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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–3986; Project Identifier MCAI–2025–00224–R; Amendment 39–23448; AD 2026–17–05]

RIN 2120–AA64

Airworthiness Directives; Various Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Helicopters Model H160–B, EC225LP, AS 365 N3, and AS332L2 helicopters; all Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, EC135T3, and EC635T2+ helicopters; all Airbus Helicopters Deutschland GmbH Model MBB–BK 117 C–2, MBB–BK 117 D–2, and MBB–BK 117 D–3 helicopters; and all Leonardo S.p.A. Model AB139, AW109SP, AW139, AW169, and AW189 helicopters. This AD was prompted by reports that certain rescue hoist assemblies may have been equipped with a non-conformant overload clutch assembly. This AD requires replacing each affected rescue hoist assembly with a serviceable rescue hoist assembly. This AD also prohibits installing an affected rescue hoist assembly unless certain requirements are met. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 2, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 2, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2025–3986; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2025–3986.

FOR FURTHER INFORMATION CONTACT: Adam Hein, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946–4116; email: *adam.hein@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Helicopters Model H160–B, EC225LP, AS 365 N3, and AS332L2 helicopters; all Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, EC135T3, and EC635T2+ helicopters; all Airbus Helicopters Deutschland GmbH Model MBB–BK 117 C–2, MBB–BK 117 D–2, and MBB–BK 117 D–3 helicopters; and all Leonardo S.p.A. Model AB139, AW109SP, AW139, AW169, and AW189 helicopters. The NPRM was published in the **Federal Register** on November 19, 2025 (90 FR 52008). The NPRM was prompted by EASA AD 2025–0051R1, dated May 7, 2025 (EASA AD 2025–0051R1) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states the manufacturer of the affected rescue hoists reported that certain rescue hoist assemblies may have been equipped, during manufacturing or maintenance, with a non-conformant overload clutch assembly. This condition, if not corrected, could lead to failure of the rescue hoist assembly, which could result in injury to a person being lifted or to persons on the ground.

In the NPRM, the FAA proposed to require replacing each affected rescue hoist assembly with a serviceable rescue hoist assembly and prohibiting installation of an affected rescue hoist assembly unless certain requirements are met.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2025–3986.

Discussion of Final Airworthiness Directive

Comments

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

Request To Justify Forgoing Notice and Comment or Issue an NPRM

The Citizens Rulemaking Alliance asserted the FAA has not adequately justified use of the good cause exception to bypass notice and comment along with the 30-day delayed effective date and must, at a minimum, provide an explanation why a brief comment period was impracticable. The commenter requested that the FAA place in the docket the accident/incident data, risk models, engineering analyses, and any flight-hour exposure calculations used to justify good cause and the shortened effective date. If those data do not demonstrate justification for finding good cause to bypass notice and comment procedures, the commenter requested that the FAA either convert this action to an NPRM allowing comment on non-emergency portions, or limit immediate effectiveness to the subset of configurations and operating environments showing elevated risk.

The FAA notes that the comment was submitted in response to an NPRM for which the FAA provided a 45-day comment period. This final rule is

effective 35 days after its publication in the **Federal Register**. Therefore, the FAA did not change this AD as a result of this comment.

Request To Comply With the Paperwork Reduction Act (PRA)

The Citizens Rulemaking Alliance requested that the FAA clarify whether the proposed AD requires reporting. If reporting is required, the commenter requested that the FAA revise the proposed AD to comply with the PRA or suspend the reporting requirement until PRA requirements are satisfied.

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

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

The Citizens Rulemaking Alliance stated that the FAA's current practices for IBR of service information fail to meet the legal and regulatory standards for reasonable availability. The commenter called on the FAA to provide all IBR materials freely and electronically to the public. Alternatively, the commenter requested that complete copies of all IBR materials be placed in the rulemaking docket and that physical locations where those copies may be inspected be identified. Further, the commenter requested that the FAA confirm that the Director of the Federal Register's approval of materials incorporated by reference was predicated on actual reasonable availability in practice.

The FAA's practices comply with 5 U.S.C. 552(a) of the Administrative Procedure Act and 1 CFR part 51. The FAA also provides summaries and access details in the preamble and regulatory text, makes materials available for inspection at FAA and National Archives and Records Administration (NARA) offices, offers publisher contact information, and obtains formal IBR approval from the Office of the Federal Register. These efforts are intended to ensure that all IBR materials meet the ''reasonably available'' standard required by 1 CFR part 51.

The FAA notes that this AD incorporates by reference EASA AD 2025–0051R1, not the manufacturer service information referenced in that EASA AD. The FAA posted EASA AD 2025–0051R1 to the AD docket when the NPRM was published in the **Federal Register**. The material referenced in EASA AD 2025–0051R1 may only be posted before the final rule's publication if it is already publicly available or if there is written consent from the owner of that material. Additionally, the FAA provided notice in the NPRM that the material referenced in EASA AD 2025–0051R1 will be available in the AD docket after this AD is published. The FAA did not change this AD as a result of this comment.

Request To Consider Impact on Small Entities

The Citizens Rulemaking Alliance requested that the FAA prepare an initial regulatory flexibility analysis that takes into account parts, labor, aircraft downtime, and specific small entity impacts. Additionally, the commenter requested that the FAA adopt less burdensome alternatives for small operators, such as conditional AMOC alternatives, phased compliance, and flexible compliance intervals. Further, the commenter requested that the FAA add an explicit statement whether the Unfunded Mandates Reform Act (UMRA) applies to the proposed AD.

The FAA has considered the AD's impact on small entities and provides the following factual basis for its Regulatory Flexibility Act (RFA) certification.

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

Small Entities to Which This AD Applies

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

SBA has established size standards for various types of economic activities, or industries, under the North American Industry Classification System (NAICS). These size standards generally define small businesses based on the number of employees or annual receipts. The SBA definition of a small business applies to the parent company and all affiliates as a single entity. The following table provides the SBA size standards for all industries with at least one impacted entity. Note that the FAA does not have entity data on 3 of the 858 affected helicopters, and those helicopters with missing entity data are excluded from this analysis.

SMALL BUSINESS SIZE STANDARDS

NAICS code	Description	Size standard
211120	Crude Petroleum Extraction	1,250 employees.
237110	Water and Sewer Line and Related Structures Construction/Well Drilling	$45,000,000 in annual revenue.
325412	Pharmaceutical Preparation Manufacturing	1,300 employees.
336411	Aircraft Manufacturing	1,500 employees.
423860	Transportation Equipment Wholesalers	175 employees.
454110	Electronic Shopping and Mail-Order Houses	$47,000,000 in annual revenue.
481211	Nonscheduled Chartered Helicopter & Air Transportation	1,500 employees.
488190	Other Support Activities for Air Transportation	$40,000,000 in annual revenue.

SMALL BUSINESS SIZE STANDARDS—Continued

NAICS code	Description	Size standard
522220	Sales Financing	$47,000,000 in annual revenue.
524113	Direct Life Insurance Carriers	1,500 employees.
524126	Direct Property and Casualty Insurance Carriers	1,500 employees.
531120	Lessors of Nonresidential Buildings	$34,000,000 in annual revenue.
532411	Commercial Air Transportation Equipment Rental and Leasing	$45,500,000 in annual revenue.
541330	Engineering Services	$25,500,000 in annual revenue.
541614	Process, Physical Distribution, and Logistics Consulting Services	$24,500,000 in annual revenue.
551111	Offices of Bank Holding Companies/Investment Offices	$40,000,000 in annual revenue.
551114	Corporate Managing Offices	$34,000,000 in annual revenue.
561730	Landscaping Services/Utility Right-of-Way Clearing	$9,500,000 in annual revenue.
611512	Flight Training	$34,000,000 in annual revenue.
621910	Ambulance & Medical Air Transport Services	$22,500,000 in annual revenue.
624120	Services for the Elderly and Persons with Disabilities	$14,000,000 in annual revenue.
921150	American Indian and Alaska Native Tribal Governments	No size standard.
922120	Police Protection	No size standard.
922160	Fire Protection	No size standard.
927110	Space Research and Technology	No size standard.
928110	National Security	No size standard.

