potential cargo that may need to be inspected prior to the train's departure from the United States.

CBP acknowledges this comment and concern that Test data was not provided at all port of export locations and that there may be differences between different ports of export and that there may be certain industry practices that could create unique challenges resulting in costs. However, CBP has taken this comment into consideration and incorporated these concerns into the analysis for this rule. Since this comment did not provide quantitative estimates for these costs, CBP can only provide a qualitative discussion of these potential costs to trade members that did not participate in the rail EEM Test.

Comment: One commenter disagreed with CBP's assumption that there would be negligible additional cost to rail EEM participants to comply with the bond requirements. Specifically, the commenter's concern is for rail carriers that would be responsible for transmitting all data elements if no other party elects to participate, and then the rail carriers would be liable for the liquidated damages based on data that the rail carrier was provided and about which the carrier lacked direct knowledge.

Response: CBP notes that rail carriers may be required to be the EEM

transmitter for all data if no other eligible party elects to directly transmit the data. However, if the parties with the most direct knowledge of the information decide not to transmit the EEM data directly to CBP, they must provide that information to rail carriers in a timely manner, or the cargo cannot be exported. Additionally, the regulations provide that, where a transmitting party (including a rail carrier that transmits EEM data to CBP) is not reasonably able to verify information that it receives from another party in accordance with ordinary commercial practices, it may electronically transmit the unverified information to CBP based on what the transmitting party reasonably believes to be true.

CBP also notes that all rail carriers that engage in carrying goods for export out of the United States are also engaged in carrying goods for import into the United States and therefore already have a requirement to secure and obtain a bond, so CBP expects adding this provision will not add a significant cost to these rail carriers.

VII. Regulatory Analyses

A. Executive Orders 12866, 13563, and 14192

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 14192 (Unleashing Prosperity Through Deregulation) directs agencies to significantly reduce the private expenditures required to comply with Federal regulations and provides that ''any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.''

The Office of Management and Budget (OMB) has designated this rule a ''significant regulatory action'' under section 3(f) of Executive Order 12866, although not economically significant under section 3(f)(1). Accordingly, the rule has been reviewed by the Office of Management and Budget.

This final rule is considered an Executive Order 14192 deregulatory action. CBP's quantified estimates demonstrate this rule generates $9.01 million in annualized net cost savings using a seven percent discount rate, discounted relative to year 2024, over a perpetual time horizon. However, the costs imposed by the rule are not fully quantified.

In summary, CBP expects that this final rule will result in a present value total combined net cost savings of $37.5 million using a three percent discount rate and $22.7 million using a seven percent discount rate; to CBP, outbound rail carriers and other trade members during the period of analysis (2016 to 2030). Meanwhile, annualized net cost savings are estimated to range between $3.1 million and $2.5 million using a three and seven percent discount rate respectively. CBP anticipates that this final rule will also provide added benefits from enhanced cargo security measures by improving compliance and the enforcement of U.S. export laws and regulations on U.S. rail exports, while also improving the facilitation of the export process. The following is the economic analysis of the potential effects from this final rule. Based on feedback from public comments received from the rail EEM NPRM, CBP made a few changes between the analysis for the NPRM and for this final rule. CBP revised a data element ''AES Exemption Statement, as applicable'' to ''AES (AES) Internal Transaction Number (''ITN'') or FTR exemption/exclusion code'', and this data element will be conditional in the initial filing in this final rule. Additionally, CBP removed the requirement to have trade members provide telephone and email address that is monitored 24 hours/7 days a week to address any holds issued by CBP. CBP does not expect these changes to result in any additional quantifiable costs or cost savings from this final rule.

Purpose and Background

CBP's mission includes ensuring cargo security and preventing smuggling, while enforcing U.S. trade laws and regulations. CBP needs to obtain timely and sufficient data prior to cargo arriving or departing the United States, via any mode of commercial transportation, in order to review and conduct risk assessment to identify high-risk shipments and inspect cargo effectively. According to Section 343(a) of the Trade Act of 2002, as amended (Trade Act) (19 U.S.C. 1415), CBP is authorized to establish regulations that provide for the mandatory electronic transmission of data by way of a CBP-approved electronic data interchange before cargo arrives or departs the United States in all environments (sea, air, rail, and truck). Transmitting export manifest data electronically, instead of on paper or via email, allows CBP to use its Automated Targeting System (ATS) to screen all data transmitted. This allows CBP to make better examination decisions while also reducing the time required to make such decisions. Trade members also experience efficiencies through quicker CBP examination decisions and improved communication between CBP and trade members. The requirement to transmit manifest data through an electronic data interchange (ACE), which is the same system through which data is incorporated from AES, is also important to help facilitate a more efficient trade process for all federal agencies and trade members involved. Transmitting electronic manifest data (specifically pre-arrival or pre-departure) significantly increases CBP's ability to conduct risk assessment and identify high-risk cargo to ensure cargo security and to prevent smuggling. Additionally, the electronic environment will improve and expedite communications between CBP and trade members in resolving examinations where additional or corrected information of the transmission is required.

Baseline

In the rail environment, CBP currently requires the advance electronic submission of data for all cargo being brought into the United States, but CBP does not require the pre-departure electronic transmission of data for all exported cargo. CBP requires some electronically transmitted cargo data prior to departing the United States by rail but this data is significantly limited in scope. Current regulations[8] require the U.S. Principal Party in Interest (USPPI), the USPPI's agent, or the authorized filing agent of the Foreign Principal Party in Interest (FPPI) to transmit Electronic Export Information (EEI) to CBP through the Automated Commercial Environment (ACE), no later than two hours prior to the arrival of the train at the border. Although this pre-departure data is helpful, the information provided by EEI falls short of what CBP requires for proper enforcement.

Additionally, the required transmission of EEI is subject to certain exemptions, as established by the Bureau of the Census regulations,[9] which generally only require EEI transmission on shipments greater than $2,500 and do not require the transmission of EEI for shipments destined for Canada, unless the

[8] *See* 19 CFR 192.14.

[9] *See* 15 CFR Part 30.

shipment contains certain controlled items or is being transshipped to another destination.[10] Therefore, numerous low dollar value shipments and/or Canadian-bound shipments of merchandise departing the United States by rail do not have EEI transmitted for CBP to review. The lack of detailed electronic manifest data for some shipments and the unavailability of electronic cargo data on lower value merchandise shipments impedes CBP's enforcement efforts on rail exports.

Although CBP receives limited pre-departure electronic data for rail exports, CBP usually receives additional pre-departure data from rail carriers or their agents. This information, however, is submitted via attachments to an email, which is not the most efficient or effective method to obtain such data and perform risk assessment.[11] During the export cargo process, the rail carrier may not load cargo without first receiving from the USPPI or its authorized agent either the related EEI filing citation, covering all cargo for which the EEI is required, or exemption legends, covering cargo for which EEI need not be filed. While the rail carrier is not required to submit a rail cargo export manifest to CBP, the outbound rail carrier must annotate the carrier's outward manifest, waybill, or other export documentation with the applicable Automated Export System (AES) proof of filing, post departure, downtime, exclusion, or exemption citations, conforming to the approved data formats found in the Bureau of the Census Foreign Trade Regulations.[12]

In the baseline rail carriers or their agents submit finalized train consists to CBP in a format of the rail carrier's choosing before a train is granted permission to depart from the U.S. port of export.[13] [14] Rail carriers or their agents can provide this data via email prior to a train's arrival at the U.S. port of export (pre-departure) or present this data to a CBP officer at departure when the train arrives at the U.S. port of export (at departure). The submission of such data pre-departure via email is not mandatory, nor is there a required time frame for submitting such information. However, rail carriers have an incentive to provide this information pre-departure so that CBP has time to review the information before the train reaches the U.S. port of export, expediting the export process. Because of this incentive, rail carriers usually send this information to CBP at least two hours prior to a train's arrival at the United States border.[15] If rail carriers or agents choose not to provide this data pre-departure, they must present the finalized train consists to CBP upon arrival at the U.S. port of export at which point CBP officers must complete the review of the train consists while the train is at the U.S. port of export, resulting in a potential delay in the train's departure.

Once this information is received by CBP (either via email or in person at the port of export), CBP officers will then conduct a review of the export information, which includes reviewing the finalized train consist (paper version or emailed) manually and addressing any issues. CBP officers must then also compare this data with any EEI information transmitted electronically for that train along with any other documents. To ensure proper cargo security, during this review CBP officers must also conduct their targeting and risk assessment measures and then determine if any cargo needs to be examined before a train departs the United States. In the baseline scenario, CBP is not able to automatically use ATS for risk assessment on the export information contained on the train consists provided by rail carriers to CBP.[16] Although CBP officers can manually query ATS with information provided on the finalized train consists, CBP notes this is a cumbersome and time-consuming process and is not a frequent occurrence. If during CBP's review of this information, prior to the train's arrival at the U.S. port of export, CBP officers find any discrepancies or missing data, CBP communicates via email to the rail carrier that submitted the data, requesting updates or corrections to the data provided. The CBP review process, including communications between CBP and rail carriers about discrepancies discovered while reviewing train consist information, can be unnecessarily cumbersome and time consuming because this data is provided via email attachments and the formats can be inconsistent across rail carriers. If CBP is not provided the pre-departure data or is not provided the data in a time frame that allows for CBP to properly review, request, and receive updates from rail carriers, and conduct proper risk assessment or examine high-risk cargo or shipment manually, then a CBP officer must resolve these issues at the U.S. port of export. This usually results in a delay to the train's departure.

CBP does not track how often rail carriers provide this pre-departure data nor to what extent CBP officers are able to conduct some or all of their manual review of the data prior to the train's arrival to the U.S. port of export. Sometimes CBP identifies a high-risk cargo or shipment during manual review at the U.S. port of export or while reviewing pre-departure data but does not have time to adjudicate the shipment prior to a train's arrival at the U.S. port of export. In this situation, the CBP officer holds the train until one or more freight car(s) can be removed from the already constructed train for examination, which can cause delays and can be costly to rail carriers.[17]

This final rule will establish a requirement for the electronic transmission of export manifest data pre-departure from the United States for all cargo in the rail environment. CBP defines the process described above as the regulatory baseline and the analysis of this final rule attempts to measure any incremental costs, cost savings, or benefits compared to the baseline scenario.

The ACE Export Manifest for Rail Cargo Test

CBP has been working toward developing a new process to require the transmission of electronic export manifest (EEM) data for all cargo departing the United States by rail to enhance CBP's efforts to ensure cargo security while also preventing smuggling and implement the Trade Act authority. CBP expects that the transmission of pre-departure EEM data would help CBP obtain all the necessary data to successfully review and conduct risk assessment measures before trains reach the U.S. port of export, thereby limiting the number of issues that CBP must address at the U.S. port of export and reducing potential delays. Rail carriers have also acknowledged that the

[10] *See* 15 CFR 30.36.

[11] This information is submitted by rail carriers for trains transporting cargo out of the United States and is provided regardless of whether an EEI submission is required.

[12] *See* 15 CFR part 30.

[13] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on February 25, 2022.

[14] A train consist is documentation that generally refers to the contents of a train including the position of the locomotives and cars, as well as both non-hazardous and hazardous freight within those cars.

[15] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on June 21, 2022.

[16] In the baseline scenario CBP is not able use ATS for risk assessment on export data submitted on paper forms (or via email) and paper forms cannot be automatically uploaded or submitted to ATS for risk assessment. A primary benefit of this rule is allowing CBP to automatically use ATS for risk assessment on all rail EEM data provided.

[17] Unfortunately, CBP does not track how often manual examinations occur on average each year as these examinations are not entered into a system of record.

baseline process of sending forms of rail export data by email is unnecessarily costly, time burdensome, and inconsistent with the process for providing data on cargo entering the United States.[18] As such, rail carriers have generally been supportive of CBP's efforts to provide a more efficient process by allowing for the transmission of rail EEM data.

In September of 2015, CBP introduced a two-year pilot test program, referred to in this analysis as the ACE Export Manifest for Rail Cargo Test (the Test), to determine the feasibility for rail carriers or their agents to provide pre-departure EEM data for rail exports to CBP via ACE within a specified time before cargo departs the United States. To test the functionality of this new process, CBP initially limited participation in the Test to nine rail carriers. During this initial phase of the Test, CBP worked with rail carriers who agreed to participate and transmit EEM data to CBP via ACE in addition to providing paper forms. The participants were large rail companies, similar in most respects to those that did not participate. As such, CBP believes their experience with the Test is informative for analyzing the effects of the rule. CBP requested comment during the NPRM on any meaningful differences between the participants and the non-participants that would affect the analysis. CBP did receive a public comment stating that the rail EEM Test experienced limited participation, that not all Class I carriers were involved in the Test, and not every point of export was included in the Test. The commenter stated that because of these factors, the Test does not provide a good representation of the costs. CBP acknowledges that participation in the Test was limited but CBP notes that the Test was expanded and extended in 2017 and has since been available to all trade members. CBP acknowledges that effects from this final rule will be different depending on the trade member and the port of export, but CBP believes that the quantitative data provided in the analysis for this final rule which is based on feedback from the public through public comments and rail EEM Test participants is CBP's best quantitative estimate. Any effects CBP was unable to quantify CBP discusses qualitatively. CBP included input received through the public comments to improve its analysis, though some commentors did not provide substantive or quantitative information that could be used in the analysis. In addition, CBP has made changes to the rule in response to public comments that highlighted costs that would be more severe for certain trade members, including smaller trade members.

CBP requested that rail EEM Test participants continue to provide data in paper forms as they did before the Test so that CBP could capture any inconsistencies or issues with the electronic transmission of rail export manifest data to CBP. In the Test, CBP requested that participants provide rail EEM data to CBP at least two hours prior to loading the cargo onto the train, or in the case of empty rail cars upon assembly of the train.[19] Because ACE would conduct a majority of the risk assessment and review of electronically transmitted data, CBP anticipated that this two-hour window would provide enough time for CBP to review pre-departure EEM data prior to the cargo being loaded onto trains and before the trains have been assembled. The two-hour time frame also provided CBP the opportunity to notify rail carriers or agents to revise and correct export manifest data where necessary before the cargo is loaded. This increased the chance that CBP could conduct cargo inspections before cargo is loaded and trains are assembled, avoiding costly time burdens if issues need to be addressed after the train has been constructed. The required deadline for EEM data also provided CBP an opportunity to compare any EEI transmitted by the USPPI with the export manifest data to properly conduct safety and security screening for cargo departing the United States in the rail environment.

One major improvement of the Test was that rail carriers can provide and revise export manifest data electronically on a flow basis when the export data becomes available during the export process. Typically, rail carriers provide export manifest data in documents known as bills of lading (bills), which act as a receipt and contract of transporting cargo and goods. These bills can come from a number of sources depending on which party is privy to the information and the timing of when the information is provided. A house bill contains cargo details and is issued directly by a party such as a Non-Vessel Operating Common Carrier (NVOCC) or freight forwarder. This bill acts as the receipt of exported goods and provides export manifest data at its lowest level. Carriers issue a master bill which includes all other export manifest information such as transportation details for the transporting train covering any number of house bills that are included on that train. Additionally, in the case where a NVOCC or freight forwarder is not involved in the shipment transaction and the carrier has the specific cargo data available, the carrier can issue a ''simple bill,'' which is similar to a house bill and contains cargo details at the lowest bill level of export manifest data. In the rail environment, house bills and master bills are not typically issued because rail carriers usually issue simple bills for all cargo and then submit finalized train consists to CBP. These consists include the simple bills associated with all the cargo on the train and any other transportation data for the train prior to departure from the U.S. port of export. The Test allowed participants to transmit these simple bills on a flow basis when the information becomes available. This differs from the baseline scenario where rail carriers typically waited for simple bills to be finalized before sending the export manifest data in the finalized train consist in paper format to CBP for review. The transmission of EEM data, via ACE, allows for the integrated system to conduct a large portion of the review process using data validations, checks, and risk assessment measures prior to the rail carriers loading cargo onto freight cars or constructing the train. Additionally, upon transmission of the pre-departure EEM data, CBP can review data on a flow basis while rail carriers provide updated data throughout the export process.

The integrated system will generate two types of holds when rail carriers transmit bills: 2H Documentation holds, which notifies the rail carriers or their agents in the integrated system of outstanding issues with the data provided, and 1H Enforcement holds, which result from CBP's risk assessment. In the instance of a 2H Documentation hold, the rail carrier or agent must add or revise the missing or incorrect reference data in order to release the hold on the cargo prior to departure from the United States. The 2H Documentation holds automatically generated by ACE do not require any action or response from CBP or CBP officers and only affect rail carriers or

[18] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, on June 21, 2022.

[19] CBP notes that although the Test requested export manifest data to be provided within certain deadlines, participants were not required to provide data within these time frames. Participants were given flexibility to provide the data to CBP electronically and were not penalized if export manifest data was not transmitted within the time frames of the Test. However, CBP experienced high levels of compliance with EEM data transmissions with 94 percent of all data transmissions submitted greater than 24 hours prior to the departure time.

their agents. The integrated system assists CBP in its risk assessment efforts and the identification of high-risk cargo. If during the integrated systems risk assessment, a potential high-risk cargo is identified, then a 1H Enforcement hold is generated which requires a CBP officer to conduct a review of the export manifest data transmitted.[20] The rail carriers are notified of these holds through the integrated system which lets them know if a mandatory examination of the cargo and or freight car is required or if CBP needs to conduct further review of the data transmitted. These holds can be issued and addressed even after rail carriers load the cargo. If a 1H Enforcement hold is issued to a rail carrier after loading the cargo and CBP requests to inspect the cargo, the rail carrier must provide CBP with a location where CBP can conduct a proper examination. In addition to holds, if a CBP officer determines during review that cargo or a rail car may contain a potential threat to the train and its vicinity, a Do-Not-Load (DNL) instruction is issued, which prohibits the rail carrier from transporting that cargo or rail car. The rail carrier should not transport any cargo or rail car with a DNL. The transmission of EEM data in advance would help CBP review, and issue holds before cargo is loaded or before a train reaches the U.S. port of export. This transmission facilitates a more efficient export process by reducing the likelihood of a freight car or cargo being removed from a constructed train and the resulting delays when departing the U.S. port of export.

Rail carriers participating in the Test provided a number of mandatory and conditional data elements electronically to CBP via ACE. CBP determined that the selected data elements (listed below) would provide the information necessary to conduct proper cargo security enforcement. Rail carriers were already providing these data elements by the time of departure from the U.S. port of export to CBP prior to the Test but in paper form within the finalized train consists. The Test also required participating rail carriers to submit these data elements at the lowest bill level possible. The necessary data elements CBP selected during this initial phase of the Test, including empty rail cars, consisted of the following:

(1) Mode of Transportation (containerized rail cargo or non-containerized rail cargo)
(2) Port of Departure from the United States
(3) Date of Departure [21]
(4) Manifest Number
(5) Train Number
(6) Rail Car Order
(7) Car Locator Message
(8) Hazmat Indicator (Yes/No)
(9) 6-character Hazmat Code (conditional) (If the hazmat indicator is yes, then UN (for United Nations Number) or NA (North American Number) and the corresponding 4-digit identification number assigned to the hazardous material must be provided.)
(10) Marks and Numbers
(11) SCAC (Standard Carrier Alpha Code) for exporting carrier
(12) Shipper name and address (For empty rail cars, the shipper may be the railroad from whom the rail carrier received the empty rail car to transport.)
(13) Consignee name and address (For empty rail cars, the consignee may be the railroad to whom the rail carrier is transporting the empty rail car.)
(14) Place where the rail carrier takes possession of the cargo shipment or empty rail car
(15) Port of Unlading
(16) Country of Ultimate Destination
(17) Equipment Type Code
(18) Container Number(s) (for containerized shipments) or Rail Car Number(s) (for all other shipments)
(19) Empty Indicator (Yes/No)

Additionally, if the rail carrier identified that the rail car is not empty (empty indicator is no), then CBP also required information for the following data elements for non-empty rail cars, as applicable:

(20) Bill of Lading Numbers (Master and House)
(21) Bill of Lading Type (Master, House, Simple or Sub)
(22) Number of house bills of lading
(23) Notify Party name and address (conditional)
(24) AES Internal Transaction Number or AES Exemption Statement (per shipment)
(25) Cargo Description
(26) Weight of Cargo (may be expressed in either pounds or kilograms)
(27) Quantity of Cargo and Unit of Measure
(28) Seal Number
(29) Split Shipment Indicator (Yes/No)
(30) Portion of split shipment (*e.g.,* 1 of 10, 4 of 10, 5 of 10—Final, etc.) (conditional)
(31) In-bond Number (conditional)
(32) Mexican Pedimento Number (only for shipments for export to Mexico) (conditional)

After the initial two-year period, CBP determined that the initial phase of the Test had been feasible and functional for participating rail carriers to provide EEM data and therefore CBP extended the Test in 2017. At that time, CBP expanded the Test and made it available to all rail carriers and other trade members (beyond the initial nine rail carrier limit) which met the eligibility criteria.[22] After the first two years of the Test, CBP received feedback from rail carriers from the Commercial Customs Operations Advisory Committee (COAC), which stressed that rail carriers may not have access to certain export manifest data elements requested by CBP two hours prior to loading of cargo. Therefore, CBP determined to change the filing condition for nine of the pre-departure export manifest data elements for the Test moving forward. As part of the Test extension, CBP separated EEM data elements into three categories, mandatory, conditional, and optional data, and requested this information for all cargo and empty rail cars, at least two hours prior to loading of the cargo. CBP changed the following pre-departure EEM data elements (which were originally mandatory) to optional for the Test extension.

- Mode of Transportation (containerized rail cargo or non-containerized rail cargo) (Original Data Element #1)
- Place where the carrier took possession (Original Data Element #14)
- Country of Ultimate Destination (Original Data Element #16)
- Equipment Type Code (Original Data Element #17)
- Number of house bills of lading (Original Data Element #22)
- Split Shipment Indicator (Original Data Element #29)
- Portion of split shipment (Original Data Element #30)
- Mexican Pedimento Number (Original Data Element #32)

[20] CBP officers can also issue 1H Enforcement holds during manual review of electronic export manifest data transmitted.

[21] CBP defines this data element as the date the train departs the United States; the date the train crosses the international border.