To identify small entities, the FAA first identified the primary NAICS of the entity or parent company, and then used data from different sources (*e.g.,* company annual reports, Bureau of Transportation Statistics) to determine whether the entity meets the applicable size standard. The FAA provides the estimated number of small entities affected by this AD:

ESTIMATED NUMBER OF SMALL ENTITIES

Category	Number of entities	Number of affected aircraft	Number of small entities	Percent small entities
Crude Petroleum Extraction	1	11	0	0
Water and Sewer Line and Related Structures Construction/Well Drilling	1	1	1	100
Pharmaceutical Preparation Manufacturing	3	5	0	0
Aircraft Manufacturing	4	6	3	75
Transportation Equipment Wholesalers	1	1	1	100
Electronic Shopping and Mail-Order Houses	1	2	0	0
Nonscheduled Chartered Helicopter & Air Transportation	97	345	21	22
Other Support Activities for Air Transportation	3	9	3	100
Sales Financing	3	3	0	0
Direct Life Insurance Carriers	1	1	0	0
Direct Property and Casualty Insurance Carriers	1	1	0	0
Lessors of Nonresidential Buildings	1	1	0	0
Commercial Air Transportation Equipment Rental and Leasing	2	2	1	50
Engineering Services	1	1	1	100
Process, Physical Distribution, and Logistics Consulting Services	1	1	1	100
Offices of Bank Holding Companies/Investment Offices	1	1	0	0
Corporate Managing Offices	4	6	1	25
Landscaping Services/Utility Right-of-Way Clearing	1	1	1	100
Flight Training	1	1	1	100
Ambulance & Medical Air Transport Services	34	376	2	6
Services for the Elderly and Persons with Disabilities	1	1	1	100
American Indian and Alaska Native Tribal Governments	1	4	0	0
Police Protection	12	35	0	0
Fire Protection	2	9	0	0
Space Research and Technology	1	3	0	0
National Security	2	28	0	0

Projected Reporting, Recordkeeping, and Other Compliance Requirements

The FAA estimates the affected entities will incur a compliance cost of $46,913 per helicopter. According to the manufacturer, however, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators. The following table displays the estimated compliance costs per small entity.

COST OF COMPLIANCE PER SMALL ENTITY

Affected entity	Revenue	Number of affected aircraft	Estimated AD cost	Cost as a percent of revenue
Aero Asset USA Inc	$860,000	1	$46,913	5.46
Agustawestland Philadelphia Corp	50,000,000	1	46,913	0.09
Air Center Helicopters	10,250,000	23	1,078,999	10.53
Airbus Helicopters Inc	101,730,000	1	46,913	0.05
Altair Helicopter Service LLC	16,740,000	1	46,913	0.28
Analar Corp	301,610	2	93,826	31.11
Arrow Aviation Co. LLC	22,400,000	4	187,652	0.84
Blueberry Aviation	65,300,000	1	46,913	0.07
Brim Aviation	110,210	1	46,913	42.57
Brunner Aerospace LLC	700,000	1	46,913	6.70
Careflight (Ohio)	13,000,000	2	93,826	0.72
Classic Helicopter Service	194,940	2	93,826	48.13
Coldstream Helicopters	1,880,000	1	46,913	2.50
Eurotec Vertical Flight Solutions LLC	4,960,000	4	187,652	3.78
Flo Sun Aircraft Inc	143,710	1	46,913	32.64
Guardian Helicopters Inc. (Alberta)	2,810,000	1	46,913	1.67
Guardian Helicopters Inc. (CA)	3,600,000	1	46,913	1.30
Heli-1 Corporation	12,510,000	2	93,826	0.75
HeliService USA	5,360,000	6	281,478	5.25
Helistream Inc	3,480,000	2	93,826	2.70
Hillsboro Aviation Inc	15,290,000	1	46,913	0.31
Leonardo (AgustaWestland) Philadelphia Corp	50,000,000	3	140,739	0.28
Lobo Leasing	6,400,000	1	46,913	0.73
Logistics Business Services LLC	10,000,000	1	46,913	0.47
Maritime Helicopters	4,530,000	1	46,913	1.04
McDermott Aviation Pty Ltd	40,430,000	4	187,652	0.46
Metro Aviation Inc (Louisiana)	102,000,000	98	4,597,474	4.51
Milwaukee Regional Medical Center Inc	14,000,000	1	46,913	0.34
Mountain G Enterprises Inc	5,700,000	1	46,913	0.82
National Test Pilot School	23,500,000	1	46,913	0.20
PHI Aviation	760,000,000	20	938,260	0.12
Precision Helicopter Inc. (Oregon)	5,000,000	4	187,652	3.75
Rotortrade	1,720,000	1	46,913	2.73
Seven Bar Flying Services Inc	5,430,000	2	93,826	1.73
Soloy Helicopters LLC	4,800,000	1	46,913	0.98
Sweet Helicopters	600,000	4	187,652	31.28
Y Recreation & Therapy LLC	267,400	1	46,913	17.54
Youngquist Brothers	35,000,000	1	46,913	0.13

Significant Alternatives Considered

FAA evaluated the alternative of not promulgating this AD but ultimately deemed that this alternative would create a significant safety hazard. This AD was prompted by reports that certain rescue hoist assemblies may have been equipped with, during manufacturing or maintenance, a non-conformant overload clutch assembly. This AD requires replacing each affected rescue hoist assembly with a serviceable rescue hoist assembly. This AD also prohibits installing an affected rescue hoist assembly unless certain requirements are met. The FAA is issuing this AD to address the unsafe condition on these products.

Request To Provide the Regulatory Evaluation

The Citizens Rulemaking Alliance requested that the FAA add to the AD docket a revised cost analysis of the proposed AD that includes downtime, mission disruption, and reasonable scheduling/operational impacts and organize the analysis by type certificate holder or mission profile, as appropriate.

The FAA's practice is to add the regulatory evaluation of the proposed AD in the NPRM, not as a separate document in the AD docket.

In the Costs of Compliance section of the NPRM, the FAA disclosed the estimated number of work hours, the number of helicopters affected on the U.S. registry, estimated parts cost, and the aggregate costs for the U.S. fleet. The FAA has further clarified those costs in this final rule. The FAA recognizes that operators might incur additional costs, such as helicopter downtime. However, the FAA cannot quantify these costs. Since the FAA provided the total known costs in the NPRM, as further clarified by this final rule, and the commenter did not provide additional information for the FAA to consider in its analysis, it is not necessary to provide additional information in the AD docket.

Conclusion

These products have been approved by the civil aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025–0051R1. This material identifies the affected rescue hoist assemblies and specifies procedures for replacing the affected rescue hoist assembly with a

serviceable rescue hoist assembly. EASA AD 2025–0051R1 also prohibits installing an affected rescue hoist assembly unless certain requirements are met. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Differences Between This AD and the MCAI

The MCAI applies to Airbus Helicopters Model EC 175 B helicopters, Airbus Helicopters Deutschland GmbH Model EC635 P2+, EC635 P3, EC635 T1, and EC635 T3 helicopters, and Airbus Helicopters Deutschland GmbH Model MBB–BK 117 D–3m helicopters, whereas this AD does not because those models do not have an FAA type certificate.

Costs of Compliance

The FAA estimates that this AD affects 858 helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost [1]	Parts cost	Cost per product	Cost on U.S. operators
Replace rescue hoist assembly.	4 work-hours × $85 per hour = $340.	$46,573	$46,913	$40,251,354

[1] The FAA estimated operators will incur $85 in costs per work hour, which is the weighted average fiscal year (FY) 2026 fully loaded wage of an aircraft mechanic ($69.85) working 60 percent of the work hours and a general and operations manager ($108.15) working 40 percent of the work hours. The FAA estimated these wages by taking the average of the FY 2024 Bureau of Labor Statistics (BLS) air transportation industry average wage for aircraft mechanics and general and operations managers (See: Occupational Employment and Wage Statistics Query System, BLS (May 2024), *data.bls.gov/oes/*); multiplying each wage by a fringe benefit factor of 1.42 (See: Employer Cost for Employee Compensation—December 2024, BLS (2024), *bls.gov/news.release/archives/ecec_03142025.pdf*); and adjusting these 2024 wages to 2026 dollars using an implicit Gross Domestic Product (GDP) Price Deflator of 2.8% (See: Gross Domestic Product: Implicit Price Deflator, FRED (2026) *fred.stlouisfed.org/series/GDPDEF*).

The FAA has included all known costs in its cost estimate. The FAA recognizes that operators might incur additional costs, such as helicopter downtime. However, the FAA cannot quantify these costs. According to the manufacturer, however, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–17–05 Various Helicopters: Amendment 39–23448; Docket No. FAA–2025–3986; Project Identifier MCAI–2025–00224–R.

(a) Effective Date

This airworthiness directive (AD) is effective October 2, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all helicopters identified in paragraphs (c)(1) through (4) of this AD, certificated in any category.

(1) Airbus Helicopters Model H160–B, EC225LP, AS 365 N3, and AS332L2 helicopters.

(2) Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, EC135T3, and EC635T2+ helicopters.

(3) Airbus Helicopters Deutschland GmbH Model MBB–BK 117 C–2, MBB–BK 117 D–2, and MBB–BK 117 D–3 helicopters.

Note 1 to paragraph (c)(3): Helicopters with a Model MBB–BK 117 C–2e designation are Model MBB–BK 117 C–2 helicopters.

(4) Leonardo S.p.A. Model AB139, AW109SP, AW139, AW169, and AW189 helicopters.

(d) Subject

Joint Aircraft System Component (JASC) Code 2500, Cabin Equipment/Furnishings.

(e) Unsafe Condition

This AD was prompted by reports that certain rescue hoist assemblies may have been equipped, during manufacturing or maintenance, with a non-conformant overload clutch assembly. The FAA is issuing this AD to prevent failure of the rescue hoist assembly. The unsafe condition, if not addressed, could lead to failure of the rescue hoist assembly, which could result in injury to a person being lifted or to persons on the ground.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency AD 2025–0051R1, dated May 7, 2025 (EASA AD 2025–0051R1).

(h) Exceptions to EASA AD 2025–0051R1

(1) Where EASA AD 2025–0051R1 refers to March 14, 2025 (the effective date of EASA AD 2025–0051, dated February 28, 2025), this AD requires using the effective date of this AD.

(2) Where the definition of affected part in EASA AD 2025–0051R1 refers to ''the ASB'', for this AD, replace that text with ''the applicable original issue of the alert service bulletins listed in Ref. Publications''.

(3) This AD does not adopt the ''Remarks'' section of EASA AD 2025–0051R1.

(i) No Reporting or Returning of Parts

Although the material referenced in EASA AD 2025–0051R1 specifies submitting certain information and returning parts to the manufacturer for rework, this AD does not require those actions.

(j) Special Flight Permits

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished provided that the rescue hoist is not used.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Additional Information

For more information about this AD, contact Adam Hein, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946–4116; email: *adam.hein@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0051R1, dated May 7, 2025.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *easa.europa.eu.* You may find the EASA material on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on August 14, 2026.

Paul R. Bernado,

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

[FR Doc. 2026–17583 Filed 8–27–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–0018; Project Identifier MCAI–2025–01384–A; Amendment 39–23424; AD 2026–15–12]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Pilatus Aircraft Ltd. (Pilatus) Model PC–12/47E airplanes. This AD was prompted by a report that the emergency exit door could not be opened from inside an airplane. This AD requires modification of the passenger service unit (PSU) trim panel if dual lock fastener tapes are not installed. This AD also prohibits the installation of affected parts. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 2, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 2, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–0018; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1100 Main, Kansas City, MO 64105. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2026–0018.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (816) 329–4059; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Pilatus Model PC–12 airplanes. The NPRM was published in the **Federal Register** on January 21, 2026 (91 FR 2512). The NPRM was prompted by EASA AD 2025–0182, dated August 25, 2025 (EASA AD 2025–0182) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition on certain Pilatus Model PC–12/47E airplanes. The MCAI states there was a report that the emergency exit door could not be opened from inside an airplane. Further investigation revealed that incorrect installation of the PSU trim panel, which is installed above the emergency exit door, could block the opening of the emergency exit if the PSU trim panel is positioned too far inboard.

In the NPRM, the FAA proposed to require a visual inspection of the PSU trim panel for dual lock fastener tapes and modification if dual lock fastener

tapes are not installed. The NPRM also proposed to prohibit the installation of affected parts. The FAA is issuing this AD to address the unsafe condition on these products.

The FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Pilatus Model PC–12/47E airplanes. The SNPRM was published in the **Federal Register** on May 15, 2026 (91 FR 27878). The SNPRM was prompted by the FAA's determination that the applicability of the NPRM referenced the incorrect airplane model. In the SNPRM, the FAA proposed to revise the NPRM to correct the affected airplane from Model PC–12 to Model PC–12/47E. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–0018.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from the Air Line Pilots Association, International. The commenter supported the SNPRM without change.

Changes to Final Rule Since Issuance of the SNPRM

Since issuance of the SNPRM, the FAA has determined that the inspection proposed in the SNPRM is not necessary and the reference to the instructions in the definition of ''Affected part'' in EASA AD 2025–0182 is adequate. This change also affects the Costs of Compliance section.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025–0182, which specifies procedures for modifying the PSU trim panel if dual lock fastener tapes are not installed. EASA AD 2025–0182 also prohibits the installation of an affected part. EASA AD 2025–0182 also refers to instructions to determine whether dual lock fastener tapes are installed on a PSU trim panel. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 276 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modify PSU trim panel	2 work-hours × $85 per hour = $170	$100	$270	$74,520

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–15–12 Pilatus Aircraft Ltd.: Amendment 39–23424; Docket No. FAA–2026–0018; Project Identifier MCAI–2025–01384–A.

(a) Effective Date

This airworthiness directive (AD) is effective October 2, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pilatus Aircraft Ltd. Model PC–12/47E airplanes, manufacturer serial numbers 2001 through 2999, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2500, Cabin Equipment/Furnishings.

(e) Unsafe Condition

This AD was prompted by a report that the emergency exit door could not be opened from inside an airplane. The FAA is issuing this AD to prevent the passenger service unit (PSU) trim panel from blocking the opening of the emergency exit. The unsafe condition, if not addressed, could prevent the opening of the emergency door, which could result in injury to occupants during an emergency evacuation.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency AD 2025–0182, dated August 25, 2025 (EASA AD 2025–0182).