[22] Limited to those parties able to electronically transmit manifest data in the identified acceptable format. Prospective ACE Export Manifest for Rail Cargo Test participants must have the technical capability to electronically transmit data to CBP and receive response message sets via Cargo-ANSI X12 (also known as ''Rail X12'') or Unified XML and must successfully complete certification testing with their client representative. Once parties have applied to participate, they must complete a test phase to determine if the data transmission is in the required readable format. Applicants will be notified once they have successfully completed testing and are permitted to participate fully in the Test. In selecting participants, CBP takes into consideration the order in which the applications are received.

CBP also modified the Test by changing the following data element from mandatory to conditional:

- Marks and Numbers (Data Element #10)

CBP has continuously extended or renewed the Test to gauge the functionality and feasibility of implementing the requirement of providing EEM data to CBP prior to a train's departure. CBP believes that the Test has been successful and, through this rulemaking, CBP will now make the transmission of pre-departure EEM data mandatory for all cargo departing the United States in the rail environment.

The ACE Export Manifest for Rail Cargo Program

This final rule will mandate the transmission of EEM data for all cargo prior to departing the United States in the rail environment in lieu of paper submissions, see Section V 'Discussion of the Final Rule' above for discussion on the regulatory requirements of this final rule. CBP anticipates that requiring the transmission of pre-departure EEM data will significantly improve CBP's ability to conduct proper cargo security, prevent smuggling, and aid in facilitating a more effective and efficient trade process. Under this final rule, the parties most likely to have the correct data on rail export cargo will be able to provide it to CBP through ACE. The experience and knowledge CBP gained during the Test influenced CBP to change some of the requirements for providing EEM data in this final rule.

CBP evaluated the time frames for electronic manifest data transmission during the Test, the most important data elements needed for risk assessment and screening cargo, and the unavailability to rail carriers of certain data elements at given time frames and decided to group the rail EEM data elements based on the deadlines for transmission of data and on which party likely has the correct information to provide the export manifest data. This final rule will allow rail carriers, carriers' agents, NVOCCs, freight forwarders, customhouse brokers (CHB), or anyone with direct knowledge of the export manifest data to provide specific pre-departure export manifest data to CBP, using CBP's ACE as a data transmission portal. This final rule mandates that a party transmitting any specific EEM data must have a bond on file with CBP that secures the obligation to transmit EEM in the time and manner required by regulation. Additionally, the party that transmits any EEM data electronically to CBP is also the responsible party for addressing any questions, issues, instructions, or holds resulting from CBP's review of that specific data.[23] In the NPRM, CBP suggested requiring the party transmitting the EEM data to provide a telephone number and email address that will be monitored 24 hours per day and seven days a week. However, CBP received a number of public comments suggested that the 24 hours a day, seven days a week requirement would place an unfair burden, specifically on smaller trade members and therefore CBP removed the requirement of providing a 24-hour monitored telephone number and email address in this final rule. CBP anticipates that ACE will electronically and automatically notify whoever has transmitted rail EEM data to CBP.

To improve CBP's risk assessment and screening efforts using pre-departure EEM data, this final rule will require an initial filing of seven mandatory data elements, which must be transmitted to CBP by any eligible party at least 24 hours prior to the departure from the U.S. port of export, and one conditional data element that must be transmitted as soon as applicable.[24] The rail carrier is responsible for providing the initial filing data elements to CBP if no other eligible party elects to transmit the data. Eligible parties should transmit all other pre-departure EEM data elements to CBP no later than two hours prior to departure from the U.S. port of export, except for data on empty containers which will be required upon assembly of the train. From CBP's experience during the Test, CBP does not anticipate that changing the time frames for data transmission in this final rule will cause any data transmission issues for parties transmitting the information.[25] Depending on the party providing the EEM data, the required export data may be available at different points in time during the export rail transaction process. Some rail carriers will have the export manifest data available days in advance prior to departure and therefore will have all the necessary information to transmit the initial filing data to CBP and all other export manifest data well in advance of the 24-hour and 2-hour prior to departure deadlines.[26] CBP anticipates that all rail carriers will likely obtain the necessary export data elements to provide the required transportation and cargo EEM data within the two-hour prior to departure deadline.[27] CBP received a public comment stating that CBP's assumption of high compliance from rail carrier when requesting data 24 hours in advance is overestimated because the Test was flawed based on limited participation. The commenter suggests that CBP's assumptions are based on the rail EEM Test which did not receive rail EEM data at some of the more difficult ports of export, and it would be difficult in some situations to provide rail EEM data 24 hours in advance, and the commenter suggests all data should be transmitted 2 hours in advance. CBP agrees with the comment that every U.S. port of export in the rail environment is unique and creates different challenges, but CBP based its assumptions for data availability on feedback from rail EEM Test participants that voluntarily provided rail EEM Test data at ports of exports that they wished.[28] Additionally, in the NPRM, CBP acknowledged that rail carriers may need to make changes stating that some rail carriers acquiring the necessary data for the initial filing 24 hours prior to departure may require a change in business practices and additional coordination with other trade members or parties that have the required export manifest data. *See* 90 FR at 2886. As CBP wrote in the NPRM, CBP does not believe that in such instances the export manifest data does not exist, rather, the other trade members have not yet provided this information to the rail carrier.[29] CBP expects that in such instances, the costs to rail carriers to obtain this information from other trade members a few hours earlier will be minimal. Additionally, if other trade

[23] CBP notes that the rail carrier will always be noticed of a DNL or Hold even in the instance that another party was the EEM data transmitter.

[24] Based on feedback CBP obtained from public comments following the NPRM, CBP decided to change one of the initial filing data elements from mandatory to conditional (all other data elements are mandatory), that data element is expected to be provided if it exists at the time of initial filing, if not then it will be provided in the mandatory export cargo data.

[25] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, on June 21, 2022.

[26] CBP obtained feedback and information from Trade members on when in the export transaction process, the export manifest data is typically available for them to submit to CBP. Information obtained in February 2023.

[27] CBP obtained feedback and information from Trade members on when in the export transaction process, the export manifest data is typically available for them to submit to CBP. Information obtained in February 2023.

[28] After the rail EEM Test was extended in 2017, CBP did not put any limits on the trade members that could participate or which ports of export the participants should provide rail EEM data for departing trains. CBP only received rail EEM test data based on what voluntary participants were willing to provide.

[29] Information provided during discussion with some Trade members in regard to the timeline for when export manifest data is available to provide to CBP and challenges to providing pre-departure data well in advance. Data obtained in February 2023.

members are reluctant to provide this information to rail carriers within the 24-hour prior to departure deadlines, the other trade members will be able to transmit this data to CBP directly as a participant of the rail EEM.

CBP notes that during the Test, participants were already providing most of the data required in the initial filing well in advance of departure and more than 24 hours prior to departure.[30] CBP expects that rail carriers and other trade members will have access to most export manifest data early in the planning stages of an export rail cargo transaction and will be able to comply with these time frames. Additionally, participating parties will be able to transmit EEM data to CBP on a flow basis whenever it becomes available to help facilitate CBP's review of the export data and the overall export process. CBP anticipates that these time frames will provide CBP with adequate time to perform proper risk assessment and identify any cargo that CBP needs to examine, early enough in the supply chain to enhance security while minimizing disruption to the flow of goods. Upon transmission of the initial filing, CBP will validate or notify the party responsible of any holds or DNLs. The party that transmits the data is responsible for providing answers and updates on the data to CBP but the ultimate responsibility to load, hold, or not load cargo falls on the rail carrier.[31]

Of the mandatory data elements CBP selected for the initial filing, six were part of the mandatory data elements in the Test; however, CBP revised the descriptions of these elements in this final rule to provide additional clarity on the data required. Based on feedback CBP obtained from public comments during the NPRM, CBP revised some data elements, including the data element ''AES Exemption Statement, as applicable'' to ''AES (AES) Internal Transaction Number (''ITN'') or FTR exemption/exclusion code'', and this data element will be conditional in the initial filing in this final rule. Additionally, to provide additional clarity, CBP removed identification numbers as acceptable data as proposed during the NPRM for the shipper's complete name and address and the consignee's complete name and address and created a new data element 'Employer Identification Number (EIN) or Importer Record Number or CBP assigned number' as a mandatory data element for the initial filing for this final rule. The mandatory initial filing data elements required in this final rule include the following, listed as well are the data elements' corresponding descriptions during the Test:

(1) Mandatory Data

(i) Bill of lading number,

(ii) The numbers and quantities of the cargo laden aboard the train as contained in the carrier's bill of lading, either master or house, as applicable (this means the quantity of the lowest external packaging unit; the numbers or quantities of containers and pallets do not constitute acceptable information; for example, a container holding 10 pallets with 200 cartons should be described as 200 cartons [Test data element of Quantity of Cargo and Unit of Measure],

(iii) Total weight of cargo expressed in pounds or kilograms [Test data element of Weight of Cargo (may be expressed in either pounds or kilograms)],

(iv) A precise cargo description (or the Harmonized Tariff Schedule (HTSUS) number(s) to the 6-digit level under which the cargo is classified if that information is received from the shipper and weight of the cargo); or for a sealed container, the shipper's declared description and weight of the cargo (generic descriptions, specifically those such as ''FAK'' [''freight of all kinds''], ''general cargo'', and ''STC'' [''said to contain''] are not acceptable) [Test data element of Cargo Description],

(v) The shipper's complete name and address, from the bills of lading (for each house bill in a consolidated shipment) [Test data element of Shipper name and address],

(vi) The consignee's complete name and address, from the bill(s) of lading (The consignee is the party to whom the cargo will be delivered in a foreign country. However, in the case of cargo shipped ''to order of [a named party],'' the ''to order'' party must be named as the consignee; and if there is any other commercial party listed in the bill of lading for delivery or contact purposes, the carrier must also report this other commercial party's identity and contact information including address in the ''Notify party'' field.) [Test data element of Consignee name and address], and

(vii) Employer Identification Number (EIN) or Importer Record Number or CBP assigned number.

Additionally, CBP is adding one conditional data element be provided at the time of the initial filing, if applicable.

(2) Conditional Data

Automated Export System (AES) Internal Transaction Number (''ITN'') or FTR exemption/exclusion code [Test data element AES Exemption Statement (per shipment)].

In this final rule, CBP groups the remaining rail EEM data elements based on CBP's understanding of which parties may have the best knowledge of the export manifest data elements. CBP categorizes these remaining data elements as export manifest transportation data, export manifest cargo data, and empty container data. According to this final rule, the rail carrier or its agent is responsible for transmitting to CBP the EEM data on any empty container rail cars.[32] This data must be transmitted electronically no later than the time of assembly of the train. For EEM transportation data, the rail carrier or its agent must also transmit this data at least two hours prior to departure from the U.S. port of export. The rail carrier or its agent is responsible for providing the following EEM transportation data elements to CBP in this final rule:

Mandatory Elements

(1) Port of departure from the United States
(2) Date of departure [33]
(3) Estimated time of departure [34]
(4) Carrier-assigned conveyance name, equipment number and trip number
(5) Train Consist, which includes: (A) manifest number, (B) train number, (C) rail car order, and (D) empty containers (if applicable)
(6) The rail carrier identification SCAC code (the unique Standard Carrier Alpha Code assigned for each carrier by the National Motor Freight Traffic Association; *see* § 4.7a(c)(2)(iii) of this chapter)
(7) Container or equipment numbers (for containerized shipments) or Rail Car Numbers (for all other shipments)
(8) Employer Identification Number (EIN) or Importer Record Number or CBP assigned number

Conditional Elements

(1) 6-character Hazmat Code. (If the Hazmat indicator is yes, then UN

[30] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, on August 2, 2022.

[31] CBP notes that the rail carrier will always be notified of any Hold or DNL even in the case that they were not the EEM data transmitter.

[32] If applicable, empty container rail car data would be included in the Train Consist data element of the mandatory data elements for transportation data. Empty containers are listed in the train consist and do not require any additional data to be provided as per this rule.

[33] CBP clarifies that this data element means the date the train departs the United States; the date the train crosses the international border.

[34] CBP clarifies that this data element is the estimated time the train departs the United States; the time the train crosses the international border.

(for United Nations Number) or NA (North American Number) and the corresponding 4-digit identification number assigned to the hazardous material must be provided)
(2) Marks and Numbers
(3) Seal number (only required if container was sealed.) [35]

Optional Elements

(1) Mode of transportation (containerized rail cargo or non-containerized rail cargo)
(2) Equipment type code
(3) Place where the rail carrier takes possession of the cargo shipment or empty rail car

CBP provides additional flexibility in this final rule by allowing any eligible party with the most direct information to provide EEM cargo data to CBP two hours prior to departure from the U.S. port of export. However, the rail carrier or its agent may also elect to transmit the mandatory EEM cargo data and in the case that no other party elects to provide the required EEM cargo data, it is the rail carrier's responsibility to provide this EEM cargo data to CBP.[36] The following data elements comprise the CBP-requested EEM cargo data for rail EEM in this final rule. CBP notes that if the data was provided during the initial filing it does not need to be transmitted again unless there are updates or changes made to the data.

Mandatory Elements

(1) Shipper name and address (For empty rail cars, the shipper may be the railroad from whom the rail carrier received the empty rail car to transport.)
(2) Consignee name and address (For empty rail cars, the consignee may be the railroad to whom the rail carrier is transporting the empty rail car.)
(3) Port of lading
(4) Port of unlading
(5) Bill of lading type (Master, House, Simple or Sub)
(6) Bill of lading numbers (Master, House, Simple or Sub)
(7) AES (ITN) or In-bond number (per shipment)
(8) Cargo description
(9) Weight of cargo (may be expressed in either pounds or kilograms)
(10) Quantity of cargo and unit of measure
(11) Employer Identification Number (EIN) or Importer Record Number or CBP assigned number.

Conditional Elements

(1) In-bond type
(2) Notify party name and address
(3) Secondary notify party name and address

Optional Elements

(1) Mexican Pedimento Number (only for shipments for export to Mexico)
(2) Secondary notify party SCAC
(3) Country of ultimate destination
(4) Number of house bills of lading

When participants transmit the EEM cargo and transportation data to CBP via ACE, CBP will validate or notify the responsible party of any holds. Additionally, a CBP officer will review the finalized train consist prior to the train's departure from the U.S. port of export. CBP anticipates that obtaining this data through the integrated system will help CBP work with rail carriers and other parties to address almost all issues identified during the CBP review before the train reaches the U.S. port of export and possibly before loading of the cargo. This will significantly reduce any delays at the U.S. port of exports in instances where CBP officers conduct review and address issues while the train is at the U.S. port of export. CBP anticipates that through the obtaining of pre-departure rail EEM data, CBP officers will be able to conduct the appropriate risk assessment and screening and complete their review of all export manifest data prior to a train's arrival at the U.S. port of export.[37]

In the initial Test, CBP requested that 32 data elements be transmitted two hours prior to the cargo loading. The experience gained during the Test has allowed CBP to revise which data elements should be mandatory, conditional, optional, and unnecessary. Of the original 32 data elements put forth in the initial Test, five data elements were determined by CBP to be unnecessary and CBP no longer requests these EEM data elements in this final rule. CBP lists these below.

(1) Car Locator Message
(2) Empty Indicator (yes/no)
(3) Hazmat Indicator
(4) Split Shipment Indicator (Yes/No)
(5) Portion of split shipment (*e.g.,* 1 of 10, 4 of 10, 5 of 10—Final, etc.)

As an enforcement tool, this final rule provides CBP with authority to impose liquidated damages on parties that do not provide the mandatory EEM data in the manner and in the time frame required. CBP may assess liquidated damages when a violation occurs. Any party that violates the requirements for data transmission as described above in this final rule is subject to liquidated damages of $5,000 for each violation and up to a maximum of $100,000 per departure. Although there is the possibility for liquidated damages, compliance is CBP's goal and CBP aspires to work alongside rail carriers and other parties to ensure that trade members provide the proper data in a timely manner, so that CBP can properly review the data, conduct risk assessment, identify high-risk shipments, and enforce U.S. export laws and regulations on U.S. rail exports.[38]

Time Periods of Analysis

This analysis primarily focuses on the potential impacts of this final rule after it will be in effect, but it also includes a discussion of the impacts during the Test that was in place before the final rule is finalized. The costs, cost savings and benefits of the Test are sunk (already incurred and cannot be recovered) for the purpose of deciding whether to proceed with the final rule, but they are important for understanding the full costs and benefits of implementing the rail EEM as a whole. To give the reader a full view of the effects of CBP's requiring rail EEM data throughout the entire span of time, CBP analyzes the effects of implementing rail EEM collection over two time periods comparing each time period to the baseline scenario that existed prior to the rail EEM Test. First, CBP analyzes the effects from Test used for the collection of pre-departure manifest data on rail exports during the pilot period, fiscal years 2016–2025.[39] Second, CBP analyzes the effects of the final rule which will mandate the transmission of EEM data in the rail environment during the five-year regulatory period, beginning in fiscal year 2026 and ending in fiscal year 2030. For the regulatory period, CBP estimates, to the extent data is available, the additional total projected costs, cost

[35] The seal numbers for all seals affixed to containers and/or rail cars to the extent that CBP's data system can accept this information (for example, if a container has more than two seals, and only two seal numbers can be accepted through the system per container, electronic presentation of two of these seal numbers for the container would be considered as constituting full compliance with this data element).

[36] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, on June 21, 2022.

[37] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, on November 8, 2022.

[38] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, on June 21, 2022.

[39] CBP anticipates that the Test would still be active until fiscal year 2026 when the final rule will be implemented; however, at the time this analysis was written CBP only had actual data up through fiscal year 2024. Therefore, CBP provides estimates, not actual data, for the fiscal year 2025 in this analysis. CBP compares the costs, cost savings and benefits during the Test to the baseline scenario, CBP assumes these effects to be sunk and are not incremental to this rule.

savings and benefits to the Federal government, rail carriers and other trade members as a result of requiring the transmission of EEM data for trains departing the United States, compared to the baseline scenario. In the analysis for this final rule, CBP defines the pilot period as fiscal years 2016–2025 and the regulatory period as fiscal years 2026–2030. At the conclusion of the analysis, CBP includes tables showing the effects of the final rule across both periods—effectively showing the full results of the pilot and the final rule against the baseline (the world without the rail EEM Test). While CBP provides information about the two time periods separately for full transparency and to make clear which costs are sunk and which are incremental to this final rule, CBP also sums the two time periods for a full accounting of the effects of the rail EEM program as a whole. Additionally, all references to years are for fiscal years unless otherwise noted.

Population Affected by Rule

CBP expects that this final rule will affect a number of different parties. During the regulatory period, as the transmitting of EEM data expands, CBP expects broader effects on rail carriers, other trade members (such as USPPIs, FPPIs, NVOCCs, freight forwarders, customhouse Brokers (CHB), or other parties with knowledge of manifest data elements), CBP, and other Federal government agencies that oversee U.S. exports. CBP expects that this final rule will affect all seven rail carrier companies currently exporting cargo from the United States by rail. Although CBP does not have the necessary data to provide an exact estimate for how many other trade members this final rule will affect, CBP acknowledges that this final rule could result in some minor effects to a large number of other trade members, specifically in case they elect to provide EEM data directly to CBP via ACE. CBP expects that this final rule will also improve the facilitation of the export process at around 68 U.S. ports of export, currently conducting the exportation of goods from the United States in the rail environment.

Because the Test was limited in scope, the effects were largely experienced by a few rail carriers, possibly some other trade members and CBP during the pilot period. Although CBP only made the initial Test available to nine carriers, CBP then extended the Test to all eligible parties; however, only two rail carriers actively participated in the Test. The two rail carriers participating in the rail EEM Test have similar business characteristics to the remaining rail carriers that will be affected by this final rule. All are large carriers that operate internationally. Therefore, CBP anticipates that the effects on the rail carriers participating in the rail EEM Test accurately represent the effects that the remaining rail carriers will experience from this final rule.

Rail EEM Test Data and Export Rail Projections

In the analysis for the NPRM, CBP was able to identify the number of export manifest data transmissions and train consists transmitted electronically by participating rail carriers during the Test from 2016–2023. Since the NPRM was published, CBP now has data from rail EEM test for 2024 and CBP has adjusted its estimates in this analysis for the final rule to reflect this new data. Because CBP's pilot period includes a future year, CBP does not have actual Test data available for 2025. To address this issue CBP provides an estimate for the final year of the pilot period. This estimate is based on actual data in previous years. From 2016–2024 rail EEM Test participants provided a total of 1,756,481 export manifest data transmissions and 13,618 train consists electronically to CBP via ACE.[40] To estimate the number of export manifest data transmissions that will occur during the final year of the pilot period CBP used the average number of rail EEM data transmissions from 2017–2024 (208,920) and the average number of train consists submitted electronically to CBP from 2021–2024 (3,011).[41] According to CBP's projections for the final year of the pilot period and the actual data obtained (2016–2024), CBP expects that during the entire pilot period rail EEM Test participants will transmit around 1,965,401 export manifest data transmissions and 16,629 electronic train consists. Total electronic data transmissions to CBP from participants in the rail EEM Test would be 1,982,029 during the pilot period.[42] Table 2 below displays CBP's actual and estimated number of export manifest data transmissions and train consists transmitted electronically to CBP during the pilot period.

[40] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on December 6, 2022, May 10, 2024, and May 6, 2025. Data obtained from CBP's ACE.

[41] CBP excluded 2016 from the average for export manifest data transmissions due to lack of participation in that year. CBP used only four years of data 2021–2024 for the electronic train consists transmitted, because these were the only full years of data during the pilot period when all train consists were actually transmitted by participating rail carriers in the Test.

[42] This number represents the total number of electronic transmissions sent to CBP by rail EEM test participants (export manifest data transmissions + electronic train consists).

Table 2. Rail EEM Test Data and Pilot Period Estimates

Pilot Period	EEM Data Transmissions	EEM Train Consists Submitted	Total Data Transmissions
2016	85,122	-	85,122
2017	218,235	308	218,543
2018	224,518	-	224,518
2019	219,413	159	219,572
2020	183,070	1,109	184,179
2021	200,963	2,601	203,564
2022	223,793	2,912	226,705
2023	208,580	3,219	211,799
2024	192,787	3,310	196,097
2025*	208,920	3,011	211,930
Total	1,965,401	16,629	1,982,029

*Pilot period year with estimated not actual values.