(h) Exceptions to EASA AD 2025–0182

(1) Where EASA AD 2025–0182 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the ''Remarks'' section of EASA AD 2025–0182.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0182 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office/certificate holding district office.

(k) Additional Information

For more information about this AD, contact Doug Rudolph, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (816) 329–4059; email: *doug.rudolph@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0182, dated August 25, 2025.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on August 26, 2026.

Christopher R. Parker,

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

[FR Doc. 2026–17639 Filed 8–27–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–8788; Project Identifier MCAI–2026–00842–R; Amendment 39–23453; AD 2026–17–51]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Canada Limited Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bell Textron Canada Limited Model 222 helicopters. The FAA previously sent this AD as an emergency AD to all known U.S. owners and operators of these helicopters. This AD was prompted by a report of in-flight fatigue failure of a tail rotor pitch horn. This AD requires removing the affected tail rotor pitch horn and associated tail rotor pitch links from service and installing a serviceable tail rotor pitch horn and associated tail rotor pitch links. This AD also prohibits installing an affected tail rotor pitch horn on any helicopter. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 14, 2026. Emergency AD 2026–17–51, issued on August 11, 2026, which contains the requirements of this amendment, was effective with actual notice.

The Director of the Federal Register approved the incorporation by reference of a certain publication identified in this AD as of September 14, 2026.

The FAA must receive comments on this AD by October 13, 2026.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–8788; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario, K1A 0N5, Canada; phone: (888) 663–3639; email: *tc.airworthinessdirectives-consignesdenavigabilite.tc@tc.gc.ca;* website: *tc.canada.ca/en/aviation.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2026–8788.

FOR FURTHER INFORMATION CONTACT: David Wilson, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–5786; email: *david.wilson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under **ADDRESSES**. Include ''Docket No. FAA–2026–8788; Project Identifier MCAI–2026–00842–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to David Wilson, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued Emergency AD 2026–17–51, dated August 11, 2026 (Emergency AD 2026–17–51) (also referred to as the emergency AD), to address an unsafe condition on certain Bell Textron Canada Limited Model 222 helicopters. The FAA sent the emergency AD to all known U.S. owners and operators of these helicopters. The emergency AD requires removing tail rotor pitch horn part number (P/N) 222–012–774–109 and associated tail rotor pitch links from service and installing tail rotor pitch horn P/N 222–012–705–105 or P/N 222–012–705–107 and associated tail rotor pitch links as its replacement. The emergency AD also prohibits installing tail rotor pitch horn P/N 222–012–774–109 on any helicopter.

Emergency AD 2026–17–51 was prompted by Transport Canada Emergency AD CF–2026–39, dated August 10, 2026 (Transport Canada Emergency AD CF–2026–39) (also referred to as the MCAI), issued by Transport Canada, which is the aviation authority for Canada, to correct an unsafe condition on certain Bell Textron Canada Limited Model 222 helicopters. The MCAI states a report was received of in-flight fatigue failure of a tail rotor pitch horn due to higher stresses induced at certain critical locations on the pitch horn tangs leading to premature fatigue cracking.

The FAA is issuing this AD to address undetected cracks, remove affected tail rotor pitch horns and associated tail rotor pitch links from service, and prohibit installation of the affected tail rotor pitch horns on any helicopter. The unsafe condition, if not addressed, could lead to failure of the tail rotor pitch horn and secondary tail rotor hub components, which could result in loss of control of the helicopter.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–8788.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Transport Canada Emergency AD CF–2026–39, which specifies procedures for removing tail rotor pitch horn P/N 222–012–774–109 and associated tail rotor pitch links from service and installing tail rotor pitch horn P/N 222–012–705–105 or P/N 222–012–705–107 and associated tail rotor pitch links as its replacement. Transport Canada Emergency AD CF–2026–39 also prohibits installing tail rotor pitch horn P/N 222–012–774–109 on any helicopter.

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

FAA's Determination

These products have been approved by the civil aviation authority (CAA) of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

AD Requirements

This AD requires accomplishing the actions specified in Transport Canada Emergency AD CF–2026–39, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some CAA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, Transport Canada Emergency AD CF–2026–39 is incorporated by reference in this AD. This AD requires compliance with Transport Canada Emergency AD CF–2026–39 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Material required by Transport Canada Emergency AD CF–2026–39 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–8788 after this AD is published.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that required the immediate adoption of Emergency AD 2026–17–51, issued on August 11, 2026, to all known U.S. owners and operators of these helicopters. The FAA found that the risk to the flying public justified forgoing notice and comment prior to adoption of this rule because the tail rotor pitch horn is a critical flight control

component. The FAA has received a report of in-flight fatigue failure of a tail rotor pitch horn due to premature fatigue cracking which resulted in an accident. The FAA has no information pertaining to the extent of cracking on tail rotor pitch horns, which if not addressed, could lead to failure of the tail rotor pitch horn and secondary tail rotor hub components, which could result in loss of control of the helicopter. In addition, the affected parts must be removed from the helicopter before further flight. This compliance time is shorter than the time necessary for the public to comment and for the publication of the final rule. These conditions still exist, therefore, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

Regulatory Flexibility Act

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

Interim Action

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

Costs of Compliance

The FAA estimates that this AD affects 15 helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Verify tail rotor pitch horn part number	1 work-hours × $85 per hour = $85	$0	$85	$1,275

The FAA estimates the following costs to do any necessary replacements that would be required based on the results of the part number verification. The agency has no way of determining the number of helicopters that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Remove affected tail rotor pitch horn and associated tail rotor pitch links and install serviceable tail rotor pitch horn and associated tail rotor pitch links.	2 work-hours × $85 per hour = $170	$13,730	$13,900

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–17–51 Bell Textron Canada Limited: Amendment 39–23453; Docket No. FAA–2026–8788; Project Identifier MCAI–2026–00842–R.

(a) Effective Date

The FAA issued Emergency Airworthiness Directive (AD) 2026–17–51 on August 11, 2026 (also referred to as the emergency AD), directly to affected owners and operators. As a result of such actual notice, that emergency AD was effective for those owners and operators on the date it was received. This AD contains the same requirements as the emergency AD and, for those who did not receive actual notice, is effective on September 14, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bell Textron Canada Limited Model 222 helicopters, certificated in any category, as identified in Transport Canada Emergency AD CF–2026–39, dated

August 10, 2026 (Transport Canada Emergency AD CF–2026–39).

(d) Subject

Joint Aircraft System Component (JASC) Code 6400, Tail rotor system.

(e) Unsafe Condition

This AD was prompted by a report of in-flight fatigue failure of a tail rotor pitch horn. The FAA is issuing this AD to address undetected cracks, remove affected tail rotor pitch horns and associated tail rotor pitch links from service, and prohibit installation of the affected tail rotor pitch horns. The unsafe condition, if not addressed, could lead to failure of the tail rotor pitch horns and secondary tail rotor hub components, which could result in loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada Emergency AD CF–2026–39.

(h) Exceptions to Transport Canada Emergency AD CF–2026–39

(1) Where Transport Canada Emergency AD CF–2026–39 specifies ''before next flight after the effective date of this AD'', this AD requires replacing that text with ''before further flight after the effective date of this AD''.

(2) Where the material referenced in Transport Canada Emergency AD CF–2026–39 specifies discarding parts, this AD requires removing those parts from service.

(3) Where the material referenced in Transport Canada Emergency AD CF–2026–39 specifies to make an entry in the helicopter logbook and historical service records indicating compliance with the referenced service material, this AD does not require those actions because those actions are already required in accordance with 14 CFR 43.9(a) and 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, or 135.439.

(i) No Reporting Requirement

Although the material referenced in Transport Canada Emergency AD CF–2026–39 specifies to submit certain information to the manufacturer, this AD does not require that action.

(j) Special Flight Permits

Special flight permits, as described in 14 CFR 21.197 and 21.199, are not allowed.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Additional Information

For more information about this AD, contact David Wilson, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–5786; email: *david.wilson@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) Transport Canada Emergency AD CF–2026–39, dated August 10, 2026.

(ii) [Reserved]

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

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

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

Issued on August 20, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–17615 Filed 8–26–26; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–4647; Project Identifier MCAI–2025–01212–R; Amendment 39–23450; AD 2026–17–07]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Leonardo S.p.A. Model A109A, A109A II, A109C, A109K2, A109E, A119, and AW119 MKII helicopters; and certain Model A109S and AW109SP helicopters. This AD was prompted by a report of an incorrectly installed swashplate duplex bearing (bearing). This AD requires a one-time inspection of the bearing and depending on the result, corrective action. This AD also prohibits the installation of an affected bearing unless certain requirements are met. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 2, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 2, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–4647; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu*; website: *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2026–4647.

FOR FURTHER INFORMATION CONTACT: Evan Weaver, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 518–9297; email: *evan.weaver@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Leonardo S.p.A. Model A109A, A109A II, A109C, A109K2, A109E, A119, and AW119 MKII helicopters, and certain A109S and AW109SP helicopters. The NPRM was published in the **Federal Register** on May 28, 2026 (91 FR 31675). The NPRM was prompted by an MCAI, issued by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued EASA AD 2025–0148, dated July 11, 2025 (EASA AD 2025–0148) (also referred to as the MCAI). The MCAI states that there was a report of improper installation of bearing part number 109–0110–35–3. The MCAI further states that relevant investigation determined that the affected bearing was improperly installed during production.

In the NPRM, the FAA proposed to require a one-time inspection of the bearing and depending on the result, corrective action. In the NPRM, the FAA also proposed to prohibit the installation of an affected bearing unless certain requirements are met. The unsafe condition, if not addressed, could result in failure of the bearing and loss of control of the helicopter. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–4647.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025–0148, which specifies procedures for a one-time visual inspection for proper installation of the bearing. EASA AD 2025–0148 also prohibits installation of the bearing on any helicopter unless the part is new (never previously installed) or has passed an inspection using certain material. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Differences Between This AD and the MCAI

Where the MCAI specifies to contact Leonardo for corrective actions, this AD requires repairing an affected part in accordance with a method approved by the FAA, or EASA, or Leonardo S.p.A. EASA Design Organization Approval.

The MCAI applies to Leonardo S.p.A. Model A109LUH helicopters, whereas this AD does not because that model does not have an FAA type certificate.

Costs of Compliance

The FAA estimates that this AD affects 227 helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Visual Inspection of swashplate duplex bearing	4 work-hours × $85 per hour = $340	$0	$340	$77,180

The extent of repairs that may be needed could vary significantly from helicopter to helicopter. The FAA has no way of determining the cost to correct or repair each helicopter or the number of helicopters that may require repair.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–17–07 Leonardo S.p.A.: Amendment 39–23450; Docket No. FAA–2026–4647; Project Identifier MCAI–2025–01212–R.

(a) Effective Date

This airworthiness directive (AD) is effective October 2, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Leonardo S.p.A. Model A109A, A109A II, A109C, A109K2, A109E, A109S, A119, AW109SP and AW119 MKII helicopters, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0148, dated July 11, 2025 (EASA AD 2025–0148).

(d) Subject

Joint Aircraft System Component (JASC) Code 6230, Main rotor mast/swashplate.

(e) Unsafe Condition

This AD was prompted by a report of an incorrectly installed swashplate duplex bearing (bearing). The FAA is issuing this AD to detect and correct improper installation of the bearing. The unsafe condition, if not addressed, could result in failure of the bearing and loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0148.

(h) Exceptions to EASA AD 2025–0148

(1) Where EASA AD 2025–0148 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2025–0148 refers to flight hours (FH), this AD requires using hours time-in-service (TIS).

(3) Where paragraph (3) of EASA AD 2025–0148 and the material referenced in EASA AD 2025–0148 specify contacting Leonardo for applicable repair instructions, this AD requires, before further flight, contacting the Manager, International Validation Branch, FAA; or EASA; or Leonardo S.p.A. EASA Design Organization Approval (DOA) for repair instructions and accomplishing those instructions. If approved by the DOA, the approval must include the DOA-authorized signature.

(4) This AD does not adopt the ''Remarks'' section of EASA AD 2025–0148.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0148 specifies to submit certain information to the manufacturer, this AD does not require that action.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Additional Information

For more information about this AD, contact Evan Weaver, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 518–9297; email: *evan.weaver@faa.gov*.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0148, dated July 11, 2025.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu*; website: *easa.europa.eu*. You may find the EASA material on the EASA website at *ad.easa.europa.eu*.

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

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

Issued on August 17, 2026.

Paul R. Bernado,

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

[FR Doc. 2026–17581 Filed 8–27–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–8789; Project Identifier AD–2026–00678–E; Amendment 39–23454; AD 2026–17–10]

RIN 2120–AA64

Airworthiness Directives; Lycoming Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Lycoming Engines (Lycoming) Model O–235, O–540, and IO–540 engines with a certain piston pin installed. This AD was prompted by several reports of piston pin failure that resulted in metal particulate contamination in the engine oil and engine failure. This AD requires replacement of the affected piston pin with a part eligible for installation and, for certain engines, oil change and visual inspection of the engine oil filter, oil pressure screen, and oil suction screen for metal particulates. This AD also prohibits the installation of an affected piston pin on any engine. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 14, 2026.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 14, 2026.

The FAA must receive comments on this AD by October 13, 2026.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–8789; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket

contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Lycoming material identified in this AD, contact Lycoming Engines, 652 Oliver Street, Williamsport, PA 17701; phone: (800) 258–3279; website: *lycoming.com/contact/knowledge-base/publications.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2026–8789.

FOR FURTHER INFORMATION CONTACT: Ramanpreet Singh, Aviation Safety Engineer, FAA, 1701 Columbia Avenue, College Park, GA 30337; phone: (516) 228–7300; email: *ramanpreet.singh@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–8789; Project Identifier AD–2026–00678–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Ramanpreet Singh, Aviation Safety Engineer, FAA, 1701 Columbia Avenue, College Park, GA 30337. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA received reports from Lycoming of metal particulates found in the engine oil during oil change and two non-detectable engine failures on Lycoming Model O–235, O–540, and IO–540 engines. A manufacturer investigation revealed that certain thin-wall piston pins were manufactured with microcracks and inclusions in the base metal due to honing and tooling process changes from the piston pin supplier, making the pins more susceptible to failure. Piston pin failure can cause metal debris to circulate throughout the engine, which can damage bearings and other cylinders and can block oil passages and lead to oil starvation. As a result, Lycoming Engines published updated service material with a list of affected engines and instructions for replacement of the affected piston pins and inspection of the oil for metal particulates. The FAA is issuing this AD to prevent failure of the piston pins. This condition, if not addressed, could result in engine failure, loss of thrust control, in-flight shutdown, damage to the airplane, and loss of control of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

FAA's Determination

The FAA is issuing this AD because the agency determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Lycoming Mandatory Service Bulletin No. (MSB) 667A, dated March 12, 2026 (Lycoming MSB 667A), which identifies affected engine serial numbers and specifies procedures for the replacement of affected piston pins with a part eligible for installation. Lycoming MSB 667A also specifies procedures for oil change and visual inspection of the engine oil filter, oil pressure screen, and oil suction screen for metal particulates. The FAA also reviewed Lycoming Service Instruction No. 1009BE, dated April 24, 2020, which identifies the compliance times between overhauls for certain Lycoming Model engines. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

AD Requirements

This AD requires replacement of the affected piston pin with a part eligible for installation and, for certain engines, oil change and visual inspection of the engine oil filter, oil pressure screen, and oil suction screen for metal particulates. This AD also prohibits the installation of an affected piston pin on any engine.