Unfortunately, outside of the limited EEM data provided by Test participants, all other export rail data (excluding data for EEI requirements) submitted by rail carriers was on paper forms and therefore CBP was unable to obtain actual rail export volumes (by train or by train car). Therefore, CBP used train import volume data as a proxy for train export volume data to calculate the possible number of EEM data transmissions as a result from this final rule during the regulatory period. CBP anticipates that the number of train cars entering the United States from rail imports is likely comparable to the number of train cars exiting the United States for rail exports.[43] CBP used existing internal data on inbound train cars to project the volume of outbound train cars during the final year of the pilot period and the regulatory period. Inbound train car volumes have been largely consistent from 2017–2024 and CBP anticipates that on average, rail volume should remain relatively constant in future years as compared to the volumes recorded over the past eight years.

CBP estimates that from 2016–2024 there were a total of around 39.5 million train cars departing the United States, or on average 4.4 million each year.[44] Because CBP anticipates that the outbound train volume will remain relatively constant during future years, CBP used the average number of estimated outbound train cars during 2017–2024 (4.2 million) for the number of expected outbound train cars for each future year.[45] Although CBP has data available on the number of train cars, CBP does not know how many actual trains will engage in exporting goods in the rail environment during the regulatory period. Therefore, CBP does not know exactly how many train consists rail carriers will transmit requiring a CBP officer to review each year during the regulatory period. To provide an estimate for how many train departures will likely be involved in exporting goods in the rail environment during the regulatory period, CBP used Test data from 2021–2024 on the number of simple bills transmitted compared to the number of train consists transmitted. Over the course of these four years a total of 826,123 simple bills and 12,042 train consists were electronically transmitted to CBP as part of the Test, or on average approximately 68.6 simple bills per train consist.[46] CBP used this ratio of simple bills (train cars) to train consists (trains) and the expected outbound train cars to estimate the total number of trains that will transmit electronic train consists when exporting goods from the United States during future years.

CBP anticipates that each year during the regulatory period, approximately 4,220,861 train cars and 58,194 trains will depart the United States requiring the transmission of export manifest data. In total CBP expects that during the regulatory period, rail EEM participants will transmit approximately 21,395,279 data transmissions to CBP or around 4,279,056 annually. Table 3 below displays CBP's estimate for total outbound train cars and trains during 2016–2024 and projected outbound train cars and trains for the final year of the pilot period and the regulatory period, and the estimated total EEM data transmissions during the regulatory period.

[43] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on June 21, 2022. CBP used car volume instead of train volume because import volumes by train would be inaccurate since they tracked by rail car fee payments which are capped per year.

[44] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on December 6, 2022, May 9, 2024, and May 5, 2025. Data obtained from CBP's Borderstat and OMR databases on inbound rail statistics from FY 2017–FY 2024.

[45] Inbound rail volume decreased significantly between 2016 to 2017 and volume remained relatively the same between 2017–2024. Therefore, CBP omitted the 2016 inbound rail volumes for the estimate for the regulatory period volume because CBP expects this would have skewed the annual volume upward.

[46] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on December 6, 2022, May 10, 2024, and May 6, 2025. Data obtained from CBP's ACE. CBP used only three years of data 2021–2024, because these were the only full years of data during the pilot period when all train consists were actually transmitted by participating rail carriers in the Test. Additionally, CBP notes that most of the time the ratio of a simple bill to train car is one to one, however a simple bill could be transmitted for multiple train cars or vice versa. Because CBP only knows the number of simple bills transmitted during the Test and not the number of train cars, CBP assumes in this analysis that the ratio of a simple bill to train car is one to one, essentially the number of simple bills represents the number of train cars.

Table 3. Estimated Outbound Rail Volume and Regulatory Period Rail EEM Data Transmissions[47]

Year	Total Cars	Estimated Cars per Train	Estimated Train Departures	Regulatory Period Data Transmissions
Pilot Period				
2016	5,776,802	68.6	84,206	
2017	4,061,164	68.6	59,198	
2018	4,189,839	68.6	61,073	
2019	4,423,305	68.6	64,476	
2020	4,026,695	68.6	58,695	
2021	4,217,447	68.6	61,476	
2022	4,304,395	68.6	62,743	
2023	4,119,807	68.6	60,052	
2024	4,424,239	68.6	58,194	
2025*	4,220,861	68.6	58,194	
Total	43,764,554		628,308	
Regulatory Period				
2026	4,220,861	68.6	58,194	4,279,056
2027	4,220,861	68.6	58,194	4,279,056
2028	4,220,861	68.6	58,194	4,279,056
2029	4,220,861	68.6	58,194	4,279,056
2030	4,220,861	68.6	58,194	4,279,056
Total	21,104,307		290,972	21,395,279

*Pilot period years with estimated not actual values.

In addition to the number of export manifest data transmissions and train consists transmitted electronically from 2016–2024, CBP also obtained information from the Test on the number of 2H Documentation and 1H Enforcement holds that were issued during these years. According to CBP internal data as part of the rail EEM Test from 2016–2024 CBP issued a total of 51,040 2H Documentation holds and 1,188 1H Enforcement holds.[48] To determine the number of holds that will be issued by CBP in the final year of the pilot period CBP used the percent of export manifest data transmissions that resulted in a 2H Documentation or a 1H Enforcement hold from 2020–2024. Based on the information obtained during the Test, on average a 2H Documentation hold was issued on approximately 5.0 percent of all export manifest data transmissions and on average a 1H Enforcement hold was issued on 0.10 percent of all export manifest data transmissions. To estimate the number of holds issued in 2025 CBP multiplied the percentage of EEM data transmissions resulting in a 2H Documentation hold (5.00%) and 1H Enforcement hold (0.10%) by the expected total number of rail EEM data transmissions for 2025 (see Table 2). CBP anticipates that during the pilot period CBP will issue around 61,621 2H Documentation holds and around 1,405 1H Enforcement holds.

CBP expects that these holds will be issued at a similar frequency during the regulatory period. Therefore, to estimate the number of CBP holds that will be issued during the regulatory period, CBP multiplied the percentage of data transmissions that will be issued 2H Documentation holds (5.00%) and 1H Enforcement holds (0.10%) by the estimated number of total data transmissions (see Table 3), for each year of the regulatory period. According to CBP's estimates, CBP will issue a total of 1,068,148 2H Documentation holds or on average 213,630 annually and around 21,890 1H Enforcement holds or on average 4,378 annually during the regulatory period. Table 4 displays CBP's estimates for total holds that will be issued during the regulatory period.

[47] To estimate the number of total outbound train cars in future years, CBP used the average volume of train cars during the seven year period (2017–2024) = 4,220,861 annually.

[48] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on December 6, 2022, and May 10, 2024. Data obtained from CBP's ACE.

Table 4. Actual and Estimated Holds Issued during 2016-2030

Year	Total EEM Data Transmissions	Percent of Data Transmissions with 2H Hold	Percent of Data Transmissions with 1H Hold	2H Holds Issued	1H Holds Issued	Total Holds Issued
Pilot Period						
2016	85,122				30	30
2017	218,543				37	37
2018	224,518				34	34
2019	219,572				41	41
2020	184,179			691	353	1,044
2021	203,564			3,779	115	3,894
2022	226,705			9,281	113	9,394
2023	211,799			17,451	102	17,553
2024	196,097			19,838	363	20,201
2025*	211,930	5.0%	0.10%	10,581	217	10,797
Total	1,982,029			61,621	1,405	63,025
Regulatory Period						
2026	4,279,056	5.0%	0.10%	213,630	4,378	218,008
2027	4,279,056	5.0%	0.10%	213,630	4,378	218,008
2028	4,279,056	5.0%	0.10%	213,630	4,378	218,008
2029	4,279,056	5.0%	0.10%	213,630	4,378	218,008
2030	4,279,056	5.0%	0.10%	213,630	4,378	218,008
Total	21,395,279			1,068,148	21,890	1,090,039

*Pilot period years with estimated not actual values.

CBP believes that it is possible that the total number of holds could be less than these estimates during the regulatory period as rail carriers and other trade members become more familiar and efficient at providing the pre-departure EEM data, potentially improving compliance and limiting the number of holds CBP issues. CBP did not issue any DNL holds during the Test and does not expect a significant number of DNL holds to be issued during the regulatory period. If DNL holds are issued this will be an additional cost to rail carriers, who are ultimately responsible for loading and not loading cargo.

Pilot Period

Costs

CBP expects that CBP, participating rail carriers, other trade members incur some costs during the pilot period when compared to the baseline.[49] CBP's primary cost during the pilot period was from implementing the Test EEM data tool into ACE. ACE was already in place prior to the Test; therefore, CBP did not need to develop an entirely new system. However, there were some development and ongoing systems costs to CBP during the introduction and operation of the Test. Initially, CBP incurred systems costs of approximately $608,000 to develop and implement the Test EEM tool into ACE.[50] During the pilot period, CBP incurs ongoing operations and maintenance costs associated with the Test, which costs CBP on average approximately $101,350 each year. CBP estimates that total systems costs to CBP for developing and operating the Test will be approximately $1.6 million during the pilot period.

CBP also incurs some time burdens while conducting additional review of EEM data when compared to the baseline. As stated earlier, in the baseline scenario the rail carriers provided export rail data to CBP all at once in the finalized train consists at or prior to departure from the United States. Therefore, under the baseline scenario, CBP was unable to review export data until the finalized train consist was submitted. During the Test, participants provided EEM data on a flow basis, so CBP was able to review the data when participants transmitted the EEM data and did not have to wait for rail carriers to finalize all the data and submit it together in the train consist. When participants transmit the EEM data to CBP via ACE, the integrated system can identify potential high-risk cargo and issue a 1H Enforcement hold, which requires manual review from a CBP officer. As discussed earlier, 2H Documentation holds generated by ACE do not require any action or response from CBP officers, therefore CBP does not anticipate any time burden to CBP when a 2H Documentation hold is issued. CBP estimates that this additional review of each 1H Enforcement hold imposes an average time burden of approximately 5 minutes

[49] Other trade members would include USPPIs, FPPIs, NVOCCs, freight forwarders, or other third parties with knowledge of manifest data elements.

[50] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, on December 7, 2022. Rail EEM ACE cost estimates were provided by CBP's Office of Information and Technology and provided development and ongoing costs that increase at a fixed rate each year.

(0.083 hours) to CBP officers.[51] In addition to reviewing the EEM data transmitted, CBP officers also incur time burdens when addressing and resolving 1H Enforcement holds. Depending on the complexity of the 1H Enforcement hold, the time burden to CBP officers to address and resolve these holds varies from a few minutes to a few hours if a hold requires a CBP officer to manually examine cargo or a train car.[52] CBP does not know how many issued 1H Enforcement holds result in cargo examinations during the pilot period or if the Test led to additional examinations when compared to the baseline scenario. However, CBP notes that the majority of these 1H Enforcement holds do not result in a cargo examination and CBP officers are able to address and resolve the majority of these holds in a few minutes.[53] CBP estimates that, on average, CBP officers incur an additional time burden of 10 minutes (0.167 hours) to address and resolve each 1H Enforcement hold.[54] In total, CBP expects on average a CBP officer incurs a time burden of approximately 15 minutes (0.25 hours) to review and resolve each 1H Enforcement hold.

During the pilot period, CBP estimates that rail carriers transmitted a total of 1,982,029 EEM data submissions as part of the Test, resulting in approximately 1,405 1H Enforcement holds issued which required additional review by a CBP officer.[55] CBP calculates the time burden to CBP officers during the pilot period by multiplying the estimated number of 1H Enforcement holds (1,405) by the expected average time burden to CBP officers to review, address and resolve the average 1H Enforcement hold (15 minutes, 0.25 hours). CBP expects that CBP officers will have incurred a time burden of approximately 351 hours (1,405 holds * 0.25 hours) during the pilot period. CBP estimates the costs to CBP officers by multiplying the total time burden (351 hours) by the average hourly loaded rate for a CBP officer ($88.45) = $31,056.[56] Table 5 shows CBP's estimate for the time and cost burden to CBP officers when reviewing and resolving 1H Enforcement holds during the pilot period.

Table 5. Estimated Time Burden and Costs to CBP from 1H Enforcement Holds during Pilot Period 2016-2025 (time in hours, costs in undiscounted 2025 U.S. Dollars)

Year	1H Enforcement Holds Issued	Average Time Burden	Total Time Burden	Wage Rate	Total Cost
2016	30	0.25	7.50	$88.45	$663
2017	37	0.25	9.25	$88.45	$818
2018	34	0.25	8.50	$88.45	$752
2019	41	0.25	10.25	$88.45	$906
2020	353	0.25	88.23	$88.45	$7,804
2021	115	0.25	28.74	$88.45	$2,542
2022	113	0.25	28.24	$88.45	$2,498
2023	102	0.25	25.49	$88.45	$2,255
2024	363	0.25	90.73	$88.45	$8,025
2025*	217	0.25	54.19	$88.45	$4,793
Total	1,405		351		$31,056

*Pilot period year with estimated not actual values.

[51] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, on August 2, 2022. 1H Enforcement holds can also be issued by CBP officers upon manual review of export manifest data.

[52] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, on June 21, 2022.

[53] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, on November 8, 2022.

[54] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on November 21, 2022. Data obtained from CBP's OMR database.

[55] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on December 6, 2022, May 10, 2024, and May 6, 2025. Data obtained by CBP's ACE and based on CBP estimates for 2025.

[56] CBP bases this wage on the FY 2024 salary, benefits, premium pay, non-salary costs, and awards of the national average of CBP Officer Positions in GS Series 1895. Source: Email correspondence with CBP's Office of Finance on July 15, 2025. CBP notes that this average hourly wage rate was $101.44 in the analysis for the NPRM. The $101.44 wage rate was based on FY 2023 CBP salaries and was adjusted down to $88.45 according to updated FY 2024 data provided by CBP Office of Finance.

In addition to CBP, rail carrier participants and some other trade members incurred costs during the pilot period. The Test implemented a few changes that affect rail carrier participants, such as providing advance EEM data within CBP-requested deadlines prior to cargo loading onto trains, transmitting the requested EEM data elements to CBP, and responding to and addressing any issued holds or questions from CBP about the data provided. During the pilot period, the participating rail carriers demonstrated very high levels of compliance with providing data within the requested deadlines of the Test, as approximately 94 percent of EEM data provided to CBP was transmitted 24 hours prior to departure.[57] From 2016–2024, the participating rail carriers electronically transmitted a total of 1,770,009 EEM data submissions, including 1,756,481 simple bills and 13,618 train consists, representing around 4 percent of all estimated export manifest data submissions.[58]

Since CBP requests that rail carriers participating in the Test continue to provide the paper forms in addition to the EEM data, these rail carriers incurred an additional time burden to transmit the new electronic data during the Test. CBP estimates that on average rail carriers incur a time burden of approximately 40 minutes (0.667 hours) per train to transmit the EEM data.[59] Unfortunately, CBP does not have data on the exact number of total trains for which the participating rail carriers provided electronic data during the pilot period.[60] Therefore, to provide an estimate, CBP used 2021–2024 data from the Test on the number of simple bills transmitted compared to the number of train consists transmitted.[61] Over the course of these years rail carriers electronically transmitted to CBP a total of 826,123 simple bills and 12,042 train consists as part of the Test, or on average approximately 68.6 simple bills per train consist. CBP used this ratio of simple bills (train cars) to train consists (trains) and the total estimated number of simple bills that were transmitted during each year of the pilot period (2016–2025) to estimate the total number of trains for which rail carriers transmitted electronic export manifest data to CBP. According to CBP's estimates, there were approximately 28,649 trains that had EEM data transmitted to CBP when departing the United States. Assuming that the Test participants transmitted EEM data for approximately 28,649 trains, CBP estimates that these rail carrier participants incur a time burden of 19,099 hours for transmission purposes (28,649 trains * 0.667 hours). To estimate the time burden costs, CBP multiplied the time burden hours by the average hourly loaded wage rate for exporters ($36.57).[62] [63] CBP estimates that, during the pilot period when transmitting the EEM data to CBP, Test participants incurred a total cost of around $698,513 or on average $69,851 annually. Table 6 below displays CBP's estimate for the number of trains that depart the United States, provide EEM data, the estimated time burden, and the costs to rail carriers during each year of the pilot period.

[57] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on May 9, 2022, and June 21, 2022.

[58] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on December 6, 2022, May 10, 2024, and May 6, 2025. Data obtained from CBP's ACE, Borderstat and OMR databases. CBP notes that most of the time the ratio of a simple bill to train car is one to one, however a simple bill could be transmitted for multiple train cars or vice versa. Because CBP only knows the number of simple bills transmitted during the Test and not the number of train cars, CBP assumes in this analysis that the ratio of a simple bill to train car is one to one, essentially the number of simple bills represents the number of train cars. CBP determined the number of total export manifest data submissions during the pilot period by accounting for if all export manifest data were transmitted electronically and by assuming one simple bill per estimated departing train car and one train consist per departing rain, based on the volume of inbound train cars and CBP's estimate for the number of simple bills (train cars) per train.

[59] Information was obtained from feedback and discussions with Trade members on the potential impacts of providing EEM data in addition to the paper forms. Data obtained in February 2023.

[60] Rail EEM Test participants did not start providing the train consists electronically to CBP on a consistent basis until 2021, therefore CBP does not know how many actual trains had electronic data transmitted to CBP earlier in the pilot period.

[61] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on December 6, 2022, May 10, 2024, and May 6, 2025. Data obtained from CBP's ACE. CBP used only three years of year of data 2021–2024, because these were the only full years of data during the pilot period when all train consists were actually transmitted by participating rail carriers in the Test.

[62] CBP calculated this loaded wage rate by first multiplying the Bureau of Labor Statistics' (BLS) 2024 median hourly wage rate for Cargo and Freight Agents ($23.99), which CBP assumes best represents the wage for exporters, by the ratio of BLS' Q4 2024 total compensation to wages and salaries for Office and Administrative Support occupations (1.4886), the assumed occupational group for exporters, to account for non-salary employee benefits. Source of median wage rate: U.S. Bureau of Labor Statistics. Occupational Employment and Wage Statistics, ''May 2024 National Occupational Employment and Wage Estimates United States.'' Updated April 2, 2025. Available at *https://www.bls.gov/oes/2024/may/oes_nat.htm.* Accessed June 17, 2025. The total compensation to wages and salaries ratio is equal to the total compensation cost per hour worked for Office and Administrative Support occupations ($35.86) divided by the wages and salaries cost per hour worked for the same occupation category ($24.09). See ''Table 2. Employer Costs for Employee Compensation for civilian workers by occupational and industry group.'' Bureau of Labor Statistics, ''Employer Costs for Employee Compensation—December 2024.'' Released March 14, 2025. Available at *https://www.bls.gov/news.release/archives/ecec_03142025.pdf.* Accessed June 17, 2025.

[63] CBP uses an annual growth rate of 2.42% based on the prior year's change in the implicit price deflator, published by the Bureau of Economic Analysis. To adjust to 2025 dollars, multiply by the 2023–2024 percent change in the Bureau of Economic Analysis's Implicit Price Deflators for Gross Domestic Product (125.230/122.273–1). See ''Table 1.1.9. Implicit Price Deflators for Gross Domestic Product,'' Line 1 Gross Domestic Product, annual. Bureau of Economic Analysis. Updated May 30, 2025. Available at *https://apps.bea.gov/iTable/?reqid=19&step=2&isuri=1&categories=survey#eyJhcHBpZCI6MTksInN0ZXBzIjpbMSwyLDMsM10sImRhdGEiOltbImNhdGVnb3JpZXMiLCJTdXJ2ZXkiXSxblk5JUEFfVGFibGVfTGlzdCIsIjEzIl0sWyJGaXJzdF9ZZWFyIiwiMjAxNiJdLFsiTGFzdF9ZZWFyIiwiMjAyNCJdLFsiU2NhbGUiLCIwIl0sWyJTZXJpZXMiLCJBll1dfQ==.* Accessed June 17, 2025.

Table 6. Estimated Time Burden and Costs to Rail Carriers when Providing EEM to CBP during Pilot Period 2016-2025 (undiscounted 2025 U.S. Dollars)

Year	Simple Bills Transmitted	Estimated Simple Bills per Train	Estimated Train Departures	Time Burden per Train Departure	Total Time Burden	Wage Rate	Total Cost
2016	85,122	68.6	1,241	0.67	827	$36.57	$30,253
2017	218,235	68.6	3,181	0.67	2,121	$36.57	$77,562
2018	224,518	68.6	3,273	0.67	2,182	$36.57	$79,795
2019	219,413	68.6	3,198	0.67	2,132	$36.57	$77,980
2020	183,070	68.6	2,669	0.67	1,779	$36.57	$65,064
2021	200,963	68.6	2,929	0.67	1,953	$36.57	$71,423
2022	223,793	68.6	3,262	0.67	2,175	$36.57	$79,537
2023	208,580	68.6	3,040	0.67	2,027	$36.57	$74,130
2024	192,787	68.6	2,810	0.67	1,873	$36.57	$68,517
2025*	208,920	68.6	3,045	0.67	2,030	$36.57	$74,251
Total	1,965,401		28,649		19,099		$698,513

*Pilot period year with estimated not actual values.

Rail carriers participating in the Test and other trade members also faced time burdens and costs when responding to 2H Documentation holds and 1H Enforcement holds. According to CBP internal data and estimates for 2025, during the pilot period, CBP will have issued a total of 61,621 2H Documentation holds and 1,405 1H Enforcement holds. CBP did not issue any DNL instructions during the Test.[64] By the end of 2024, rail carriers showed high rates of compliance and responsiveness to CBP holds during the Test, with over 99.9% of holds being resolved and cargo released.[65] CBP expects that the time burden to respond to each hold depends on the complexity of the issue and if the hold results in an examination of cargo which will be more time consuming. When responding to holds, if a rail carrier does not have the necessary information and needs to obtain the data from another trade member, that will also impose a time burden on the other trade member. CBP believes that on average the overall time burden to trade (rail carriers and other trade members) when reviewing and addressing these holds is approximately 12.5 minutes (0.21 hours) per hold.[66] Based on CBP Test data and estimates for 2025, there were a total of 63,025 holds issued during the pilot period (see Table 4) and CBP estimates these holds imposed a time burden to trade of around 13,130 hours (63,025 holds * 0.21 hours per hold). CBP estimated the cost to trade by multiplying the total expected hours spent reviewing and addressing holds (13,130) by the average hourly loaded wage rate for exporters ($36.57). CBP expects that during the pilot period reviewing and addressing holds issued by CBP cost trade approximately $480,214 or on average $48,021 annually. Table 7 shows CBP estimates for the total number of holds issued, the estimated time burden, and costs to rail carriers during each year of the pilot period.

[64] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on December 6, 2022, and June 11, 2025.

[65] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on May 6, 2025. Data obtained from CBP's ACE.

[66] Data obtained from CBP discussion with Trade members on the potential costs to review and resolve holds issued by CBP in response to EEM data transmitted. Time burdens vary greatly depending on the complexity of the issue; CBP took this into consideration when calculating the average time burden to review and address an issued hold. Data obtained in February 2023.

Table 7. Estimated Time Burden and Costs to Rail Carriers Responding to CBP Issued Holds during Pilot Period 2016-2025 (time in hours, costs in undiscounted 2025 U.S. Dollars)

Year	2H Documentation Holds Issued	1H Enforcement Holds Issued	Average Time Burden	Total Time Burden	Wage Rate	Total Cost
2016		30	0.21	6.3	$36.57	$229
2017		37	0.21	7.7	$36.57	$282
2018		34	0.21	7.1	$36.57	$259
2019		41	0.21	8.5	$36.57	$312
2020	691	353	0.21	217.5	$36.57	$7,955
2021	3,779	115	0.21	811.3	$36.57	$29,670
2022	9,281	113	0.21	1,957.1	$36.57	$71,576
2023	17,451	102	0.21	3,656.9	$36.57	$133,743
2024	19,838	363	0.21	4,208.5	$36.57	$153,919
2025*	10,581	217	0.21	2,249.4	$36.57	$82,269
Total	61,621	1,405		13,130		$480,214

*Pilot period year with estimated not actual values.

From the Test, CBP does not know to what extent obtaining pre-departure EEM data resulted in identifying additional high-risk cargo or other compliance issues, beyond what CBP would have identified in the absence of the Test. CBP notes that for all pre-departure EEM that was transmitted to the Test, CBP was able to use ATS for risk assessment compared to the baseline scenario where CBP was only able to use ATS on a very limited number of export cargo data in the rail environment.[67] If CBP identifies more high-risk cargo as a result of the Test, that may result in larger time burdens on rail carriers to respond to and address CBP requests for cargo examination.

During the pilot period, rail carriers that voluntarily participated in the Test incurred costs to adjust and maintain their IT systems to interact with CBP's ACE and provided the required pre-departure EEM data to CBP. The EEM data requirements are very similar to data requirements for advance electronic import manifest data required during the import process.[68] Because rail carriers already had developed systems for those electronic processes at import, Test participants did not need to develop entirely new IT systems to transmit EEM data for the Test, but rather rail carriers made adjustments to their already existing internal systems.[69] As rail carriers already have systems to interface with ACE for import filings, among other things, systems needed to be modified rather than developed. In addition, rail carrier employees who file information for imports are typically the same who file for export. The cost of adjusting and maintaining internal systems to support providing EEM data to CBP can vary depending on the rail carrier or trade member. Therefore, CBP provides a range of estimates for the internal system costs to the average Test participant during the pilot period. CBP estimates that the annual internal systems costs required to participate in the Test could range from $10,000 to $60,000 each year.[70] CBP used the midpoint within the range, $35,000, as CBP's primary estimate for annual internal systems costs to the average rail carrier participating in the Test. As alternate estimates, CBP used a low estimate of $10,000 and the high estimate of $60,000 for the annual internal systems costs per year. According to CBP's primary estimate, the two Test participants incurred approximately $700,000 in total costs to adjust and maintain their internal systems for providing EEM data to CBP during the pilot period.[71] CBP's alternate low and high estimates show that internal systems total costs to the two rail carriers were between $200,000 and $1,200,000 during the pilot period. Table 8 displays CBP's range of cost estimates for annual internal systems costs to the two rail carrier participants during the pilot period.

[67] CBP can only use ATS on electronically transmitted data; therefore, because the majority of export manifest data provided to CBP prior to this rule was submitted in paper and or via email, CBP was not able to use ATS to screen any cargo associated with these paper forms.

[68] Data obtained from feedback provided by Trade members on similarities between providing electronic import manifest data and the requested EEM. Data obtained in December 2022 and February 2023.

[69] Data obtained from feedback provided by Trade members on potential necessary development, adjustments and maintenance of existing internal systems to support providing EEM to CBP via ACE. Data obtained in December 2022 and February 2023.

[70] Data was obtained from feedback from Trade members on the potential costs to internal systems to support providing EEM to CBP via ACE. Data was obtained in December 2022 and February 2023.

[71] CBP does not anticipate additional rail carrier or trade member volunteers in the Test in 2025 and therefore CBP assumes that the same two participates will be the only trade members that incur systems costs during the pilot period. Therefore, CBP assumes remaining rail carriers and any other trade members who elect to directly participate as a transmitter will start incurring systems costs in 2026.

Table 8. Estimated Systems Costs to Rail Carriers during Pilot Period 2016-2025 (undiscounted 2025 U.S. Dollars)

Year	Primary Estimate ($35,000)	Low Estimate ($10,000)	High Estimate ($60,000)
2016	70,000	20,000	120,000
2017	70,000	20,000	120,000
2018	70,000	20,000	120,000
2019	70,000	20,000	120,000
2020	70,000	20,000	120,000
2021	70,000	20,000	120,000
2022	70,000	20,000	120,000
2023	70,000	20,000	120,000
2024	70,000	20,000	120,000
2025	70,000	20,000	120,000
Total	700,000	200,000	1,200,000

CBP estimates that total overall costs from the Test during the pilot period were approximately $3.5 million or on average $353,122. Total estimated costs to CBP and trade as a result of the Test are displayed below in Table 9. CBP estimates that during the pilot period CBP incurred costs of approximately $1.65 million or on average $165,250 annually. According to CBP's primary estimate for total costs to trade members from participating in the Test during the pilot period, costs were approximately $1.88 million or on average $187,873 annually.

Table 9. Estimated Total Costs during Pilot Period 2016-2025 (undiscounted 2025 U.S. Dollars)

Year	CBP Systems Costs	CBP Review and Address Holds	Total CBP Costs	Trade Costs to Provide EEM	Trade Review & Address Holds	Trade Systems Costs	Total Trade Costs	Total Costs
2016	$700,868	$663	$701,531	$30,253	$229	$70,000	$100,481	$802,013
2017	$94,690	$818	$95,508	$77,562	$282	$70,000	$147,844	$243,352
2018	$96,489	$752	$97,241	$79,795	$259	$70,000	$150,054	$247,294
2019	$98,322	$906	$99,228	$77,980	$312	$70,000	$148,293	$247,521
2020	$100,190	$7,804	$107,994	$65,064	$7,955	$70,000	$143,019	$251,012
2021	$102,094	$2,542	$104,636	$71,423	$29,670	$70,000	$171,093	$275,729
2022	$104,034	$2,498	$106,532	$79,537	$71,576	$70,000	$221,114	$327,646
2023	$106,115	$2,255	$108,370	$74,130	$133,743	$70,000	$277,873	$386,243
2024	$108,237	$8,025	$116,262	$68,517	$153,919	$70,000	$292,436	$408,698
2025*	$110,402	$4,793	$115,195	$74,251	$82,269	$70,000	$226,520	$341,715
Total	$1,621,440	$31,056	$1,652,496	$698,513	$480,214	$700,000	$1,878,727	$3,531,223

*Pilot period year with estimated not actual values.

Cost Savings

The implementation of the Test also provided cost savings during the pilot period. As CBP expected, obtaining EEM data through the Test is a more efficient process than obtaining export data from paper forms. CBP officers manually review all finalized train consists prior to a train's departure from the United States, regardless of whether rail carriers submit the train consists in paper or electronic form. During the pilot period, when CBP received electronic finalized train consists from participating rail carriers, the time burden to review those consists decreased substantially compared to reviewing the paper consists. Additionally, CBP officers are able to conduct and complete their review of a transmitted electronic train consist prior to that train's arrival to the U.S. port of export.[72] CBP's review of these train consists required on average 35 minutes (0.583 hours) when transmitted electronically compared to an average of 2.5 hours when they were submitted to CBP on paper forms.[73] To estimate the total time savings, CBP multiplied the average time savings of reviewing a train consist transmitted electronically (2.5 hours − 35 minutes = 1.92 hours) by the total number of estimated train consists that will be transmitted electronically during the pilot period (16,629, see Table 2). CBP estimates that the Test generated time savings of approximately 31,871 hours to CBP officers. CBP then multiplied the estimated time savings (31,871 hours) by the average hourly loaded rate for a CBP officer ($88.45) to estimate the total cost savings of approximately $2.8 million to CBP during the pilot period. Table 10 shows CBP's estimates for the time savings and cost savings to CBP officers from swifter review of electronic train consists for each year of the pilot period.

Table 10. Estimated Time and Cost Savings to CBP From Improved Review of Electronic Train Consists during Pilot Period 2016-2025 (time in hours, cost savings in undiscounted 2025 U.S. Dollars)

Year	Train Consists Transmitted Electronically	Average Time Savings per Electronic Train Consists	Total Time Savings	Wage Rate	Total Cost Savings
2016		1.92		$88.45	$0
2017	308	1.92	590	$88.45	$52,215
2018		1.92		$88.45	$0
2019	159	1.92	305	$88.45	$26,955
2020	1,109	1.92	2,126	$88.45	$188,008
2021	2,601	1.92	4,985	$88.45	$440,945
2022	2,912	1.92	5,581	$88.45	$493,669
2023	3,219	1.92	6,170	$88.45	$545,714
2024	3,310	1.92	6,344	$88.45	$561,142
2025*	3,011	1.92	5,770	$88.45	$510,368
Total	16,629		31,871		$2,819,016

*Pilot period year with estimated not actual values.

Rail carriers also experienced time and cost savings from the Test resulting in a more efficient export process at the U.S. port of export. Rail carriers generally support CBP's transition to EEM data because rail carriers acknowledge that the former process of providing export information on paper forms is inefficient and unnecessarily burdensome to all parties involved. Additionally, the existing export process using paper forms is inconsistent with the import process which has already transitioned to electronic data transmission. Rail carriers have experienced a more efficient import process as a result, and they acknowledge the potential for improvements to the export process from providing electronic data.

CBP's review of electronic train consists is significantly quicker than train consists in paper form. In the baseline scenario, CBP does not know how often rail carriers sent finalized train consists by email in advance of departure and to what extent CBP officers were able to fully conduct their review of the paper train consist prior to the train's arrival to the U.S. port of export. If CBP officers, prior to the Test, were unable to start their review of a train's consist before the train reached the U.S. port of export and the train was held at the U.S. port of export until CBP officers conducted a review of the train consist, then participants in the Test experienced a time savings similar to that estimated above for CBP's officers during CBP's review process (1.92 hours) when transmitting an electric train consist. However, CBP does not know in the baseline scenario the extent to which rail carriers sent finalized pre-departure data via email to CBP providing CBP officers enough time to review the paper train consists prior to the train's arrival to the U.S. port of export. Therefore, during the pilot period CBP does not know exactly how much time savings rail carriers

[72] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on November 8, 2022. With electronic transmitted data, the system assists in much of the cargo screening and review of the data allowing CBP to conduct a quicker and more thorough review of export manifest data.

[73] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on August 2, 2022.

experience from a swifter CBP review of electronic train consists at the U.S. port of export. To estimate the potential time savings to rail carrier participants during the pilot period from quicker CBP processing time, CBP provides a range of time savings under a few situations that could occur in the baseline scenario depending on the amount of review CBP officers complete before the train's arrival to the U.S. port of export.

In Scenario 1, where CBP officers did not begin the review of paper train consists until the train arrived at the port, rail carriers participating in the Test will experience on average a time savings of 1.92 hours per train from a more efficient CBP review using electronic train consists, assuming no 1H Enforcement holds, or other issues CBP identified during the review of the consist. In Scenario 2, during the baseline, where rail carriers sent finalized train consists by email pre-departure and CBP officers were able to complete their review of these paper train consists prior to all trains arriving at the U.S. port of export, rail carriers participating in the Test will likely not experience any time savings from transmitting electronic train consists. CBP anticipates that in this scenario CBP officers were able to fully complete their review of the paper or electronic train consist prior to the train's arrival to the U.S. port of export avoiding any delays to departure from CBP officers conducting their review at the U.S. port of export. CBP is uncertain to what extent these time savings are experienced by rail carriers during the pilot period; however, CBP believes that it will likely be between 1.92 hours and zero hours per train. For the purposes of this analysis, CBP uses Scenario 3, which is the mid-point between the two values (0.96 hours), as the primary estimate for time savings per electronic train consist reviewed during the pilot period. CBP also considered a Scenario 4 which assumes CBP officers were able to complete 25 percent of the review of finalized train consists prior to a train's arrival at the U.S. port of export during the baseline.

For illustrative purposes, CBP presents these potential time savings to rail carriers in range estimates based on how much review CBP officers completed prior to a train's arrival to the port in the baseline. CBP multiplied the average time savings per train by the estimated number of electronic train consists transmitted to CBP (16,629, see Table 2) during the pilot period to estimate the total potential time savings from expedited CBP processing at the U.S. port of export. To calculate the cost savings CBP multiplied these potential time savings by the average hourly loaded wage rate for exporters ($36.57). CBP's primary estimate for time savings and cost savings to rail carriers from swifter CBP review of train consists will be approximately 15,963 hours and $583,828. Table 11 displays CBP's primary estimate along with range estimates for potential time savings and cost savings to rail carriers at the U.S. port of export during the pilot period depending on if during the baseline CBP officers were able to complete 0 percent of their review of train consists, 25 percent of their review and 100 percent of their review prior to a train's arrival at the U.S. port of export.[74]

Table 11. Estimated Time and Cost Savings to Rail Carriers from Improved CBP Review during Pilot Period 2016-2025 (time in hours, costs in undiscounted 2025 U.S. dollars)

	Time Savings Per Consist	Total Train Consists	Total Time Savings	Wage Rate	Total Cost Savings
Scenario 1 (0 percent)	1.92	16,629	31,927	$36.57	$1,167,656
Scenario 2 (100 percent)	-	16,629	-	$36.57	-
CBP's Primary Estimate: Scenario 3 (50 percent)	**0.96**	**16,629**	**15,963**	**$36.57**	**$583,828**
Scenario 4 (25 percent)	0.48	16,629	7,982	$36.57	$291,914

CBP expects that participating rail carriers also experienced additional time savings from the Test when compared to the baseline when making corrections to transmitted data.[75] Making updates and corrections to data transmitted electronically is significantly more efficient than making updates and corrections to emailed paper forms. Additionally, the Test allowed participants to transmit data when it became available, and the Test allowed them to continuously edit and update data in ACE on a flow basis. CBP estimates that during the pilot period making such corrections when transmitting EEM data saved Test participants on average 15 minutes (0.25 hours) per train.[76] To calculate the time savings, CBP used the estimate discussed earlier for total trains that had electronic data transmitted during the pilot period (28,649, see Table 6) multiplied by the expected time savings per train (0.25 hours). CBP estimates that the total time savings to rail carriers from making data corrections in the electronic environment were approximately 7,162 hours during the pilot period. CBP multiplied the estimated time savings by the average hourly loaded wage rate for exporters ($36.57) and anticipates the total cost savings to rail carrier participants from making data corrections in the electronic environment was approximately $261,942 or on average $26,194 annually during the pilot period. Table 12 shows CBP's estimate for time savings and cost savings to rail carrier participants while making data corrections to EEM compared to paper forms during the pilot period.

[74] To provide additional possible outcomes CBP also includes Scenario 4 which assumes CBP officers were able to complete 25 percent of the review of finalized train consists prior to a train's arrival at the U.S. port of export.

[75] Information was obtained from feedback and discussions with Trade members on the potential effects of providing EEM data. Data obtained in February 2023.

[76] Information was obtained from feedback and discussions with Trade members on the potential effects of providing EEM data. Data obtained in February 2023.

Table 12. Estimated Time and Cost Savings to Rail Carriers from Making Corrections to EEM Data during the Pilot Period 2016-2025 (time in hours, costs in undiscounted 2025 U.S. Dollars)

Year	Trains Departed providing EEM	Average Time Savings per Train	Total Time Savings	Wage Rate	Total Cost Savings
2016	1,241	0.25	310	$36.57	$11,345
2017	3,181	0.25	795	$36.57	$29,086
2018	3,273	0.25	818	$36.57	$29,923
2019	3,198	0.25	800	$36.57	$29,243
2020	2,669	0.25	667	$36.57	$24,399
2021	2,929	0.25	732	$36.57	$26,784
2022	3,262	0.25	816	$36.57	$29,826
2023	3,040	0.25	760	$36.57	$27,799
2024	2,810	0.25	703	$36.57	$25,694
2025*	3,045	0.25	761	$36.57	$27,844
Total	28,649		7,162		$261,942

*Pilot period years with estimated not actual values.

CBP anticipates there was a savings to rail carriers during the Test when CBP identified issues before trains were loaded and assembled. In the baseline scenario, when CBP identified a high-risk cargo, the cargo already had been loaded onto the train, requiring a burdensome and time-consuming process to detach or unload the cargo from an assembled train. CBP estimates that to physically detach a freight car from an assembled train typically costs around $3,000 and can result in a delay of up to two hours.[77] This includes the freight and labor costs to safely decouple a train car from a built train. Under this rule, the pre-departure EEM data transmitted to CBP will improve CBP's ability to identify high-risk cargo before it is loaded onto a train, avoiding the costly action of deconstructing trains and unloading cargo for examination. CBP does not track the number of cargo examinations and was unable to generate an estimate for the average number of cargo examinations each year, but feedback received from trade members suggests that such examinations are not a frequent occurrence.[78]

CBP estimates that during the pilot period total cost savings as a result of the Test was approximately $3.66 million or on average $366,479 annually. CBP expects that trade will have experienced a total cost savings of approximately $854,770 or on average $84,577 annually. Table 13 displays CBP's estimates for cost savings to CBP, trade and total overall cost savings during the pilot period as a result of the Test.

[77] Information was obtained from feedback and discussions with Trade members on the potential costs and time burden to remove a train car from a constructed train in order for CBP to conduct an examination of the cargo or container. Data obtained in February 2023.

[78] Information was obtained from feedback and discussions with Trade members on the frequency of cargo examinations prior to the Test and during the Test suggesting such an occurrence was fairly uncommon. Data obtained in February 2023.

Table 13. Estimated Cost Savings from Rail EEM during the Pilot Period 2016-2025 (undiscounted 2025 U.S. Dollars)

Year	CBP Cost Savings	Trade Cost Savings from Improved CBP Review	Trade Cost Savings from Making Corrections to EEM Data	Total Cost Savings to Trade	Total Overall Cost Savings
2016	$0	$0	$11,345	$11,345	$11,345
2017	$52,215	$10,814	$29,086	$39,900	$92,115
2018	$0	$0	$29,923	$29,923	$29,923
2019	$26,955	$5,583	$29,243	$34,825	$61,780
2020	$188,008	$38,937	$24,399	$63,336	$251,344
2021	$440,945	$91,321	$26,784	$118,105	$559,050
2022	$493,669	$102,241	$29,826	$132,067	$625,736
2023	$545,714	$113,019	$27,799	$140,818	$686,533
2024	$561,142	$116,214	$25,694	$141,908	$703,050
2025*	$510,368	$105,699	$27,844	$133,543	$643,911
Total	$2,819,016	$583,828	$261,942	$845,770	$3,664,786

*Pilot period year with estimated not actual values.
Note: CBP cost savings and trade cost savings from improved CBP review are based on the estimated number of electronic train consists transmitted as seen in Table 2. Trade cost savings from making corrections to EEM data are based on CBP's estimate for the number of trains that provided EEM data to CBP during the Test as seen in Table 6.

In the NPRM, CBP requested feedback and comments from rail carriers and other trade members on the costs and cost savings to rail carriers and other trade members during the Test pilot period; however, CBP did not receive any comments specifically in regards the Test pilot period cost and cost savings estimates. Some commenters said that the pilot was not representative as only two carriers participated. CBP acknowledges that it is possible that the carriers may have different costs and for this reason presents a range of estimates. CBP did not receive any public comments regarding the range of costs used, so we adopt them again in this analysis for the final rule.

Benefits

According to the Trade Act, CBP is authorized to establish regulations that provide for the mandatory electronic transmission of data by way of a CBP-approved electronic data interchange before cargo arrives in or departs the United States in all environments (sea, air, rail, and truck). The Test was developed and implemented as a way for CBP to test a feasible process to meet its requirements, as per the Trade Act. In addition to meeting its statutory requirements, CBP experienced benefits during the pilot period. CBP does not have the data available to quantify these benefits and therefore will discuss these benefits qualitatively. The primary benefit of requiring pre-departure EEM data is improving CBP's security efforts and its ability to use ATS to identify high-risk cargo prior to departing the United States, while minimizing the disruption to the export process. In the baseline, CBP officers usually manually review train consists at the time of departure without using CBP's ATS, so CBP cannot take advantage of the ATS risk assessment during the rail exit process. All EEM data transmitted to CBP as part of the Test are screened by CBP using ATS prior to departure, providing a more robust review and improving CBP's security efforts. Additionally, the gained efficiencies from obtaining data in an integrated system allow CBP to review export rail data more efficiently prior to departure and provide CBP officers with the ability to allocate more time to mission-critical activities of cargo security and safety.

Net Impact

CBP has provided its primary estimates for the total costs and cost savings from the Test during the pilot period, displayed in Table 14. CBP estimates that the net cost savings were approximately $133,563 or on average $13,356 annually.