Differences Between This AD and the Referenced Material

This AD requires oil change and visual inspection of the engine oil filter, oil pressure screen, and oil suction screen for metal particulates within 5 hours time-in-service (TIS) unless done within last 10 hours TIS, while Lycoming MSB 667A does not have this requirement.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because piston pin microcracks and inclusions are difficult to detect prior to failure, and can result in internal damage to the engine, in-flight shutdown, and loss of control of the airplane. The FAA has determined that affected engines will need to be inspected and have affected piston pins replaced within 25 hours time-in-service or earlier after the effective date of this AD depending on the engine model. Additionally, the compliance

time in this AD is shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 957 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement of piston pin, oil change, and oil inspection.	2 work-hours × $85 per hour = $170	$2,200	$2,370	$2,268,090

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–17–10 Lycoming Engines: Amendment 39–23454; Docket No. FAA–2026–8789; Project Identifier AD–2026–00678–E.

(a) Effective Date

This airworthiness directive (AD) is effective September 14, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Lycoming Engines Model O–235, –A, –AP, –B, –BP, –C, –C1, –C1A, –C1B, –C1C, –C2A, –C2B, –C2C, –E1, –E1B, –E2A, –E2B, –F1, –F1B, –F2A, –F2B, –G1, –G1B, O–235–G2A, O–235–G2B, O–235–H2C, O–235–J2A, O–235–J2B, O–235–K2A, O–235–K2B, –K2C, –L2A, –L2C, –M1, –M2C, –M3C, –N2A, –N2C, –P1, –P2A, –P2C, and –P3C; O–540–A1A, –A1A5, –A1B5, –A1C5, –A1D, –A1D5, –A2B, –A3D5, –A4A5, –A4B5, –A4C5, –A4D5, –A4E5, –B1A5, –B1B5, –B1D5, –B2A5, –B2B5, –B2C5, –B4A5, –B4B5, –D1A5, –E4A5, –E4B5, –E4C5, –F1A5, –F1B5, –G1A5, –G2A5, –H1A5, –H1A5D, –H1B5D, –H2A5, –H2A5D, –H2B5D, –J1A5D, –J1B5D, –J1C5D, –J1D5D, –J2A5D, –J2B5D, –J2C5D, –J2D5D, –J3A5, –J3A5D, –J3C5D, and –L3C5D; IO–540–A1A5, –AA1A5, –AA1B5, –AB1A5, –AE1A5, –AC1A5, –AF1A5, –B1B5, –AG1A5, –B1A5, –B1C5, –C1B5, –C1C5, –C2C, –C4B5, –C4B5D, –C4C5, –C4D5, –C4D5D, –D4A5, –D4B5, –D4C5, –E1A5, –E1B5, –E1C5, –G1A5, –G1B5, –G1C5, –G1D5, –G1E5, –G1F5, –J4A5, –K1A5, –K1A5D, –K1B5, –K1B5D, –K1C5, –K1D5, –K1E5, –K1E5D, –K1F5, –K1F5D, –K1G5, –K1G5D, –K1H5, –K1J5, –K1J5D, –K1K5, –K2A5, –L1A5, –L1A5D, –L1B5D, –L1C5, –M1A5, –M1A5D, –M1B5D, –M1C5, –M2A5D, –N1A5, –P1A5, –R1A5, –S1A5, –T4A5D, –T4B5, –T4B5D, –T4C5D, –U1A5D, –U1B5D, –V4A5, –V4A5D, –W1A5, –W1A5D, and –W3A5D engines with a serial number listed in Table 2 or Table 3 of Lycoming Mandatory Service Bulletin No. (MSB) 667A, dated March 12, 2026 (Lycoming MSB 667A), and an installed piston pin having part number (P/N) LW–13445 with an FAA Form 8130–3 from the original equipment manufacturer for production dated between January 7, 2021 to December 15, 2025. If the production date on the FAA Form 8130–3 cannot be determined, or if the FAA Form 8130–3 is not available, this AD is applicable.

(d) Subject

Joint Aircraft System Component (JASC) Code 8530, Reciprocating Engine Cylinder Section.

(e) Unsafe Condition

This AD was prompted by reports from Lycoming of metal particulates found in the engine oil during oil change and two non-detectable engine failures. The FAA is issuing this AD to prevent failure of the piston pin. The unsafe condition, if not addressed, could result in engine failure, loss of thrust control, in-flight shutdown, damage to the airplane, and loss of control of the airplane.

(f) Compliance

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

(g) Definitions

(1) For the purpose of this AD, a ''part eligible for installation'' is one of the following:

(i) A piston pin that does not have P/N LW–13445.

(ii) A piston pin having P/N LW–13445 with an FAA Form 8130–3 from the original equipment manufacturer for production that is not dated between January 7, 2021 to December 15, 2025.

(2) For the purpose of this AD, an ''affected piston pin'' is a piston pin having P/N LW–13445 and one of the following:

(i) An FAA Form 8130–3 from the original equipment manufacturer for production dated between January 7, 2021 to December 15, 2025.

(ii) An FAA Form 8130–3 from the original equipment manufacturer for which the production date on the Form 8130–3 cannot be determined.

(iii) An FAA Form 8130–3 that is not available.

(h) Required Actions

(1) For all affected engines, perform an oil change and visual inspection of the engine oil filter, oil pressure screen, and oil suction screen for metal particulates as follows:

Note 1 to paragraph (h)(1): Guidance for engine oil filter, oil pressure screen, and oil suction screen inspection instructions and identification of metallic solids may be found in Lycoming MSB No. 480F, dated May 25, 2017.

(i) For engines listed in Table 3 of Lycoming MSB 667A with greater than 150 total hours time-in-service (TIS) since installation of the affected piston pins: before further flight.

(ii) For all other affected engines: if an oil change has not been performed within the last 10 hours TIS, then within 5 hours TIS after the effective date of this AD.

(2) At the applicable compliance time required in paragraph (h)(2)(i), (ii), or (iii) of this AD, replace any affected piston pin with a part eligible for installation in accordance with the Required Action of Lycoming MSB 667A, as applicable to engine model.

(i) For engines where metal particulates were found during the oil change and inspection required by paragraph (h)(1)(i) or (ii) of this AD: before further flight.

(ii) For engines where metal particulates were not found during the oil change and inspection required by paragraph (h)(1)(i) or (ii) of this AD and with a serial number listed in Table 2 of Lycoming MSB 667A: at the next maintenance event requiring the removal of a cylinder assembly with an affected piston pin, or at the next engine overhaul not to exceed the time between overhaul specified in Lycoming Service Instruction No. 1009BE, dated April 24, 2020, whichever occurs first after the effective date of this AD.