Table 14. Estimated Net Cost Savings during Pilot Period 2016-2025 (undiscounted 2025 U.S. Dollars)

Year	CBP Costs	Trade Costs	Total Costs	CBP Cost Savings	Trade Cost Savings	Total Cost Savings	Net Cost Savings
2016	$701,531	$100,481	$802,013	$0	$11,345	$11,345	-$790,668
2017	$95,508	$147,844	$243,352	$52,215	$39,900	$92,115	-$151,237
2018	$97,241	$150,054	$247,294	$0	$29,923	$29,923	-$217,371
2019	$99,228	$148,293	$247,521	$26,955	$34,825	$61,780	-$185,741
2020	$107,994	$143,019	$251,012	$188,008	$63,336	$251,344	$332
2021	$104,636	$171,093	$275,729	$440,945	$118,105	$559,050	$283,321
2022	$106,532	$221,114	$327,646	$493,669	$132,067	$625,736	$298,090
2023	$108,370	$277,873	$386,243	$545,714	$140,818	$686,533	$300,290
2024	$116,262	$292,436	$408,698	$561,142	$141,908	$703,050	$294,352
2025*	$115,195	$226,520	$341,715	$510,368	$133,543	$643,911	$302,195
Total	$1,652,496	$1,878,727	$3,531,223	$2,819,016	$845,770	$3,664,786	$133,563

*Pilot period year with estimated not actual values.

Table 15 displays CBP's primary estimate for quantifiable effects from the Test adjusted for discounting. In the NPRM for this rule CBP estimated that using two percent discount rate during the pilot period resulted in net cost savings.[79] However, after updating the analysis to reflect 2024 data CBP estimates that the three and seven percent discount rates now show a net costs a net cost savings during the pilot period. As shown, CBP expects that this the Test resulted in total effects to CBP, rail carriers and other trade members during the pilot period ranging from a cost of around $106,701 (2025 U.S. dollars) using a three percent discount rate to a net cost of $327,018 (2025 U.S. dollars) using a seven percent discount rate. CBP estimates that annualized net effects ranged from a cost of around $12,509 using a three percent discount rate to a cost of around $46,560 using a seven percent discount rate.

Table 15. Total Monetized Present Value and Annualized Net Costs of Pilot Period 2016-2025 (2025 U.S. Dollars)

	3% Discount Rate	7% Discount Rate
Present Value Net Costs	$106,701	$327,018
Annualized Net Costs	$12,509	$46,560

[79] CBP used a two percent discount rate for the NPRM (published in 2024) based on updated guidance for OMB Circular A–4 in 2023 which has since been repealed. Therefore for this final rule CBP uses a 3 percent and 7 percent discount rates as per existing OMB Circular A–4 guidance.

Regulatory Period

For the regulatory period, CBP estimated the future costs, cost savings, and benefits to rail carriers, the Federal government, and other trade members as a result of requiring EEM data in the rail environment. CBP anticipates the effects of the final rule will be similar to those experienced during the pilot period but on a larger scale as the final rule will make transmission of pre-departure EEM data mandatory for all U.S. exports in the rail environment.

Costs

CBP anticipates that this final rule will result in costs to both CBP and trade members during the regulatory period. CBP will bear technology and opportunity costs by expanding the existing Test to a requirement for all rail carriers. CBP does not anticipate it will incur any costs to develop new systems during the regulatory period because CBP completed the system development and implementation of the rail EEM data tool application into ACE during the pilot period. CBP does expect to incur some ongoing systems operations and maintenance costs associated with the rail EEM data application in ACE. Over the course of the regulatory period, CBP estimates that ongoing systems costs in ACE will be approximately $586,026 or on average $117,205 each year.[80]

In addition to the ongoing systems costs, CBP expects to incur additional time burdens as a result of CBP officers manually reviewing, addressing and resolving 1H Enforcement holds. CBP estimates that a total of 21,890 1H Enforcement holds will be issued during the regulatory period (see Table 4 above). CBP expects that the time burden to a CBP officer to manually review a 1H Enforcement hold on average is about 5 minutes (0.083 hours). CBP also anticipates that CBP officers will incur an additional time burden to address and resolve these 1H Enforcement holds. Depending on the complexity of the hold and if it is determined that a CBP officer needs to manually examine cargo, the time burden to CBP officers to address and resolve these holds varies from a few minutes to a few hours.[81] CBP expects that the majority of these 1H Enforcement holds issued will not result in a cargo examination.[82] CBP estimates that the average time burden incurred by CBP officers during the regulatory period for addressing and resolving 1H Enforcement holds is the same as during the pilot period, 10 minutes (0.167 hours).[83] Combined, CBP expects that that on average the total time burden to CBP officers during the regulatory period to review, address and resolve a 1H Enforcement hold is approximately 15 minutes (0.25 hours). CBP estimates that the final rule will result in 1H Enforcement holds that will cause an additional time burden to CBP officers of approximately 5,473 hours (21,890 1H Enforcement holds * 0.25 hours per hold). CBP calculated the costs to CBP officers in the regulatory period by multiplying the total time burden (5,473) hours by the average hourly loaded rate for a CBP Officer ($88.45) = $484,050. Table 16 shows CBP estimates for total costs to CBP during the regulatory period including ongoing systems and maintenance costs and the time burden and cost to CBP officers from additional review of 1H Enforcement holds during the regulatory period. Over the regulatory period this final rule will cost CBP approximately $1,070,076 or on average $214,015 annually.

Table 16. Estimated Time Burden and Costs to CBP during the Regulatory Period 2026-2030 (time in hours, costs in undiscounted 2025 U.S. dollars)

	2026	2027	2028	2029	2030	Total
1H Enforcement Holds	4,378	4,378	4,378	4,378	4,378	21,890
Time Burden per Hold	0.25	0.25	0.25	0.25	0.25	
Time Burden	1,095	1,095	1,095	1,095	1,095	5,473
Time Burden Costs	$96,810	$96,810	$96,810	$96,810	$96,810	$484,050
Rail EEM System O&M Costs	$112,610	$114,862	$117,159	$119,502	$121,892	$586,026
Total Costs	$209,420	$211,672	$213,969	$216,312	$218,702	$1,070,076

CBP does not expect that this final rule will result in additional cargo examinations when compared to the baseline. In the case where CBP determines it is necessary to conduct a physical examination of cargo or a container on average a CBP officer is able to complete the examination and transmit the findings in about 60 minutes.[84] Given the CBP officer hourly loaded wage rate of $88.45, CBP estimates the average time burden cost to CBP to conduct a cargo or container examination is approximately $88.45 per examination. If there are more manual examinations of cargo as a result of 1H Enforcement holds when compared to the baseline, then the time burden to CBP officers during the regulatory period could be larger than CBP has estimated in this analysis. Unfortunately, CBP does not have data available on how many 1H Enforcement holds typically result in a cargo examination. However, because the EEM data is provided in advance of departure CBP will likely be able to issue holds before trains reach the U.S. port of export and possibly before cargo is loaded, limiting the time burden and costs of conducting these cargo examinations when compared to the baseline scenario.

CBP anticipates that this final rule will result in costs to trade members in the form of both systems and

[80] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, on December 7, 2022. Rail EEM ACE cost estimates were provided by CBP's Office of Information and Technology, ongoing costs are expected increase at a fixed rate each year.

[81] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on June 21, 2022.

[82] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on November 8, 2022.

[83] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on November 21, 2022.

[84] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, on December 15, 2022.

opportunity costs. CBP expects that the remaining rail carriers (five) that did not participate in the Test will incur costs to adjust and maintain their IT systems to provide the electronic export manifest data directly to CBP via ACE. CBP anticipates that the cost of adjusting and maintaining internal systems can vary depending on the rail carrier or trade member and therefore CBP provides a range of estimates for the annual internal system costs to the rail EEM participants during the regulatory period. CBP anticipates that the annual internal systems costs will range from the low end $10,000 to as high as $60,000 each year.[85] For the primary estimate during the regulatory period CBP used the same estimate as proposed during the pilot period, $35,000 in internal system costs to the average rail EEM participant to maintain its internal systems each year. To provide a range of cost estimates, CBP also provides estimates if maintaining the internal systems cost the average Rail EEM participant $10,000 each year or $60,000 each year. CBP expects that at least the seven rail carriers will incur these systems costs each year of the regulatory period; however, CBP does not know how many other trade members will also elect to participate and provide the EEM cargo data directly to CBP via ACE thus incurring systems costs. CBP obtained public comments stating that other trade members would directly participate and would incur significant investments including IT systems investments when they transmit rail EEM data to CBP. However, the commenters did not provide a monetary estimate for the cost to adjust their IT systems and CBP did not receive and estimate on how many of these other parties would elect to directly participate as a rail EEM transmitter. Any potential future cost related to IT systems for other trade members that voluntarily participate in the rail EEM will likely vary by trade member. If a trade member has their own internal IT systems then the cost would be larger when compared to other trade members that use software vendors, which provide them with the systems to transmit data to CBP electronically.[86] CBP notes that it is voluntary for the other trade members to provide the EEM cargo data directly to CBP. If no other party provides this EEM cargo data, then it must be provided by rail carriers. CBP believes that other trade members will only participate if it were beneficial for their business or company. Therefore, CBP does not anticipate these other trade members would participate if it resulted in a net cost and if there is a significant cost to participate, they must also experience a significant benefit that is at least as large. To estimate the cost to rail carriers from operating and maintaining their internal systems to support participation in providing EEM data, CBP multiplied the average annual cost by the number of expected rail carrier participants each year (seven). According to CBP's primary estimate for operating and maintaining internal systems, rail EEM participants will incur costs of approximately $1.2 million or on average $245,000 annually. Under CBP's low estimate, rail EEM participants will incur costs of around $350,000 or $70,000 annually and the high estimate shows internal systems costs of approximately $2.1 million or $420,000 annually. Table 17 displays CBP's estimates of internal systems costs to trade members during the regulatory period.

Table 17. Estimated Internal Systems Costs to Trade during Regulatory Period 2026-2030 (undiscounted 2025 U.S. dollars)

	2026	2027	2028	2029	2030	Total
Primary Estimate	***$245,000***	***$245,000***	***$245,000***	***$245,000***	***$245,000***	***$1,225,000***
Low Estimate	$70,000	$70,000	$70,000	$70,000	$70,000	$350,000
High Estimate	$420,000	$420,000	$420,000	$420,000	$420,000	$2,100,000

The final rule adjusted data elements and deadlines for the transmission of EEM data from what CBP established during the Test. Rail EEM participants (rail carriers and other trade members such as USPPIs, FPPIs, NVOCCs, freight forwarders, customhouse brokers, or other third-parties with knowledge of manifest data elements) will provide the initial filing data elements to CBP 24 hours prior to the cargo and train departing the U.S. port of export. As stated earlier, during the Test CBP considered what data elements were most important, CBP's needs, and what trade members could provide, given the time frames recommended and CBP adjusted the required data elements for this final rule. CBP expects that most rail carriers will have access to most export manifest data early in the planning stages of an export rail cargo transaction and will be able to comply with the new deadlines imposed by the final rule. CBP notes that some rail carriers will have the export manifest data available days in advance prior to departure and therefore will have all the necessary information to transmit the initial filing data to CBP and all other export manifest data well in advance of the 24-hour and 2-hour prior to departure deadlines.[87] CBP anticipates that all parties that will participate in transmitting EEM data to CBP will have the necessary export data elements to provide the required EEM data within the two-hour prior to departure deadline.[88] However, for some rail carriers acquiring the necessary data for the initial filing 24 hours prior to departure may require a change in business practices and additional coordination with other trade members or parties that have the required export information. CBP does not believe that in such instances the export manifest data does not exist; rather, the other

[85] Data obtained from feedback and discussions with Trade members on the potential costs associated with internal systems to support providing EEM to CBP via ACE. Data was obtained in December 2022 and February 2023.

[86] Trade members using software vendors typically pay an annual amount for the services and access to software which will allow them to provide EEM data directly to CBP via ACE. This feedback was obtained for the Enhanced Air Cargo Advanced Screening Interim Final Rule, 90 FR 52796 (Nov. 21, 2025).

[87] CBP obtained feedback and information from Trade members on when in the export transaction process, the export manifest data is typically available for them to submit to CBP. Information obtained in February 2023.

[88] Data obtained from feedback and discussions with Trade members on the timeline for when export manifest data elements are made available and can be provided to CBP. Data was obtained in February 2023.

trade member has not yet provided this information to the rail carrier.[89] Based on input from some in the trade community, CBP expected that in such instances the net costs to rail carriers to obtain this information earlier from other trade members will be minimal. However, CBP did receive public comment stating that the assumptions made by CBP, which are based on the rail EEM Test which experienced limited participation is not a good representation of the costs to trade members, specifically because data wasn't provided for trains departing from more difficult ports of export. CBP acknowledges this comment that the rail EEM Test data was not provided at all ports of export locations, which could result in different effects on trade members. Since this comment did not provide quantitative estimates for these costs, CBP can only discuss these concerns qualitatively. The requirements of this final rule may result in different effects based on the port of export and the trade members business processes. CBP fully expects that trade members may need to make adjustments to their existing business practices to comply with this final rule. CBP specifically requested comment on the extent and costs of those adjustments but did not receive specific monetary estimates of these expected costs. CBP's analysis for the NPRM included ranges of estimates as CBP acknowledged that carriers would have different costs depending on their circumstances. As CBP did not receive comments regarding these ranges, CBP adopts them as final in this analysis. Additionally, CBP notes that if other trade members are reluctant to provide this information to the rail carriers within the 24-hour prior to departure deadlines the other trade members will be able to provide this data to CBP directly as a rail EEM transmitter.

The transition from a paper form process to an electronic data process could also result in parties that provide EEM data adjusting business practices. CBP expects any costs related to adjusting business practices will be minimal and should not have a large effect on rail carriers and other trade members, specifically because they likely already have such practices developed to provide manifest data for rail imports.[90] Additionally, participation in directly providing the rail EEM data to CBP by other trade members is voluntary; CBP expects that these parties will likely only directly provide data to CBP if the benefits outweighed the costs to their company. In the NPRM, CBP requested comments from rail carriers and trade members on the potential costs during the regulatory period related to internal system adjustments, operation and maintenance needed to support transmitting pre-departure EEM data to CBP via ACE. CBP did not receive any monetary estimates on these costs from the public comments. Some commenters noted that costs would vary across different carriers. CBP agrees and, for this reason, presents a range of costs as well as a central estimate. Additionally, CBP also requested comments in the NPRM on any other costs to trade members associated with transitioning from paper forms to the transmission of EEM data that CBP did not address in this analysis. CBP did receive comments concerning the potential impact to NVOCCs from the requirement of providing house-level data. These commenters stated that requiring NVOCCs to provide house-level data introduces a new process which doesn't currently exist for NVOCCs, and this would result in significant investments in programming, process adjustments, training, and associated costs and will require time to effectuate. CBP acknowledges that trade members may incur these costs and may need to adjust business processes in order to meet the requirements of this rule, and for NVOCCs obtaining house-level data would be a change. However, it is CBP's understanding that the house-level data exists in advance of the deadlines for data transmission set forth in this rule and that NVOCCs will need to adjust current practices to obtain that information from the exporters in advance to comply with the requirements of this rule. These commenters state that these changes will necessitate significant investments, but CBP is unable to quantify a monetized value based on the information provided. CBP agrees with the concern raised by these commenters that there could be significant investments required for NVOCCs and other non-rail carrier trade members that elect to participate and directly transmit EEM data to CBP. However, CBP notes that for these trade members direct participation is voluntary and therefore they will only directly participate if it makes business sense for them to do so. Additionally, in this final rule CBP has established a delayed enforcement date (one year after publication of the final rule) to allow trade members time to implement any changes needed to meet the requirements of this rule.

CBP expects that rail carriers and other trade members that provide EEM data to CBP will incur time burdens and costs while responding to CBP-issued holds. During the regulatory period, the party that provides the EEM data to CBP is the party responsible for responding to any questions, holds or issues that arise from CBP's review of that export data.[91] During the regulatory period CBP expects that the time burden to respond to each hold depends on the complexity of the issue. When a party is reviewing and responding to holds, if that party does not have the necessary information and needs to obtain the data from another trade member, that will impose an additional time burden on both parties. To estimate the time burden to trade to review and resolve the average hold (including both 2H Documentation holds and 1H Enforcement holds) during the regulatory period, CBP used the same time burden estimate as we did for the pilot period–approximately 12.5 minutes (0.21 hours) to trade when reviewing and resolving each 2H Documentation and 1H Enforcement hold.[92]

CBP does not expect that such holds will result in CBP officers conducting additional cargo examinations when compared to the baseline. Cargo examinations conducted after cargo has been loaded onto the train are a burdensome and time-consuming process and will result in a larger time burden to resolve holds that result in an examination. CBP does not track the number of cargo examinations and was unable to generate an estimate for the average number of cargo examinations each year, but feedback received from trade members suggests that cargo examinations are not a frequent occurrence.[93] Although CBP does not

[89] Information provided during discussion with some Trade members in regard to the timeline for when export manifest data is available to be provided to CBP and challenges to providing pre-departure data well in advance. Data obtained in February 2023.

[90] CBP requested feedback from Trade members on the potential costs from adjusting business practices as a result of this rule. Trade members suggested that there could be some costs but were unable to provide additional details on the costs for such adjustments to business practices or if this would be a one-time adjustment cost or ongoing adjustment costs.

[91] CBP notes that the rail carrier will always be notified of a DNL or Hold even if they were not the EEM data transmitter.

[92] Data obtained from CBP discussion with Trade members on the potential costs to review and resolve holds issued by CBP in response to EEM data transmitted. Time burdens vary greatly depending on the complexity of the issue. CBP took this into consideration when calculating the average time burden to review and address an issued hold. Data obtained in February 2023.

[93] Information was obtained from feedback and discussions with Trade members on the frequency

anticipate examinations will increase as a result of this final rule, if CBP did conduct more examinations when compared to the baseline then time burden costs to trade members to review and resolve holds could be higher than what CBP provides in this analysis. Additionally, CBP does not track and was unable to estimate the number of holds issued that will result in multiple parties being involved in reviewing and resolving of holds. If responding to issued holds always requires multiple parties to be involved, then the time burden to review and resolve a hold will also likely be higher than the 12.5-minute estimate CBP provided above.

To estimate the time burden to trade during the regulatory period when reviewing and resolving holds, CBP multiplied the total number of expected holds issued each year during the regulatory period by the estimated average time burden to review and resolve a hold (0.21 hours). CBP expects that during the regulatory period trade members will review and resolve around 1,090,039 holds (see Table 4) resulting in a total time burden of approximately 227,091 hours or on average 45,418 hours annually. CBP calculated the costs to trade from reviewing and resolving these holds by multiplying the total hours of time burden by the average hourly loaded wage rate for exporters ($36.57). CBP anticipates that overall costs to trade from reviewing and resolving holds as a result of this final rule will be around $8.3 million or on average $1.7 million annually. Table 18 shows CBP's regulatory period estimates for time burden and costs to trade associated with the review and resolution of holds issued by CBP.

Table 18. Estimated Time Burden and Costs to Trade from Issued Holds during the Regulatory Period 2026-2030 (time in hours, costs in undiscounted 2025 U.S. dollars)

	2026	2027	2028	2029	2030	Total
2H Documentation Holds	213,630	213,630	213,630	213,630	213,630	1,068,148
1H Enforcement Holds	4,378	4,378	4,378	4,378	4,378	21,890
Total Holds	218,008	218,008	218,008	218,008	218,008	1,090,039
Average Time Burden	0.21	0.21	0.21	0.21	0.21	
Total Time Burden	45,418	45,418	45,418	45,418	45,418	227,091
Wage Rate	$36.57	$36.57	$36.57	$36.57	$36.57	
Total Costs	$1,661,083	$1,661,083	$1,661,083	$1,661,083	$1,661,083	$8,305,413

Note: totals may not sum due to rounding.

The final rule prohibits rail carriers from transporting cargo with a hold across the border until the issues have been addressed and the hold has been lifted. Upon notification of a hold being issued on a specific cargo the party responsible for providing that information to CBP will need to contact CBP for specifics and further instructions regarding the hold. If CBP requires a manual examination of cargo, the rail carrier must coordinate with CBP to identify a place where a proper examination of cargo can be conducted. CBP will prohibit a train's departure from a U.S. port of export if there are any unresolved holds issued for cargo currently loaded onto a train. Parties that do not address a CBP-issued hold on specific cargo or freight cars before the required deadlines could face enforcement actions. Because CBP experienced very high rates of compliance during the Test (the compliance rate was over 99.8%), CBP expects excellent rates of compliance during the regulatory period.[94] As stated earlier, CBP's primary goal is compliance and CBP intends to work with parties providing the EEM data during this process to minimize the disruption of the flow of goods.

This final rule will also require a party transmitting the EEM data to CBP to have an appropriate bond on file with CBP that contains the condition to transmit advance export information in the manner required by regulation.[95] This rule goes into effect 60 days after publication, but CBP will not begin enforcing this rule until one year after publication, which gives a party expecting to need an appropriate bond when CBP begins enforcing this rule 300 days to obtain such a bond, either by terminating and replacing an existing continuous bond or by obtaining a new bond (continuous or single transaction). At one year, a bond that does not contain the condition to transmit advance export information in the manner required by regulation will be deemed insufficient. CBP received a public comment disagreeing with CBP's assumption that there would only be negligible additional costs to rail EEM participants to comply with the bond requirements. Specifically, this commenter was concerned with rail carriers' responsibility for transmitting all data elements when no other party elects to transmit the EEM data to CBP. The commenter is concerned about liquidated damages assessed against rail carriers based on data that was provided to rail carriers from other trade members. If a rail carrier receives information from another party to the transaction, and the rail carrier cannot reasonably verify the information, the rail carrier is not liable for a violation if it provides the unverified information to CBP as long as it reasonably believes the information to be true. Therefore, rail carriers will not be subject to liquidated damages in this scenario as they have not violated the regulation. CBP also notes that all rail carriers that engage in carrying goods for export out of the United States are also carrying goods for import into the United States

of cargo examinations prior to the Test and during the Test suggesting such an occurrence was fairly uncommon. Data obtained in February 2023.

[94] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on May 6, 2025. This was based on the number of holds issued and those that were released in FY 2024.

[95] The transmitter must have at least one of the following bonds: CBP Basic Importation and Entry Bond containing the provisions found in section 113.62 of 19 CFR, a Basic Custodial Bond containing the provisions found in 113.63 of 19 CFR, or an International Carrier Bond containing the provisions found in section 113.64 of 19 CFR.

and therefore already have a requirement to secure and obtain a bond, so CBP believes adding this small provision doesn't add a significant cost to these rail carriers.