(iii) For engines where metal particulates were not found during the oil change and inspection required by paragraph (h)(1)(i) or (ii) of this AD and with a serial number listed in Table 3 of Lycoming MSB 667A that have 150 hours total TIS or less since installation of the affected pins: within 25 hours TIS after the effective date of this AD but before or upon reaching 150 total hours TIS since installation of the affected piston pins.

(i) Installation Prohibition

After the effective date of this AD, do not install an affected piston pin as defined in paragraph (g)(2) of this AD, on any engine.

(j) No Return of Parts

Although the service material specifies returning certain parts to the manufacturer, this AD does not include those requirements.

(k) Special Flight Permits

(1) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199199 for the replacement requirements of this AD provided no metal particulates are found during the inspection required by this AD.

(2) Special flight permits, as described in 14 CFR 21.197 and 21.199, are not allowed for the visual inspection of the engine oil filter, oil pressure screen, and oil suction screen for metal particulates requirement of this AD.

(l) Alternative Methods of Compliance (AMOCs)

The Manager, East Certification Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the East Certification Branch, send it to the attention of the person identified in paragraph (m)(1) of this AD and email to: *AMOC@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(m) Additional Information

(1) For more information about this AD, contact Ramanpreet Singh, Aviation Safety Engineer, FAA, 1701 Columbia Avenue, College Park, GA 30337; phone: (516) 228–7300; email: *ECB-COS@faa.gov*.

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

(n) Material Incorporated by Reference

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

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

(i) Lycoming Mandatory Service Bulletin No. 667A, dated March 12, 2026.

(ii) Lycoming Service Instruction No. 1009BE, dated April 24, 2020.

(3) For Lycoming material identified in this AD, contact Lycoming Engines, 652 Oliver Street, Williamsport, PA 17701; phone: (800) 258–3279; website: *lycoming.com/contact/knowledge-base/publications*.

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

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

Issued on August 21, 2026.

Paul R. Bernado,

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

[FR Doc. 2026–17584 Filed 8–26–26; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–4640; Project Identifier MCAI–2024–00073–E; Amendment 39–23449; AD 2026–17–06]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Rolls-Royce Deutschland Ltd & Co KG (RRD) Model Trent7000–72 and Trent7000–72C engines. This AD was prompted by reports of engine in-flight shut-downs (IFSDs) caused by the premature failure of certain parts. This AD prohibits the installation of certain lubrication/scavenge pumps unless certain installation criteria are met. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 2, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 2, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–4640; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

• For European Union Aviation Safety Agency (EASA) material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*

• You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2026–4640.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7146; email: *barbara.caufield@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all RRD Model Trent7000–72 and Trent7000–72C engines. The NPRM was published in the **Federal Register** on May 20, 2026 (91 FR 29391). The NPRM was prompted by AD 2024–0029, dated January 29, 2024, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2024–0029) (also referred to as the MCAI). The MCAI states that there have been reports of engine IFSDs prompted by low oil pressure indications. An investigation revealed that these events were caused by early-life failure of the internal eccentric ring/gerotor in certain affected lubrication/scavenge oil pumps due to eccentric contact between the ring and gerotor causing wear on the components. To address this potential unsafe condition, the manufacturer published service material that provides installation criteria for the affected oil pumps.

In the NPRM, the FAA proposed to require prohibiting the installation of certain lubrication/scavenge pumps unless certain installation criteria are met. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–4640.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from two commenters. Commenters included the Air Line Pilots Association, International (ALPA) and Delta Air Lines, Inc (DAL). ALPA supported the NPRM without change. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Prohibit Operation of an Engine With an Affected Part

DAL requested that the FAA revise paragraph (h)(2) of the proposed AD to prohibit the operation of an affected part unless the installation criteria defined in RRD Non-Modification Service Bulletin (NMSB) TRENT 1000 79–AK868, Revision 3, dated December 11, 2023 (RRD NMSB TRENT 1000 79–AK868, Revision 3) are met. DAL stated that two of the installation criteria defined in RRD NMSB TRENT 1000 79–AK868, Revision 3 require knowledge of the cycles since repair (CSR), cycles since overhaul (CSO), and cycles since new (CSN) of the oil pump on the opposite engine. DAL noted that during installation of an affected part on a spare engine or during an engine shop visit for maintenance, it is not always known which aircraft an engine will be installed on. DAL further noted that in such cases, it is impossible to determine the CSR, CSO, or CSN of the oil pump on the opposite engine, and the installation criteria defined in RRD NMSB TRENT 1000 79–AK868, Revision 3 cannot be complied with prior to pump installation.

The FAA disagrees with the request. The FAA infers that the intent of the request is to prohibit the operation of an engine having an affected part installed unless the installation criteria from RRD NMSB TRENT 1000 79–AK868, Revision 3, are met. The FAA clarifies that this operation prohibition is already required by the AD because 14 CFR 39.7 specifies that once an AD is issued, no person may operate a product to which the AD applies except in accordance with the requirements of that AD. The intent of this AD is to prevent the installation of affected parts unless they meet the installation criteria from RRD NMSB TRENT 1000 79–AK868, Revision 3. The FAA did not change this AD as a result of this comment.

Request To Remove Documentation Requirement

DAL requested that the FAA revise paragraph (h) of the proposed AD to state that documentation of the accomplishment of RRD NMSB TRENT 79–AK868, Revision 3, is not required. Delta noted that RRD NMSB TRENT 79–AK868, Revision 3, requires operators to record accomplishment of the completed work in the engine logbook. DAL further noted that they do not use engine logbooks to document engine maintenance performed while the engine is installed on an airplane and should be permitted to incorporate the installation criteria into the DAL Continued Airworthiness Maintenance Program instead. DAL stated that requiring a logbook entry creates unnecessary administrative burden to operators.

The FAA agrees to clarify. An operator may record the accomplishment of RRD NMSB TRENT 79–AK868, Revision 3, in a document or system other than an engine logbook, or an equivalent record, including their continuing airworthiness maintenance program. The FAA did not change this AD as a result of this comment.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2024–0029, which specifies installation criteria for affected oil pumps each time an affected part is installed or reinstalled on an engine. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 98 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Verify installation criteria before each pump installation ...	.50 work-hours × $85 per hour = $42.50.	$0	$42.50	$4,165

The FAA estimates the following costs to do any necessary screening tests that would be required based on the results of the installation criteria verification. The agency has no way of determining the number of engines that might need these screening tests:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Perform oil pump screening test	4 work-hours × $85 per hour = $340	$0	$340

Authority for this Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–17–06 Rolls-Royce Deutschland Ltd & Co KG: Amendment 39–23449; Docket No.FAA–2026–4640; Project Identifier MCAI–2024–00073–E.

(a) Effective Date

This airworthiness directive (AD) is effective October 2, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Rolls-Royce Deutschland Ltd & Co KG Model Trent7000–72 and Trent7000–72C engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7261, Turbine Engine Oil System.

(e) Unsafe Condition

This AD was prompted by reports of engine in-flight shut-downs (IFSDs) due to low oil pressure indications, which were caused by the early-life failure of the internal eccentric ring/gerotor. The FAA is issuing this AD to require certain installation criteria be met for affected oil pumps prior to installation or reinstallation on an engine. The unsafe condition, if not addressed, could result in failure of the affected oil pump, and engine IFSD with consequent reduced control or loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraph (h) of this AD, perform all required actions within the compliance times specified in, and in accordance with, European Union Aviation Safety Agency AD 2024–0029, dated January 29, 2024 (EASA AD 2024–0029).