Rail carriers and other trade members could also incur some costs to meet the requirement of this final rule of having someone readily available to respond to questions and issues that may arise from CBP's review for EEM data transmitted. CBP anticipates that any additional staffing costs to participants would be negligible because they typically have someone working for other business operations that can respond to CBP questions and issues.

Rail carriers and other trade members may also be subject to claims for liquidated damages of $5,000 for each violation and up to a maximum of $100,000 per departure for noncompliance. These claims imposed by CBP are a compliance tool and CBP anticipates that there will be high levels of compliance from participants during the regulatory period such that violations that result in claim issuance will likely not be a common occurrence.[96] Compliance is CBP's primary goal and CBP plans to work with rail carriers and other trade members to ensure they provide the appropriate EEM data in a timely manner.

CBP estimated that during the regulatory period total overall costs of the final rule will be approximately $10.6 million or on average $2.1 million annually. Table 19 below displays CBP's estimates for total costs to CBP and trade members as a result of this final rule. CBP requested feedback and comments in the NPRM on the regulatory period costs from this rule to rail carriers and other trade members discussed above and any other cost to rail carriers and other trade members that CBP did not address in this analysis. CBP received a comment that CBP did not consider significant infrastructure costs needed to conduct cargo inspections at border crossings. However, CBP disagrees that such infrastructure will be required. When EEM data is provided within the deadlines set forth in this rule, cargo inspections will be conducted at a U.S. port of export location determined by CBP. Therefore, CBP anticipates that cargo inspections occurring between the U.S. port of export and the actual border crossing would be rare instances where a significant imminent threat is identified after the train is given clearance and has departed the United States from the final port of export. Since these will be rare occurrences, CBP does not believe they will necessitate significant investments from rail carriers or CBP in additional infrastructure at actual border crossings.

Table 19. Estimated Total Costs during Regulatory Period 2026-2030 (undiscounted 2025 U.S. Dollars)

	2026	2027	2028	2029	2030	Total
CBP Systems Costs	$112,610	$114,862	$117,159	$119,502	$121,892	$586,026
CBP Review of Holds	$96,810	$96,810	$96,810	$96,810	$96,810	$484,050
Total CBP Costs	$209,420	$211,672	$213,969	$216,312	$218,702	$1,070,076
Trade Systems Costs	$245,000	$245,000	$245,000	$245,000	$245,000	$1,225,000
Trade Review of Holds	$1,661,083	$1,661,083	$1,661,083	$1,661,083	$1,661,083	$8,305,413
Total Trade Costs	$1,906,083	$1,906,083	$1,906,083	$1,906,083	$1,906,083	$9,530,413
Total Overall Costs	$2,115,502	$2,117,755	$2,120,052	$2,122,395	$2,124,785	$10,600,489

Cost Savings

The mandatory transmission of pre-departure EEM data will generate cost savings to CBP and some trade members during the regulatory period. As discussed in the pilot period cost savings section of this analysis, obtaining and reviewing EEM data is a more efficient process when compared to working with paper forms. During the regulatory period, CBP officers will continue to review all train consists prior to each train departing the U.S. port of export. As the transmission of EEM data becomes mandatory for all cargo departing the United States in the rail environment, CBP will experience more time savings through the expedited review of train consists. To estimate the time savings to CBP during the regulatory period CBP uses the time savings estimate provided during the pilot period of 1.92 hours per train consist. CBP multiplied this time savings per train consist by the forecasted number of departing trains exporting goods during the regulatory period, 290,972 trains (see Table 3). CBP estimates that as a result of this final rule CBP will experience time savings of approximately 111,539 hours each year or 557,696 hours in total during the regulatory period. To calculate the total cost savings, CBP multiplied the time savings estimate by the average loaded hourly wage rate for a CBP officer ($88.45). CBP estimates that the total cost savings to CBP during the regulatory period will be approximately $49.3 million or on average $9.86 million annually. Table 20 displays these estimated time and cost savings to CBP for each year of the regulatory period.

[96] CBP notes if a rail carrier receives information from another party to the transaction, and the rail carrier cannot reasonably verify the information, the rail carrier is not liable for a violation if it provides the unverified information to CBP as long as it reasonably believes the information to be true.

Table 20. Estimated Time and Cost Savings to CBP during the Regulatory Period 2026-2030 (time in hours, costs in 2025 U.S. dollars)

	2026	2027	2028	2029	2030	Total
Train Consists Transmitted	58,194	58,194	58,194	58,194	58,194	290,972
Time Savings Per Consist	1.92	1.92	1.92	1.92	1.92	
Time Savings	111,539	111,539	111,539	111,539	111,539	557,696
CBP Officer Wage Rate	$88.45	$88.45	$88.45	$88.45	$88.45	
Cost Savings	$9,865,636	$9,865,636	$9,865,636	$9,865,636	$9,865,636	$49,328,178

Because the transmission of EEM data will be mandatory for all cargo trains departing across approximately 68 U.S. ports of export as a result of this final rule, rail carriers and other trade members will likely experience some time and cost savings during the regulatory period. CBP notes that during the pilot period when Test participants transmitted all EEM within the required deadlines, CBP officers are able to complete their review of those train consists prior to that train's arrival to the U.S. port of export. CBP anticipates this will also be the case during the regulatory period.[97] Therefore, the time savings to rail carriers during the regulatory period from a swifter CBP processing of an electronic train consist is dependent on how much review of a paper train consist CBP completed before the train arrives at the U.S. port of export in the baseline. CBP defines a few potential scenarios depending on when rail carriers provided export data to CBP prior to this final rule. In Scenario 1 rail carriers prior to this final rule did not provide export data pre-departure to CBP—meaning CBP officers were unable to start their review of the train consist until the train is at the U.S. port of export—in this scenario CBP anticipates these rail carriers will experience the same amount of time savings per train as CBP officers: 1.92 hours per outbound train. For Scenario 2, rail carriers who, prior to this final rule, provided pre-departure export data and the finalized train consists to CBP in advance such that CBP officers were able to conduct and complete their review of this information before the train arrived at the U.S. port of export, these rail carriers will likely not experience any time savings from the expedited CBP review of train consists. As CBP does not have data prior to this final rule on how many trains transmit pre-departure export data to CBP in time for CBP to review it, CBP anticipates that the time savings to rail carriers from the expedited review of electronic train consists will be somewhere between 1.92 hours to 0 hours per departing train. Similar to the pilot period estimate, CBP determined to use the midpoint between these two values (0.96 hours) as Scenario 3 and as CBP's primary estimate for the time savings to rail carriers per outbound train during the regulatory period. CBP also provides the potential time savings from Scenario 4 which assumes CBP officers were able to complete 25 percent of the review of finalized train consists prior to a train's arrival at the U.S. port of export.

Because of this uncertainty for the actual amount of time savings to rail carriers from this process CBP provides a range of potential time savings to rail carriers during the regulatory period using the same alternate estimates provided in the pilot period portion of this analysis, assuming CBP officers completed 0 percent of their review of train consists in Scenario 1 (1.92 hours of time savings per train), 100 percent of their review in Scenario 2 (0 hours of time savings per train), 50 percent of their review in Scenario 3 (0.96 hours of time savings per train), and 25 percent of their review in Scenario 4 (0.48 hours of time saving per train) before the train arrives at the U.S. port of export. CBP estimated the time savings to rail carriers by multiplying the average time savings per train by the forecasted number of outbound trains (see Table 3) during each year of the regulatory period. CBP then calculated a range of potential cost savings each year of the regulatory period by multiplying the estimated time savings by the average hourly loaded wage rate for exporters ($36.57). Under CBP's primary estimate, time savings to rail carriers during the regulatory period from swifter CBP review of electronic train consists will be approximately 279,333 hours or on average 55,867 hours annually. Cost savings to rail carriers will be approximately $10.2 million during the regulatory period or on average $2.04 million annually. According to CBP's range of estimates, cost savings to rail carriers from shorter review time of train consists could be anywhere from $0 to $20.4 million or at most on average $4.1 million annually. Table 21 displays CBP's primary estimate and alternative range estimates for these potential time savings and cost savings to rail carriers and other trade members.

[97] Information provided by CBP's Cargo and Conveyance Security, Office of Field Operations, subject matter expert on November 8, 2022.

Table 21. Estimated Time and Cost Savings to Rail Carriers from Improved CBP Review during the Regulatory Period 2026-2030 (time in hours, costs in undiscounted 2025 U.S. dollars)

	2026	2027	2028	2029	2030	Total
Scenario 1 (time savings per train 1.92 hours)						
Train Consists Transmitted	58,194	58,194	58,194	58,194	58,194	290,972
Time Savings	111,733	111,733	111,733	111,733	111,733	558,666
Wage Rate	$36.57	$36.57	$36.57	$36.57	$36.57	
Cost Savings	$4,086,415	$4,086,415	$4,086,415	$4,086,415	$4,086,415	$20,432,074
Scenario 2 (time savings per train 0 hours)						
Train Consists Transmitted	58,194	58,194	58,194	58,194	58,194	290,972
Time Savings	0	0	0	0	0	0
Wage Rate	$36.57	$36.57	$36.57	$36.57	$36.57	
Cost Savings	$0	$0	$0	$0	$0	$0
Scenario 3 CBP's Primary Estimate (time savings per train 0.96 hours)						
Train Consists Transmitted	**58,194**	**58,194**	**58,194**	**58,194**	**58,194**	**290,972**
Time Savings	**55,867**	**55,867**	**55,867**	**55,867**	**55,867**	**279,333**
Wage Rate	**$36.57**	**$36.57**	**$36.57**	**$36.57**	**$36.57**	
Cost Savings	**$2,043,207**	**$2,043,207**	**$2,043,207**	**$2,043,207**	**$2,043,207**	**$10,216,037**
Scenario 4 (time savings per train 0.48 hours)						
Train Consists Transmitted	58,194	58,194	58,194	58,194	58,194	290,972
Time Savings	27,933	27,933	27,933	27,933	27,933	139,666
Wage Rate	$36.57	$36.57	$36.57	$36.57	$36.57	
Cost Savings	$1,021,604	$1,021,604	$1,021,604	$1,021,604	$1,021,604	$5,108,019

CBP expects that rail carriers, and other trade members that decide to provide EEM cargo data, will also experience some other time and cost savings as a result of this final rule. During the regulatory period, rail carriers will transmit EEM data to CBP and will no longer submit finalized train consists in paper form to CBP either via email or at the U.S. port of export. Eliminating the time burden and cost to provide the paper form train consists will be a cost savings of this final rule, but parties will now incur the time and cost to provide the EEM data. CBP expects providing the EEM data takes less time than providing the data on paper forms and rail EEM participants will experience a time savings when providing EEM data.[98] During the regulatory period, CBP estimates that eliminating paper forms and providing the EEM data will help rail carriers and other trade members to automate the process for providing export manifest data to CBP and will generate a time savings of approximately 20 minutes (0.333 hours) on average for each train exporting goods out of the United States.[99]

CBP used the number of total outbound trains estimated above 290,972 (see Table 3) for the number of trains that will potentially be affected and experience this time savings during the regulatory period. According to CBP calculations, trade members will experience a total of 96,991 hours (290,972 trains * 0.333 hours) in time savings from a more efficient process of providing the electronic export manifest data when compared to the baseline. To provide an estimate for the total cost savings from this process, CBP multiplied the total expected time savings (96,991 hours) by the average hourly loaded wage rate for exporters ($36.57). CBP estimates that these cost savings to trade during the regulatory period will be approximately $3.55 million or on average $709,447 annually. Additionally, during the regulatory period CBP expects that rail EEM participants will experience time savings when making corrections and/or

[98] Information was obtained from feedback and discussions with Trade members on the potential effects of providing EEM data instead of paper forms. Data obtained in February 2023.

[99] Information was obtained from feedback and discussions with Trade members on the potential effects of providing EEM data instead of paper forms. Data obtained in February 2023.

updates to electronically transmitted data in ACE when compared to making corrections and updates to paper forms in the baseline scenario. CBP uses the same time savings estimate used in the pilot period of 15 minutes (0.25 hours) per train for the time savings experienced by rail EEM participants during the regulatory period. CBP multiplied this time savings per train by the expected number of outbound trains during each year of the regulatory period (58,194 trains, see Table 3). CBP estimates that rail EEM participants will experience a time savings of approximately 72,743 hours on average and 14,549 each year from being able to make updates and corrections to EEM data in ACE when compared to paper forms. To provide an estimate for the total cost savings from this process, CBP multiplied the total expected time savings during the regulatory period (72,743 hours) by the average hourly loaded wage rate for exporters ($36.57). CBP estimates that these cost savings to trade during the regulatory period will be approximately $2.66 million or on average $532,085 annually. Table 22 displays CBP estimates for time savings to rail EEM participants from transitioning to transmitting EEM data and making corrections and updates to electronic data in ACE. Overall, CBP estimates that transitioning to EEM data transmission will save rail EEM participants approximately $6.2 million or on average $1.2 million annually.

Table 22. Estimated Time and Cost Savings to Trade from Transmitting EEM during the Regulatory Period 2026-2030 (time in hours, costs in undiscounted 2025 U.S. dollars)

	2026	2027	2028	2029	2030	Total
Total Outbound Trains	58,194	58,194	58,194	58,194	58,194	290,972
Time Savings to Transmit EEM per Train	0.333	0.333	0.333	0.333	0.333	
Total Time Savings to Transmit EEM	19,398	19,398	19,398	19,398	19,398	96,991
Wage Rate	$36.57	$36.57	$36.57	$36.57	$36.57	
Total Cost Savings from Transmitting EEM	$709,447	$709,447	$709,447	$709,447	$709,447	$3,547,235
Time Savings to Make Corrections per Train	0.250	0.250	0.250	0.250	0.250	
Total Time Savings to Make Corrections	14,549	14,549	14,549	14,549	14,549	72,743
Wage Rate	$36.57	$36.57	$36.57	$36.57	$36.57	
Total Cost Savings from Making Corrections	$532,085	$532,085	$532,085	$532,085	$532,085	$2,660,426
Total Cost Savings	$1,241,532	$1,241,532	$1,241,532	$1,241,532	$1,241,532	$6,207,661

Note: totals may not sum due to rounding.

CBP also expects that rail carriers will experience time and cost savings if the pre-departure EEM data results in CBP identifying a high-risk cargo prior to that cargo being loaded or added to a train, thereby avoiding the costly burden of identifying high-risk cargo after the train has been constructed. CBP did not track how often such examinations occur prior to the NPRM and CBP was unable to provide an estimate for how often such examinations occur, but CBP expects that they are fairly uncommon.[100] CBP requested comment on this in the NPRM and received none, so it adopts this position for the final rule as well. Additionally, CBP does not anticipate this final rule will result in additional examinations compared to the baseline. CBP estimates that the cost to rail carriers to remove a car from a constructed train for CBP examination is approximately $3,000 per occurrence and results in a delay of up to two hours.[101] This includes the freight and labor costs to safely decouple a train car from a built train. Rail carriers will avoid these costs if CBP receives pre-departure data and is able to issue holds and examine these cargo or train cars before constructed to the train. Additionally, moving to transmission of EEM data will reduce the space required to store and file paper form manifest documents generating savings to rail carriers and other trade members. Unfortunately, CBP does not have data available to provide a quantifiable estimate for the savings to trade members from reduced storage space as a result of eliminating paper form manifest documents, but based on feedback from trade members, does not consider the costs to be substantial.

CBP estimates that total cost savings as a result of this final rule will be approximately $65.8 million or on average $13.2 million annually during the regulatory period. In total, CBP anticipates that trade members will experience cost savings of $16.4 million

[100] Information was obtained from feedback and discussions with Trade members on the frequency of cargo examinations prior to the Test and during the Test suggesting such an occurrence was fairly uncommon. Data obtained in February 2023.

[101] Information was obtained from feedback and discussions with Trade members on the potential costs and time burden to remove a train car from a constructed train in order for CBP to conduct an examination of the cargo or container. Data obtained in February 2023.

or on average $3.3 million annually during the regulatory period, while CBP will experience cost savings of around $49.3 million or on average $9.9 million annually. Table 23 below displays CBP's estimates for total cost savings to CBP and trade during each year of the regulatory period. CBP requested feedback and comments during the NPRM from rail carriers and trade members on CBP's estimates for the cost savings to trade as a result of this rule and any other potential cost savings from this rule that CBP may not have included in this analysis; however, CBP did not receive any comments on this matter.

Table 23. Estimated Total Cost Savings during Regulatory Period 2026-2030 (undiscounted 2025 U.S. dollars)

	2026	2027	2028	2029	2030	Total
CBP Review of Train Consists	$9,865,636	$9,865,636	$9,865,636	$9,865,636	$9,865,636	$49,328,178
Trade Cost Savings from Improved CBP Review	$2,043,207	$2,043,207	$2,043,207	$2,043,207	$2,043,207	$10,216,037
Trade Savings from Providing EEM	$709,447	$709,447	$709,447	$709,447	$709,447	$3,547,235
Trade Cost Savings from Making Corrections to EEM Data	$532,085	$532,085	$532,085	$532,085	$532,085	$2,660,426
Total Trade Cost Savings	$3,284,740	$3,284,740	$3,284,740	$3,284,740	$3,284,740	$16,423,699
Total Cost Savings	$13,150,375	$13,150,375	$13,150,375	$13,150,375	$13,150,375	$65,751,876

Benefits

CBP expects that parties involved in U.S. rail exports will likely experience benefits as a result of this final rule during the regulatory period. Unfortunately, CBP does not have the data available to quantify these benefits and therefore will discuss these benefits qualitatively. A primary benefit of requiring pre-departure EEM data will be an improvement in CBP's security efforts and its ability to use CBP's ATS to conduct risk assessment for all rail export cargo prior to departing the United States, while also minimizing the disruption to the export process. This final rule will assist CBP in preventing illegal, dangerous, and hazardous cargo from being exported out of the United States and will allow CBP to ensure cargo safety and security for all exports in the rail environment. Additionally, transitioning to electronic data will reduce the use of paper for all parties involved and bring the outbound rail process level with existing inbound rail processing technology. The deadlines for transmitting EEM data and the gained efficiencies from moving from paper forms to electronic data transmission using an integrated system will provide CBP with more time to review the necessary detailed export data prior to a train's departure, allowing CBP officers to allocate more time to mission-critical activities. CBP also anticipates this final rule will generate benefits to the Federal government through improved coordination and communication among CBP, the Department of Commerce, and other government agencies with export jurisdiction, while enforcing U.S. export laws and regulations. In addition, CBP will implement the Trade Act authority in the rail environment, under which CBP may establish regulations providing for the mandatory electronic transmission of data by way of a CBP-approved electronic data interchange before cargo arrives or departs the United States in all environments.

Net Impact of the Final Rule

CBP anticipates that the cost savings generated from this final rule will outweigh the costs during the regulatory period. In addition, this final rule generates meaningful unquantified security benefits. During the regulatory period, CBP anticipates that this final rule will generate net cost savings to both CBP and trade members. CBP notes that lack of data available prevented CBP from providing exact estimates for some of the potential costs and cost savings from the implementation of rail EEM and therefore the actual net cost savings could be more or less than what CBP's primary estimates project in this analysis. Additionally, CBP acknowledges that for other trade members, participating directly in providing rail EEM data to CBP is voluntary and CBP expects that they will only do so if it were beneficial to their company and the benefits or cost savings outweigh the costs. Because CBP does not have data on how many of these other trade members will decide to directly participate in providing rail EEM data during the regulatory period the actual costs and cost savings from this final rule could be higher than what CBP has provided during the regulatory period of this analysis. CBP estimates that, during the regulatory period, CBP, rail carriers, and other trade members will incur undiscounted costs of approximately $10.6 million or an average of $2.1 million per year. Meanwhile, CBP estimates an undiscounted total cost savings to CBP, rail carriers and other trade members of approximately $65.8 million during the regulatory period, or an average of $13.2 million per year. This results in an undiscounted net cost savings of approximately $55.2 million, or an average of $11.0 million per year. Table 24 displays CBP's undiscounted estimates for costs and cost savings to CBP and trade members during each year of the regulatory period.

Table 24. Estimated Net Cost Savings to CBP and Trade during Regulatory Period 2026-2030 (undiscounted 2025 U.S. dollars)

	2026	2027	2028	2029	2030	Total
Costs						
CBP	$209,420	$211,672	$213,969	$216,312	$218,702	$1,070,076
Trade Members	$1,906,083	$1,906,083	$1,906,083	$1,906,083	$1,906,083	$9,530,413
Total Costs	$2,115,502	$2,117,755	$2,120,052	$2,122,395	$2,124,785	$10,600,489
Cost Savings						
CBP	$9,865,636	$9,865,636	$9,865,636	$9,865,636	$9,865,636	$49,328,178
Trade Members	$3,284,740	$3,284,740	$3,284,740	$3,284,740	$3,284,740	$16,423,699
Total Cost Savings	$13,150,375	$13,150,375	$13,150,375	$13,150,375	$13,150,375	$65,751,876
Net Cost Savings						
CBP Net Cost Savings	$9,656,216	$9,653,964	$9,651,666	$9,649,323	$9,646,933	$48,258,102
Trade Member Net Cost Savings	$1,378,657	$1,378,657	$1,378,657	$1,378,657	$1,378,657	$6,893,285
Total Net Cost Savings	$11,034,873	$11,032,621	$11,030,323	$11,027,980	$11,025,590	$55,151,387

Note: totals may not sum due to rounding.

Table 25. Total Monetized Present Value and Annualized Costs in Regulatory Period 2026-2030 (2025 U.S. dollars)

	3% Discount Rate	7% Discount Rate
Present Value Cost	$9,708,799	$8,691,535
Annualized Cost	$2,119,961	$2,119,785

Table 25 shows the discounted total quantified costs during the regulatory period from this final rule. As shown, the total costs over the 5-year regulatory period of analysis will range from around $9.7 million (in 2025 U.S. dollars) using a three percent discount rate and $8.7 million (in 2025 U.S. dollars) using a seven percent discount rate. Expected annualized costs from this final rule are about $2.1 million using both a three and seven percent discount rate.

Table 26. Total Monetized Present Value and Annualized Cost Savings in Regulatory Period 2026-2030 (2025 U.S. dollars)

	3% Discount Rate	7% Discount Rate
Present Value Cost Savings	$60,224,868	$53,919,135
Annualized Cost Savings	$13,150,375	$13,150,375

Table 26 displays the discounted total quantified cost savings as a result of this final rule during the regulatory period. CBP's primary estimates show that this rule will provide cost savings to CBP, rail carriers and other trade members ranging from $60.2 million (in 2025 U.S. dollars) using a three percent discount rate and $53.9 million (in 2025 U.S. dollars) using a seven percent discount rate. Annualized cost savings from this final rule will be approximately $13.2 million using both three and seven percent discount rates.

Table 27. Total Monetized Present Value and Annualized Net Cost Savings of Regulatory Period 2026-2030 (2025 U.S. dollars)

	3% Discount Rate	7% Discount Rate
Present Value Net Cost Savings	$50,516,069	$45,227,600
Annualized Net Cost Savings	$11,030,415	$11,030,591

Table 27 displays CBP's primary estimate for quantifiable net cost savings from the implementation of rail EEM. As shown, CBP expects that this final rule will result in total net cost savings to CBP, rail carriers and other trade members of range from around $50.5 million (in 2025 U.S. dollars) using a three percent discount rate to around $45.2 million (in 2025 U.S. dollars) using a seven percent discount rate. CBP estimates that annualized net cost savings are approximately $11.0 million using both a three and seven percent discount rate.

Total Impact of the Rail EEM Program

CBP anticipates that over the entire 15-year time period of analysis 2016–2030, the final rail EEM program will result in overall net cost savings compared to the baseline (before the rail EEM Test was introduced). Initially as the rail EEM Test was introduced, costs outweighed the cost savings, but CBP estimated that as the Test expanded, and after the final rule will be implemented, cost savings will far outweigh the costs incurred by this final rule. In addition, CBP expects that this final rule will generate meaningful unquantified security benefits after it is implemented as discussed above in the regulatory period net impact section.

CBP estimates that between 2016–2030 the rail EEM program will result in undiscounted total costs of $14.1 or on average $0.94 million annually. Additionally, the rail EEM program will result in undiscounted total cost savings of $69.4 million or on average $4.6 million annually between 2016–2030. CBP estimates that undiscounted total net cost savings from the rail EEM program during the period of analysis 2016–2030 will be $55.3 million or on average $3.7 million annually when compared to the baseline. Table 28 displays CBP's undiscounted estimates for total costs, cost savings and net cost savings as a result of this final rule from 2016–2030.

Table 28. Estimated Cost, Cost Savings, and Net Cost Savings from Rail EEM 2016-2030 (undiscounted 2025 U.S. dollars)

Year	Costs			Cost Savings			Net Cost Savings		
	CBP	Trade Members	**Total**	CBP	Trade Members	**Total**	CBP	Trade Members	**Total**
2016	$701,531	$100,481	$802,013	$0	$11,345	$11,345	-$701,531	-$89,137	-$790,668
2017	$95,508	$147,844	$243,352	$52,215	$39,900	$92,115	-$43,293	-$107,944	-$151,237
2018	$97,241	$150,054	$247,294	$0	$29,923	$29,923	-$97,241	-$120,131	-$217,371
2019	$99,228	$148,293	$247,521	$26,955	$34,825	$61,780	-$72,273	-$113,468	-$185,741
2020	$107,994	$143,019	$251,012	$188,008	$63,336	$251,344	$80,014	-$79,683	$332
2021	$104,636	$171,093	$275,729	$440,945	$118,105	$559,050	$336,309	-$52,988	$283,321
2022	$106,532	$221,114	$327,646	$493,669	$132,067	$625,736	$387,137	-$89,047	$298,090
2023	$108,370	$277,873	$386,243	$545,714	$140,818	$686,533	$437,345	-$137,055	$300,290
2024	$116,262	$292,436	$408,698	$561,142	$141,908	$703,050	$444,880	-$150,528	$294,352
2025	$115,195	$226,520	$341,715	$510,368	$133,543	$643,911	$395,172	-$92,977	$302,195
2026	$209,420	$1,906,083	$2,115,502	$9,865,636	$3,284,740	$13,150,375	$9,656,216	$1,378,657	$11,034,873
2027	$211,672	$1,906,083	$2,117,755	$9,865,636	$3,284,740	$13,150,375	$9,653,964	$1,378,657	$11,032,621
2028	$213,969	$1,906,083	$2,120,052	$9,865,636	$3,284,740	$13,150,375	$9,651,666	$1,378,657	$11,030,323
2029	$216,312	$1,906,083	$2,122,395	$9,865,636	$3,284,740	$13,150,375	$9,649,323	$1,378,657	$11,027,980
2030	$218,702	$1,906,083	$2,124,785	$9,865,636	$3,284,740	$13,150,375	$9,646,933	$1,378,657	$11,025,590
Total	$2,722,572	$11,409,140	$14,131,712	$52,147,194	$17,269,469	$69,416,662	$49,424,621	$5,860,329	$55,284,950
Average	$181,505	$760,609	$942,114	$3,476,480	$1,151,298	$4,627,777	$3,294,975	$390,689	$3,685,663

Table 29. Total Monetized Present Value and Annualized Costs of Rail EEM 2016-2030 (2025 U.S. dollars)

	3% Discount Rate	7% Discount Rate
Present Value Cost	$10,264,778	$6,958,683
Annualized Cost	$859,845	$764,026

Table 29 shows the discounted total quantified costs from the rail EEM program from 2016–2030 compared to the baseline scenario. As shown, the total costs over the 15-year period of analysis will range from $10.3 million (in 2025 U.S. dollars) using a three percent discount rate to $7.0 million (in 2025 U.S. dollars) using a seven percent discount rate. Expected total annualized costs from this final rule range from $859,845 using a three percent discount rate to $764,026 using a seven percent discount rate.

Table 30. Total Monetized Present Value and Annualized Cost Savings of Rail EEM 2016-2030 (2025 U.S. dollars)

	3% Discount Rate	7% Discount Rate
Present Value Cost Savings	$47,746,776	$29,623,084
Annualized Cost Savings	$3,999,584	$3,252,455

Table 30 shows the discounted total quantified cost savings as a result of this final rule from 2016–2030. As shown, the total cost savings over the 15-year period of analysis will range from $47.7 million (in 2025 U.S. dollars) using a three percent discount rate to $29.6 million (in 2025 U.S. dollars) using a seven percent discount rate. Expected total annualized cost savings from this final rule will range from $4.0 million using a three percent discount rate to $3.3 million using a seven percent discount rate.

Table 31. Total Monetized Present Value and Annualized Net Cost Savings of Rail EEM 2016-2030 (2025 U.S. dollars)

	3% Discount Rate	7% Discount Rate
Present Value Net Cost Savings	$37,481,999	$22,664,401
Annualized Net Cost Savings	$3,139,739	$2,488,429

Table 31 shows the discounted total quantified net cost savings from this final rule. As shown, the total net cost savings over the 15-year period of analysis compared to the baseline will range from $37.5 million (in 2025 U.S. dollars) using a three percent discount rate to $22.7 million (in 2025 U.S. dollars) using a seven percent discount rate. Expected total annualized net cost savings from this final rule will range from $3.1 million using a three percent discount rate to $2.5 million using a seven percent discount rate. Accounting statements 1 and 2 show the expected costs, cost savings and benefits from this final rule for the regulatory period and the program as a whole, respectively. Though CBP presents the costs of the program as a whole, including both the pilot period and the regulatory period, the costs of the pilot period are sunk for the purposes of decision-making. Therefore, CBP considered the net effects for the regulatory period when deciding whether to proceed with this final rule.

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Accounting Statement 1: Regulatory Period (Fiscal Years 2026-2030) (Discounted 2025 U.S. dollars)

	3% Discount Rate	7% Discount Rate
Costs		
Annualized monetized costs	$2,119,961	$2,119,785
Annualized quantified, but non-monetized costs	None	None
Qualitative (non-quantified) costs	If additional cargo examinations occur, estimated cost to CBP will be around $88.45 per additional exam. Rail carriers and other participants may have to adjust business practices when moving from a paper to electronic process. Securing a Bond is required to participate. Rail carriers and other participants must have someone available to respond to CBP questions about data transmitted. Liquidated damages, $5,000 for each violation up to a maximum of $100,000 per departure.	If additional cargo examinations occur, estimated cost to CBP will be around $88.45 per additional exam. Rail carriers and other participants may have to adjust business practices when moving from a paper to electronic process. Securing a Bond is required to participate. Rail carriers and other participants must have someone available to respond to CBP questions about data transmitted. Liquidated damages, $5,000 for each violation up to a maximum of $100,000 per departure.
Cost Savings		
Annualized monetized cost savings	$13,150,375	$13,150,375
Annualized quantified, but non-monetized cost savings	None	None
Qualitative (non-quantified) cost savings	Reduce paper, printing and storage costs related to paper forms. Rail carriers may avoid CBP cargo examinations on already constructed trains, resulting in delays (up to 2 hours) and costs ($3,000 per occurrence).	Reduce paper, printing and storage costs related to paper forms. Rail carriers may avoid CBP cargo examinations on already constructed trains, resulting in delays (up to 2 hours) and costs ($3,000 per occurrence).
Benefits		
Annualized monetized benefits	None	None
Annualized quantified, but non-monetized benefits	None	None
Qualitative (non-quantified) benefits	Improve CBP's security efforts on rail exports, electronic data transmissions will allow CBP to use its ATS system to conduct risk assessment on all rail exports. Gained efficiencies from trade by switching from paper to electronic data transmission. Improved communication among Federal Agencies with export jurisdiction.	Improve CBP's security efforts on rail exports, electronic data transmissions will allow CBP to use its ATS system to conduct risk assessment on all rail exports. Gained efficiencies from trade by switching from paper to electronic data transmission. Improved communication among Federal Agencies with export jurisdiction.
Net Cost Savings	$11,030,415	$11,030,591

Accounting Statement 2: Rail EEM Program (Fiscal Years 2016-2030) (Discounted 2025 U.S. dollars)

	3% Discount Rate	7% Discount Rate
Costs		
Annualized monetized costs	$859,845	$764,026
Annualized quantified, but non-monetized costs	None	None
Qualitative (non-quantified) costs	If additional cargo examinations occur, estimated cost to CBP will be around $88.45 per additional exam. Rail carriers and other participants may have to adjust business practices when moving from a paper to electronic process. Securing a Bond is required to participate. Rail carriers and other participants must have someone available to respond to CBP questions about data transmitted. Liquidated damages, $5,000 for each violation up to a maximum of $100,000 per departure.	If additional cargo examinations occur, estimated cost to CBP will be around $88.45 per additional exam. Rail carriers and other participants may have to adjust business practices when moving from a paper to electronic process. Securing a Bond is required to participate. Rail carriers and other participants must have someone available to respond to CBP questions about data transmitted. Liquidated damages, $5,000 for each violation up to a maximum of $100,000 per departure.
Cost Savings		
Annualized monetized cost savings	$3,999,584	$3,252,455
Annualize quantified, but non-monetized cost savings	None	None
Qualitative (non-quantified) cost savings	Reduce paper, printing and storage costs related to paper forms. Rail carriers may avoid CBP cargo examinations on already constructed trains, resulting in delays (up to 2 hours) and costs ($3,000 per occurrence).	Reduce paper, printing and storage costs related to paper forms. Rail carriers may avoid CBP cargo examinations on already constructed trains, resulting in delays (up to 2 hours) and costs ($3,000 per occurrence).
Benefits		
Annualized monetized benefits	None	None
Annualized quantified, but non-monetized benefits	None	None
Qualitative (non-quantified) benefits	Improve CBP's security efforts on rail exports, electronic data transmissions will allow CBP to use its ATS system to conduct risk assessment on all rail exports. Gained efficiencies from trade by switching from paper to electronic data transmission. Improved communication among Federal Agencies with export jurisdiction.	Improve CBP's security efforts on rail exports, electronic data transmissions will allow CBP to use its ATS system to conduct risk assessment on all rail exports. Gained efficiencies from trade by switching from paper to electronic data transmission. Improved communication among Federal Agencies with export jurisdiction.
Net Cost Savings	$3,139,739	$2,488,429

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B. Regulatory Flexibility Act

This section examines the impact on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

CBP acknowledges that this final rule, requiring pre-departure transmission of EEM data, could potentially affect a large number of small U.S. entities. CBP expects that all rail carrier companies that engage in exporting goods (which presently totals seven rail carriers) from the United States in the rail environment and an unknown number of other trade members (such as USPPIs, FPPIs, NVOCCs, freight forwarders, CHB, or other third parties with knowledge of export manifest data elements) at approximately 68 U.S. ports of export will be affected by this final rule. Under this final rule, outbound carriers will be responsible for transmitting export manifest transportation data and empty container data, as specified in the regulatory text.[102] CBP notes that of the current seven rail carriers affected by this final rule, two carriers are Canadian

[102] CBP notes that this final rule requires that all rail carriers must participate and this rule does not limit participation to seven rail carriers. If there are additional rail carriers in the future, they will all be required to adhere to the regulation.

companies, and the other five companies are large companies according to the U.S. Small Business Administration's size standards for small businesses.[103] Therefore, CBP does not anticipate that this final rule will affect any small U.S. entity rail carriers.

The scope of impact on small U.S. entities depends largely on how many other trade members elect to provide electronic manifest cargo data directly to CBP as a result of this final rule. This final rule does not require other trade members to provide electronic manifest cargo to CBP, and CBP expects that they will only do so if it is beneficial for their business or company. CBP does not anticipate these other trade members would participate directly if it resulted in a net cost and if there is a significant cost to participate, they must also experience a significant benefit that is at least as large. Therefore, CBP expects that even if this final rule affects a significant number of small U.S. entities, such entities will not incur significant net costs. CBP expects that this final rule will save some businesses time and money by transitioning from a paper process to a more efficient electronic process. CBP anticipates that providing rail export data electronically will generate time savings to those transmitting data to CBP, when making any corrections to data transmitted electronically, and will reduce paper and printing costs.

According to CBP's calculations in the regulatory impact analysis for this final rule, the average annual total costs to trade members will be around $1.9 million, while the average annual total cost savings will be around $3.3 million. Additionally, CBP anticipates there will be approximately 4.2 million data transmissions during the first year this rule is implemented. Therefore CBP anticipates on average the total cost per data transmission will be approximately $0.45 to $0.77, meanwhile the estimated cost savings per data transmission is around $0.78, resulting in a net savings per data transmission ($0.33).[104] CBP does not know how many of these trade members will choose to transmit this data to CBP or how often, so CBP is unable to estimate the annual savings to these trade members as a result of this rule.

Therefore, CBP certifies that this final rule will not have a significant economic impact on a substantial number of small U.S. entities. CBP requested comments from the public during the NPRM on CBP's certification that this rule will not have a significant economic impact on a substantial number of small U.S. entities, and CBP did not receive any specific comments on that certification.

C. Paperwork Reduction Act

An agency may not conduct, or sponsor, and an individual is not required to respond to a collection of information unless it displays a valid OMB control number. The collections of information in the current regulations have already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB control number 1651–0001. This collection already provides estimated burdens to the public for voluntarily participating in the Rail EEM Test. CBP anticipates that this final rule will result in an additional time burden to respondents that will provide rail EEM directly to CBP. This final rule establishes new requirements for trade members to provide rail EEM data to CBP prior to a train departing from a U.S. port of export. CBP notes that prior to providing EEM data, rail carriers typically incurred time burdens to provide some export data to CBP that were not originally included on this information collection or any other information collection as the data was not a statutory or regulatory requirement. Trade members have expressed that providing export data to CBP as part of the rail EEM did provide a reduction in time burden compared to the prior process, but because the original time burden to provide export data to CBP prior to rail EEM was not included in this information collection CBP estimates that the time burden to the public from this final rule will be insignificant.

As a result of this final rule, CBP estimates that at least all seven major rail carriers that currently engage in exporting goods out of the United States in the rail environment will be affected. Collection 1651–0001 will be revised to reflect the changed burden hours for requiring trade members to provide rail EEM data to CBP prior to departure of the train from a U.S. port of export. The new information collection requirements from this final rule will result in the following estimated time burdens to the public for the information collection number 1651–0001 from transmitting rail EEM data to CBP:

Estimated number of respondents annually: 7.

Average responses per respondent: 611,294.

Total responses: 4,279,056.

Estimated time burden per respondent: 5,940 hours.

Total time burden: 41,582 hours.

CBP estimates that this added time burden will increase the cost to the public by $1,520,797 and adjust the total cost to the public for this information collection to $542,876,501.

CBP also expects that this new information collection requirement will result in a decrease in the annual cost to the Federal government through the automated review of rail EEM data by ATS. CBP officers will experience a reduced time burden from reviewing only 0.10 percent of all rail EEM responses provided by the public. This revision to the total number of responses reviewed by CBP for this information collection decreased by 10,622 responses resulting in a reduced time burden of around 885 hours and cost reduction of around $70,645 annually.

D. Privacy

CBP will ensure that all Privacy Act requirements and applicable DHS privacy policies are adhered to as a result of this regulation.[105] CBP has issued a Privacy Impact Assessment (PIA) for the Automated Commercial Environment (ACE),[106] which outlines how CBP ensures compliance with Privacy Act protections and DHS privacy policies, including DHS's Fair Information Practice Principles (FIPPs). DHS uses the FIPPs to assess and enhance privacy protections by analyzing the nature and purpose of the collection of PII to fulfill DHS's mission and how the Department can best provide privacy protections in light of these principles. The PIA addresses

[103] CBP compared the five U.S. companies with the given U.S. Small Business Administration's size standards for small businesses based on the associated NAICS classification listed in Hoovers Online Company Reports, *available at http://subscriber.hoovers.com/H/home/index.html.*

[104] According to CBP's estimates each year during the regulatory period total costs to trade members would be $1,906,083, the total cost savings to trade would be $3,284,740 and the total expected rail EEM data transmissions each year are expected to be around 4,279,056. CBP calculated the average cost per rail EEM data transmission by dividing the total cost by the estimated number of rail EEM data transmission ($1,906,083/4,279,056 = $0.45) and the average cost savings per rail EEM data transmission by dividing the total cost saving by the estimated number of rail EEM data transmission ($3,284,740/4,279,056 = $0.77).

[105] *See* the DHS Privacy Policy web page, *available at https://www.dhs.gov/privacy-policy-guidance.*

[106] *See* U.S. Department of Homeland Security, U.S. Customs and Border Protection, Privacy Impact Assessment for The Automated Commercial Environment, DHS/CBP/PIA–003 and all subsequent updates, *available at https://www.dhs.gov/privacy-documents-us-customs-and-border-protection.*

issues such as security, integrity, sharing of data, use limitation and transparency. The PIA is publicly available at: *http://www.dhs.gov/privacy-documents-us-customs-and-border-protection.*

The Privacy Act of 1974 requires that federal agencies issue a System of Record Notice (SORN) to provide the public notice regarding personally identifiable information (PII) collected in a system of records. SORNs explain how the information is used, retained, and may be accessed or corrected, and whether certain portions of the system are subject to Privacy Act exemptions for law enforcement, national security, or other reasons. CBP issued the DHS/CBP–001 Import Information Systems (IIS) System of Records and the DHS/CBP–020 Export Information System (EIS) System of Records, which provide coverage for these regulations.[107]

E. Unfunded Mandates Reform Act of 1995

This rule will not 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 (adjusted for inflation), and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

F. Congressional Review Act

Before a rule can take effect, 5 U.S.C. 801, the Congressional Review Act (CRA), requires agencies to submit the rule and a report indicating whether it is a major rule, to Congress and the Comptroller General. If a rule is deemed a ''major rule'' by OMB, the CRA generally provides that the rule may not take effect until at least 60 days following its publication. 5 U.S.C. 801(a)(3). The Administrator of the Office of Information and Regulatory Affairs of OMB has determined that this rule does not meet the criteria for a ''major rule'' in 5 U.S.C. 804(2). This rule will take effect 60 days after publication.

[107] *See* DHS/CBP–001 Import Information System, 81 FR 48826 (July 26, 2016), *available at https://www.federalregister.gov/documents/2016/07/26/2016-17596/privacy-act-of-1974-department-of-homeland-security-us-customs-and-border-protection-dhscbp-001;* and DHS/CBP–020 Export Information Systems (EIS), 80 FR 53181 (September 02, 2015), *available at https://www.federalregister.gov/documents/2015/09/02/2015-21675/privacy-act-of-1974-department-of-homeland-security-us-customs-and-border-protection-dhscbp-020.*

G. National Environmental Policy Act

DHS and its components analyze final actions to determine whether the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* applies to them and, if so, what degree of analysis is required. DHS Directive 023–01 Rev. 01 and Instruction Manual 023–01–001–01 Rev. 01 (Instruction Manual) establish the policies and procedures that DHS and its components use to comply with NEPA, 42 U.S.C. 4321 *et seq.*

NEPA allows Federal agencies to establish categories of actions (''categorical exclusions'') that experience has shown do not, individually or cumulatively, have a significant effect on the human environment and, therefore, do not require an environmental assessment (EA) or environmental impact statement (EIS). *See* 42 U.S.C. 4336(a)(2), 4336e(1). The Instruction Manual, Appendix A lists the DHS Categorical Exclusions.

Under DHS NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect. *See* Instruction Manual 023–01 at V.B(2)(a)–(c).

DHS has analyzed this action under Directive 023–01 and Instruction Manual 023–01–001–01. DHS has made a determination that this rulemaking action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. First, this rule clearly fits within the Categorical Exclusions A3(a) and A3(d) of DHS's Instruction Manual 023–01–001–01, Appendix A, for the promulgation of rules of a ''strictly administrative or procedural nature'' and rules that ''interpret or amend an existing regulation without changing its environmental effect,'' respectively. Second, this rule is not part of a larger action. Third, this rule presents no extraordinary circumstances creating the potential for significant environmental effects. Therefore, a more detailed NEPA review is not necessary.

H. International Trade Impact Assessment

The Trade Agreements Act of 1979, 19 U.S.C. 2501–82, prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. *See* 19 U.S.C. 2532. Legitimate domestic objectives, such as essential security and legitimate safety interests, are exempted from classification as an unnecessary obstacle to foreign trade. *See* 19 U.S.C. 2531(b). The Act also requires consideration of international standards and, where appropriate, that the standards constitute the basis for U.S. standards. *See* 19 U.S.C. 2532(2)(A). Earlier in this preamble, DHS summarized and responded to a comment suggesting that DHS align with certain international standards, particularly those related to the use of the commenter's suggested identifiers for tracking and identifying cargo. As DHS explained above, CBP's use of the Automated Commercial Environment (ACE) as the platform for the electronic export manifest and specific data elements which are internationally recognized meets the standards being utilized by other trade systems.

The publication of this rule serves legitimate domestic objectives, such as the safety and security of rail cargo; thus, this rule is exempt from classification as an unnecessary obstacle to foreign trade. However, CBP assessed the potential effects of this rule and determined that it will not create unnecessary obstacles to the foreign commerce of the United States. CBP conducted a lengthy Test period prior to the development of this rule, including significant engagement with Test participants.

VIII. Signing Authority

The signing authority for these amendments falls under 19 CFR 0.2(a). Accordingly, this document is signed by the Secretary of Homeland Security (or the Secretary's delegate).

List of Subjects

19 CFR Part 103

Administrative practice and procedure, Confidential business information, Courts, Freedom of information, Law enforcement, Privacy, Reporting and recordkeeping requirements.

19 CFR Part 113

Common carriers, Exports, Freight, Laboratories, Reporting and recordkeeping requirements, Surety bonds.

19 CFR Part 123

Canada, Customs duties and inspection, Freight, International boundaries, Mexico, Motor carriers, Railroads, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 192

Aircraft, Exports, Motor vehicles, Penalties, Reporting and recordkeeping requirements, Vessels.

Amendments to the Regulations

For the reasons stated in the preamble, parts 103, 113, 123, and 192 of title 19, Code of Federal Regulations (19 CFR parts 103, 113, 123, and 192), are amended as set forth below.

PART 103—AVAILABILITY OF INFORMATION

■ 1. The general authority citation for part 103 and the specific authority citation for § 103.31a continue to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 19 U.S.C. 66, 1624; 31 U.S.C. 9701.

* * * * *

Section 103.31a also issued under 19 U.S.C. 2071 note, 6 U.S.C. 943, 19 U.S.C. 1415, and 49 U.S.C. 44901 note;

* * * * *

■ 2. Amend § 103.31a by revising and republishing paragraph (a) to read as follows:

§ 103.31a Advance electronic information for air, truck, and rail cargo; Importer Security Filing information for vessel cargo.

* * * * *

(a) Advance cargo information that is electronically presented to Customs and Border Protection (CBP) for inbound or outbound air, rail, or truck cargo in accordance with § 122.48a, § 122.48b, § 123.91, § 123.92, § 123.93, or § 192.14 of this chapter;

* * * * *

PART 113—CBP BONDS

■ 3. The general authority citation for part 113 continues to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

* * * * *

■ 4. Amend § 113.62 by adding paragraph (k)(3) and revising and republishing paragraph (n)(1) to read as follows:

§ 113.62 Basic importation and entry bond conditions.

* * * * *

(k) * * *

(3) If the principal elects to provide advance outbound information to CBP electronically, the principal agrees to provide such information in the manner and in the time period required by regulation. If the principal defaults with regard to these obligations, the principal and surety (jointly and severally) agree to pay liquidated damages of $5,000 for each violation.

* * * * *

(n) * * *

(1) If the principal defaults on agreements in this condition other than conditions in paragraph (a), (g), (i), (j), (k)(2), (k)(3), (l), or (m) of this section the obligors agree to pay liquidated damages equal to the value of the merchandise involved in the default, or three times the value of the merchandise involved in the default if the merchandise is restricted or prohibited merchandise or alcoholic beverages, or such other amount as may be authorized by law or regulation.

* * * * *

■ 5. Amend § 113.63 by revising and republishing paragraph (g) to read as follows:

§ 113.63 Basic custodial bond conditions.

* * * * *

(g) *Agreement to comply with electronic entry and/or advance cargo information filing requirements.* (1) The principal agrees to comply with all Importer Security Filing requirements set forth in part 149 of this chapter including but not limited to providing security filing information to CBP in the manner and in the time period prescribed by regulation. If the principal defaults with regard to any obligation, the principal and surety (jointly and severally) agree to pay liquidated damages of $5,000 per violation.

(2) If the principal elects to provide advance outbound information to CBP electronically, the principal agrees to provide such information in the manner and in the time period required by regulation. If the principal defaults with regard to these obligations, the principal and surety (jointly and severally) agree to pay liquidated damages of $5,000 for each violation.

* * * * *

■ 6. Amend § 113.64 by revising and republishing paragraph (d) to read as follows:

§ 113.64 International carrier bond conditions.

* * * * *

(d) *Agreement to provide advance cargo information.* (1) The incoming carrier agrees to provide advance cargo information to CBP in the manner and in the time period required under applicable regulations. If the incoming carrier, as principal, defaults with regard to these obligations, the principal and surety (jointly and severally) agree to pay liquidated damages of $5,000 for each violation, to a maximum of $100,000 per conveyance arrival.

(2) The outbound carrier agrees to transmit advance outbound information to CBP electronically, in the manner and in the time period required by regulation. If the outbound carrier, as principal, defaults with regard to these obligations, the principal and surety (jointly and severally) agree to pay liquidated damages of $5,000 for each violation, to a maximum of $100,000 per departure.

* * * * *

PART 123—CBP RELATIONS WITH CANADA AND MEXICO

■ 7. The general authority citation for part 123 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1415, 1431, 1433, 1436, 1448, 1624, 2071 note.

* * * * *

■ 8. Revise and republish § 123.0 to read as follows:

§ 123.0 Scope.

This part contains special regulations pertaining to Customs procedures at the Canadian and Mexican borders. Included are provisions governing report of arrival, manifesting, unlading and lading, instruments of international traffic, shipments in transit through Canada or Mexico or through the United States, commercial traveler's samples transiting the United States or Canada, baggage arriving from Canada or Mexico including baggage transiting the United States or Canada or Mexico, and electronic information for rail and truck cargo in advance of arrival or departure. Aircraft arriving from or departing for Canada or Mexico are governed by the provisions of part 122 of this chapter. The arrival of all vessels from, and clearance of all vessels departing for, Canada or Mexico is governed by the provisions of part 4 of this chapter. Fees for services provided in connection with the arrival of aircraft, vessels, vehicles and other conveyances from Canada or Mexico are set forth in § 24.22 of this chapter. Regulations pertaining to the treatment of goods from Canada or Mexico under the North American Free Trade Agreement are contained in part 181 of this chapter. The requirements for the United States Postal Service to transmit advance electronic information for inbound international mail shipments are set forth in § 145.74 of this chapter.

■ 9. Revise the heading of subpart J to read as follows:

Subpart J—Advance Information for Cargo Arriving or Departing by Rail or Truck

■ 10. Add § 123.93 to read as follows:

§ 123.93 Electronic information for rail conveyance and cargo required in advance of export.

(a) *General requirement.* Pursuant to section 343(a), Trade Act of 2002, as amended (19 U.S.C. 1415), for any train departing the United States, U.S. Customs and Border Protection (CBP) must receive electronically from the rail carrier, or other eligible filer as specified in paragraph (c) of this section, certain information concerning the train and cargo, as enumerated in paragraphs (d), (e), and (f) of this section. CBP must receive this information, known as outbound electronic rail manifest data, no later than the time frames prescribed in paragraph (b) of this section. The transmission of the required data must occur through the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system. The transmission of such electronic export manifest (EEM) data for the purpose of complying with this section does not constitute customs business. Any examination referrals must be resolved in accordance with the provisions and time frames prescribed in paragraph (g) of this section. Any Do-Not-Load (DNL) or Hold instructions must be addressed in accordance with the provisions prescribed in paragraph (h) of this section.

(b) *Time frame for transmitting data*—(1) *Initial filing.* The required initial filing data enumerated in paragraph (d) of this section must be transmitted as early as practicable, but no later than 24 hours prior to departure of the train from the United States port of export.

(2) *Subsequent filing.* The required subsequent filing will include the data identified in paragraphs (b)(2)(i) through (iii) of this section:

(i) *Export manifest cargo data.* Export manifest cargo data other than initial filing data must be transmitted no later than two hours prior to departure of the train from the United States port of export.

(ii) *Export manifest transportation data.* Export manifest transportation data other than initial filing data must be transmitted no later than two hours prior to departure of the train from the United States port of export.

(iii) *Empty container data.* Data related to empty containers must be transmitted no later than the time of assembly of the train.

(3) *Updates.* The party who transmits data must update it if, after the filing is transmitted, any of the transmitted data changes or more accurate data becomes available. Updates are required upon discovery of data changes.

(c) *Parties filing cargo and conveyance data*—(1) *Outbound carrier.* The outbound carrier is responsible for transmitting export manifest transportation data and empty container data. If no other eligible party elects to transmit the initial filing data or export manifest cargo data, the outbound carrier must transmit it. If another eligible party elects to transmit either the initial filing data or export manifest cargo data, the outbound carrier may also choose to do so.

(2) *Other filers.* In addition to the outbound carrier for whom participation is mandatory, one of the following parties meeting the qualifications of paragraph (a) of this section that require transmission of information through ACE or any other CBP-authorized electronic data interchange system may elect to transmit to CBP the initial filing data and/or the export manifest cargo data for outgoing cargo listed in paragraph (d) of this section.

(i) The U.S. Principal Party in Interest (USPPI), as defined by the provisions of § 30.1 of the Foreign Trade Regulations (FTR) of the Department of Commerce, Bureau of the Census (15 CFR 30.1), or its authorized agent;

(ii) The Foreign Principal Party in Interest (FPPI) or its authorized agent, as those parties are defined by the provisions of § 30.1 of the Foreign Trade Regulations (FTR) of the Department of Commerce, Bureau of the Census, (15 CFR 30.1); or

(iii) Any other party with direct knowledge of the export information acting as an EEM transmitter, which may include a customs broker, Automated Broker Interface (ABI) filer, non-vessel operating common carrier (NVOCC) as defined by § 4.7(b)(3)(ii) of this chapter, or a freight forwarder as defined in § 112.1 of this chapter.

(3) *Nonparticipation by other party.* If another party specified in paragraph (c)(2) of this section does not transmit advance export information to CBP, the party that arranges for and/or delivers the cargo to the outbound carrier must fully disclose and present to the outbound carrier the cargo information listed in paragraph (d) of this section. The outbound carrier must transmit this information to CBP in accordance with this section.

(4) *Bond required.* A party transmitting any of the information described in this section must have at least one of the following bonds on file with CBP: a CBP Basic Importation and Entry Bond containing the provisions found in § 113.62 of this chapter, a Basic Custodial Bond containing the provisions found in § 113.63 of this chapter, or an International Carrier Bond containing the provisions found in § 113.64 of this chapter.

(5) *Required information in possession of third party.* Any entity, other than the outbound carrier or a party described in paragraph (c)(2) of this section, in possession of data required to be transmitted to CBP under this section must fully disclose and present the required data to either the outbound carrier or other electronic filer, as applicable, which must transmit such data to CBP.

(6) *Party receiving information believed to be accurate.* Where the party electronically transmitting the data required in paragraph (d) or (f) of this section receives any of this information from another party, CBP will take into consideration how, in accordance with ordinary commercial practices, the transmitting party acquired such information, and whether and how the transmitting party is able to verify this information. Where the transmitting party is not reasonably able to verify such information, CBP will permit the party to electronically transmit the information based on what that party reasonably believes to be true.

(d) *Initial filing.* The following information comprises the initial filing which is mandatory and may be made by any party identified in paragraph (c)(1) or (2) of this section:

(1) *Mandatory data.* (i) Bill of lading number;

(ii) The numbers and quantities of the cargo laden aboard the train as contained in the carrier's bill of lading, either master or house, as applicable (this means the quantity of the lowest external packaging unit; numbers or quantities of containers and pallets do not constitute acceptable information; for example, a container holding 10 pallets with 200 cartons should be described as 200 cartons);

(iii) Total weight of cargo expressed in pounds or kilograms;

(iv) A precise cargo description (or the Harmonized Tariff Schedule (HTSUS) number(s) to the 6-digit level under which the cargo is classified if that information is received from the shipper) and weight of the cargo; or, for a sealed container, the shipper's declared description and weight of the cargo (generic descriptions, specifically those such as ''FAK'' (''freight of all kinds''), ''general cargo,'' and ''STC'' (''said to contain'') are not acceptable);

(v) The shipper's complete name and address from the bill(s) of lading (for each house bill in a consolidated shipment);

(vi) The consignee's complete name and address from the bill(s) of lading (The consignee is the party to whom the cargo will be delivered in the foreign country. However, in the case of cargo

shipped ''to order of [a named party],'' the ''to order'' party must be named as the consignee; and if there is any other commercial party listed in the bill of lading for delivery or contact purposes, the carrier must also report this other commercial party's identity and contact information including address in the ''Notify party'' field.); and

(vii) Employer Identification Number (EIN) or Importer Record Number or CBP assigned number.

(2) *Conditional Initial data.* The Automated Export System (AES) Internal Transaction Number (''ITN'') or FTR exemption/exclusion code is conditional and must be transmitted if, and as soon as, applicable.

(e) *Export manifest transportation data*—(1) *Mandatory data.* The following transportation data is mandatory and must be transmitted by the rail carrier or its agent:

(i) Port of departure from the United States;

(ii) Date of departure;

(iii) Estimated time of departure;

(iv) Carrier-assigned conveyance name, equipment number and trip number;

(v) Train Consist, which includes:

(A) Manifest number;

(B) Train number;

(C) Rail car order; and

(D) Empty containers;

(vi) The rail carrier identification SCAC code (the unique Standard Carrier Alpha Code assigned for each carrier by the National Motor Freight Traffic Association; see § 4.7a(c)(2)(iii) of this chapter);

(vii) Container or equipment numbers (for containerized shipments) or rail car Numbers (for all other shipments); and

(viii) Employer Identification Number (EIN) or Importer Record Number or CBP assigned number.

(2) *Conditional data.* The following transportation data is conditional and must be transmitted by the rail carrier or agent if applicable:

(i) 6-character Hazmat Code. The UN (for United Nations Number) or NA (North American Number) and the corresponding 4-digit identification number assigned to the hazardous material must be provided;

(ii) Marks and numbers; and

(iii) Seal number (only required if container was sealed). The seal numbers for all seals affixed to containers and/or rail cars to the extent that CBP's data system can accept this information (for example, if a container has more than two seals, and only two seal numbers can be accepted through the system per container, electronic presentation of two of these seal numbers for the container would be considered as constituting full compliance with this data element).

(3) *Optional data.* The following transportation data is optional and may be transmitted by the rail carrier or its agent:

(i) Mode of transportation (containerized rail cargo or non-containerized rail cargo);

(ii) Equipment type code; and

(iii) Place where the rail carrier takes possession of the cargo shipment or empty rail car.

(f) *Export manifest cargo data*—(1) *Mandatory data.* The following export manifest cargo data is mandatory and may be transmitted by any party eligible to transmit as described in paragraph (c) of this section. If the information has been provided in the initial filing, it need not be transmitted again unless there are updates or changes:

(i) Shipper name and address (for empty rail cars, the shipper may be the railroad from whom the rail carrier received the empty rail car to transport);

(ii) Consignee name and address (for empty rail cars, the consignee may be the railroad to whom the rail carrier is transporting the empty rail car);

(iii) Port of Lading;

(iv) Port of Unlading;

(v) Bill of Lading type (Master, House, Simple or Sub);

(vi) Bill of Lading Numbers (Master, House, Simple or Sub);

(vii) AES Internal Transaction Number or In-bond Number (per shipment);

(viii) Cargo description;

(ix) Weight of cargo (may be expressed in either pounds or kilograms);

(x) Quantity of cargo and unit of measure; and

(xi) Employer Identification Number (EIN) or Importer Record Number or CBP assigned number.

(2) *Conditional data.* The following export manifest cargo data is conditional and must be transmitted if applicable:

(i) In-bond type;

(ii) Notify party name and address; and

(iii) Secondary notify party name and address.

(3) *Optional data.* The following export manifest cargo data is optional and may be transmitted by any party eligible to transmit as described in paragraph (c) of this section:

(i) Mexican Pedimento Number (only for shipments for export to Mexico);

(ii) Secondary notify party Standard Carrier Alpha Code (SCAC);

(iii) Country of ultimate destination; and

(iv) Number of house bills of lading.

(g) *Examination referrals*—(1) *Potential referrals.* There are two types of referrals that may be issued by CBP after a risk assessment of an outbound export manifest data transmission.

(i) *Referral for information.* A referral for information will be issued if a risk assessment of the cargo cannot be conducted due to non-descriptive, inaccurate, or insufficient data. This can be due to typographical errors, vague cargo descriptions, and/or unverifiable information; or

(ii) *Referral for screening.* A referral for screening will be issued if the potential risk of the cargo is deemed high enough to warrant enhanced screening.

(2) *Rail export referral resolution.* All outbound rail export data transmitters must respond to and take the necessary action to address all referrals, no later than prior to departure of the train. The appropriate protocols and time frame for taking the necessary action to address these referrals must be followed as directed by CBP. The parties responsible for taking the necessary action to address outbound rail export data referrals are as follows:

(i) *Referral for information.* The data transmitter is responsible for taking the necessary action to address a referral for information. The last party to file the outbound rail manifest data for which referral is sought is responsible for such action.

(ii) *Referral for screening.* If the outbound rail export manifest transmitter is the rail carrier, it may address a referral for screening directly. If the outbound rail export manifest transmitter is a party other than the outbound rail carrier, it may choose to address the referral for screening directly while informing the outbound carrier of the referral. If the outbound rail export manifest transmitter chooses not to address the referral for screening, it must notify the outbound rail carrier of the referral for screening. Upon such notification, the outbound rail carrier is responsible for taking the necessary action to address the referral.

(3) *Prohibition on transporting cargo with unresolved referrals.* The outbound rail carrier may not transport cargo destined for departure from the United States until all referrals issued pursuant to this section with respect to such cargo have been resolved.

(h) *Do-Not-Load (DNL)/Hold instructions.* (1) A Do-Not-Load (DNL) instruction will be issued to the outbound rail carrier and any other transmitter as soon as applicable if it is determined that the cargo or rail car may contain a potential threat to the train and its vicinity.

(2) A Hold instruction will be issued to the outbound rail carrier and any

other transmitter as soon as applicable, even after loading, if it is determined that further examination of the cargo or rail car is required.

(3) All outbound rail carriers and any other transmitter must respond and fully cooperate when a Do-Not-Load (DNL) or Hold instruction is issued. The party with physical possession of the cargo will be required to carry out the Do-Not-Load (DNL) or Hold protocols and the directions provided by law enforcement authorities. All outbound rail carriers and transmitters who receive a DNL or Hold instruction must contact CBP at the port of export.

(4) The outbound rail carrier may not transport cargo with a Do-Not-Load (DNL) or Hold instruction.

PART 192—EXPORT CONTROL

■ 11. The authority citation for part 192 continues to read as follows:

Authority: 19 U.S.C. 66, 1624, 1646c. Subpart A also issued under 19 U.S.C. 1627a, 1646a, 1646b; subpart B also issued under 13 U.S.C. 303; 19 U.S.C. 2071 note; 46 U.S.C. 91.

■ 12. Amend § 192.14 by revising paragraph (b)(1)(iv) to read as follows:

§ 192.14 Electronic information for outward cargo required in advance of departure.

* * * * *

(b) * * *

(1) * * *

(iv) For rail cargo, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must provide the EEI filing citation (the ITN), exclusion, and/or exemption legend to the exporting carrier no later than 2 hours prior to the arrival of the train at the border, except that EEI filing included in an initial data transmission of electronic export manifest (EEM) information must be filed in accordance with the provisions of § 123.93 of this chapter;

* * * * *

Markwayne Mullin,

Secretary of Homeland Security.

[FR Doc. 2026–17390 Filed 8–25–26; 8:45 am]

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FEDERAL REGISTER

Vol. 91 Wednesday,

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Part III

The President

Presidential Determination No. 2026–22 of August 21, 2026—Presidential Determination on Provision of Atomic Information to Finland and Sweden

Federal Register
Vol. 91, No. 164
Wednesday, August 26, 2026

Presidential Documents

Title 3—

The President

Presidential Determination No. 2026–22 of August 21, 2026

Presidential Determination on Provision of Atomic Information to Finland and Sweden

Memorandum for the Secretary of War

I approve, pursuant to sections 123 and 144 b. of the Atomic Energy Act of 1954, as amended, an agreement for cooperation authorizing the exchange of U.S. Restricted Data or Formerly Restricted Data within the context of the North Atlantic Treaty Organization (NATO) as between the United States and the following NATO members: the Republic of Finland (Finland) and the Kingdom of Sweden (Sweden) (hereinafter the ''New Parties''). The subject agreement is the Agreement between the Parties to the North Atlantic Treaty for Co-operation Regarding Atomic Information, with annexes (hereinafter referred to as the ''ATOMAL Agreement''), which entered into force on March 12, 1965, with respect to the United States and the other members of NATO at that time. I note your recommendation and concur in your assessment that Finland and Sweden, by participating with the United States pursuant to international arrangements, are making substantial and material contributions to the mutual defense and security. Cooperation pursuant to the ATOMAL Agreement will further improve our mutual defense posture and support our interests under the North Atlantic Treaty and with NATO.

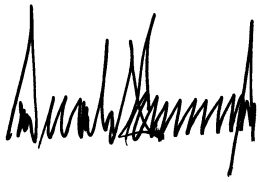
Having considered your recommendations and the cooperation provided for in the ATOMAL Agreement with respect to the New Parties, in accordance with sections 123 and 144 b. of the Atomic Energy Act of 1954, as amended, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby:

a. determine that the performance of the ATOMAL Agreement, including the proposed cooperation and the proposed communication of Restricted Data and Formerly Restricted Data thereunder with respect to the New Parties, will promote, and will not constitute an unreasonable risk to, the common defense and security;

b. approve United States implementation of the ATOMAL Agreement with respect to the New Parties; and

c. authorize the Department of War to cooperate with the New Parties to the ATOMAL Agreement in the context of NATO upon satisfaction of the requirements of section 123 of the Atomic Energy Act of 1954, as amended.

You are authorized and directed to publish this determination in the *Federal Register*.



THE WHITE HOUSE,
Washington, August 21, 2026

[FR Doc. 2026–17477
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