(h) Exceptions to EASA AD 2024–0029

(1) Where EASA AD 2024–0029 requires compliance from its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2024–0029 states ''From the effective date of this AD, it is allowed to install an affected part on any engine, or an engine equipped with an affected part on any airplane, provided that, prior to installation, it is determined that the installation criteria defined in the NMSB are met'', this AD requires replacing that text with ''From the effective date of this AD, do not install an affected part unless the installation criteria defined in the NMSB are met''.

(3) This AD does not adopt the ''Remarks'' paragraph of EASA AD 2024–0029.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Additional Information

For more information about this AD, contact Barbara Caufield, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7146; email: *barbara.caufield@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2024–0029, dated January 29, 2024.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on August 19, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026–17582 Filed 8–27–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740, 744, and 774

[Docket No. 260723–0178]

RIN 0694–AK30

Streamlining Export Controls for Drone Exports

Correction

In rule document 2026–16628, appearing on pages 52501 through 52508, in the issue of Friday, August 14, 2026, make the following correction:

Supplement No. 1 to Part 774 [Corrected]

■ On page 52507, in Supplement No.1 to Part 774, in the third column, on the 14th line from the top, ''List of Items Controlled[MISSING□'' should read ''List of Items Controlled''.

[FR Doc. C1–2026–16628 Filed 8–27–26; 8:45 am]

BILLING CODE 0099–10–D

DEPARTMENT OF STATE

[Public Notice: 13088]

22 CFR Parts 120 and 121

RIN 1400–AG17

International Traffic in Arms Regulations: Modification of Civil Aircraft To Incorporate Aircraft Survivability Equipment

AGENCY: Department of State.

ACTION: Interim final rule; request for comments.

SUMMARY: The Department of State (the Department) amends the International Traffic in Arms Regulations (ITAR) to remove from the U.S. Munitions List (USML) certain aircraft that have been modified to incorporate aircraft survivability equipment (ASE) and to exclude from the ITAR certain activities that would otherwise meet the definition of reexport or temporary import of ASE incorporated into such aircraft.

DATES:

Effective date: This rule is effective October 13, 2026.

Comment due date: Send comments on or before September 28, 2026.

ADDRESSES: Interested parties may submit comments to the Department of State by any of the following methods:

- Visit the *Regulations.gov* website at: *https://www.regulations.gov* and search for the docket number [DOS–2026–0892].
- *Email: DDTCPublicComments@state.gov.* Commenting parties must include RIN 1400–AG17 in the subject line of the email message.

See **SUPPLEMENTARY INFORMATION** for other information about electronic filing.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Weil, Office of Defense Trade Controls Policy, Department of State, email *DDTCCustomerService@state.gov* SUBJECT: Aircraft Survivability Equipment—RIN 1400–AG17.

SUPPLEMENTARY INFORMATION: The Department of State's Directorate of Defense Trade Controls (DDTC) administers the ITAR (22 CFR parts 120 through 130) to, among other things, regulate the export, reexport, retransfer, and temporary import of defense articles and defense services described on the USML at ITAR § 121.1. Items not subject to the ITAR or to the exclusive licensing jurisdiction of any other department or agency of the U.S. Government are subject to the Export Administration Regulations (EAR; 15 CFR parts 730 through 774), which include the Commerce Control List (CCL) in Supplement No. 1 to part 774. The EAR is administered by the Bureau of Industry and Security (BIS), U.S. Department of Commerce. This rule does not modify the list of defense articles and defense services controlled for purposes of permanent import by the Attorney General, as enumerated on the U.S. Munitions Import List (USMIL) at 27 CFR 447.21.

Section 38 of the Arms Export Control Act (AECA) (22 U.S.C. 2778), the authority from which the ITAR is derived, requires periodic review to determine what articles and services, if any, no longer warrant designation on the USML at ITAR § 121.1. In maintaining the USML, DDTC's Office of Defense Trade Controls Policy (DTCP) identifies articles and services for review for addition to or removal from the USML, or for clarification on how they are described on the USML, through a variety of methods, including public feedback and interagency consultations, commodity jurisdiction reviews, advisory opinions, and technology monitoring. The Department maintains the USML such that it comprises those defense articles or defense services that provide a critical military or intelligence advantage or, in the case of weapons, have an inherently military function. The Department, informed by consultations with its interagency partners, determined that those articles and services this rule removes from the USML no longer warrant ITAR control. Additionally, the Department has long used its delegated authority under the AECA to define which events are controlled as exports, reexports, retransfers, and temporary imports.

For the purposes of this rule the Department refers to civil aircraft that are subsequently modified to incorporate certain aircraft survivability equipment (ASE) as survivability-enhanced aircraft. ASE is a term generally used to refer to systems and equipment designed to reduce an aircraft's susceptibility and vulnerability to manufactured threats by detecting, alerting on, and mitigating threats. For purposes of this preamble,

ASE specifically refers to directed infrared countermeasures (DIRCM) and infrared or ultraviolet missile warning systems necessary for the operation of DIRCM. Survivability-enhanced aircraft are often used to mitigate risk in the transport of passengers or goods, in various threat environments. These aircraft incorporate ASE described on the USML to protect the aircraft and its occupants from man-portable air defense systems (MANPADS) and other guided weapons that can pose a serious threat to aircraft. Foreign governments also utilize civil aircraft incorporating ASE to transport heads of state and other persons, and some airlines have incorporated ASE to protect passengers traveling in higher risk areas.

ASE is described in the subparagraphs of USML Category XI(a)(4), which describes electronic warfare (EW) systems and equipment; thus, survivability-enhanced aircraft are currently described in USML Category VIII(a)(8), as aircraft specially designed to incorporate a defense article for the purpose of performing an EW function. The Department notes that aircraft modified to facilitate incorporation of ASE are currently described in paragraph (a)(8) even when the ASE is not physically present in the aircraft. Since such modifications are properties peculiarly responsible for the incorporation of the ASE, they satisfy the specially designed definition at § 120.41(a)(1).

Based on its assessments and the discretion afforded it, and to facilitate the operation and maintenance of certain aircraft that have been modified to incorporate ASE, the Department is amending USML Category VIII(a)(8), adding corresponding definitions to § 121.0, and adding two new entries to § 120.54 to expand the definition of ''activities that are not exports, reexports, retransfers, or temporary imports.'' Activities listed in ITAR § 120.54 do not require an authorization from DDTC.

USML Category VIII

The Department is revising USML Category VIII(a)(8) to exclude certain aircraft that have been modified to incorporate ASE. To concisely implement this exclusion, the Department is also adding new definitions of secured ASE and survivability-enhanced aircraft, and the acronyms ''ASE'' and ''USML,'' to § 121.0.

Furnishing assistance to a foreign person in maintaining, repairing, or operating an aircraft described in paragraph (a)(8) is a defense service even for repairs limited to an aircraft component otherwise subject to the EAR, such as brakes controlled in the EAR's Export Control Classification Number (ECCN) 9A991.d, while that item is incorporated into the aircraft. This is because such activities furnish assistance to the foreign person in maintaining the aircraft, which is a defense article.

Servicing activities for aircraft described on the USML continue to warrant control under the ITAR because maintenance of an aircraft helps maintain the foreign person's access to the capabilities of the aircraft. However, the Department assesses that incorporating secured ASE to protect an aircraft and its occupants should not, by itself, subject an otherwise civil aircraft to regulation under the ITAR. Such regulation of maintenance services, when not directly related to the incorporated ASE, may place U.S. companies at an unnecessary competitive disadvantage due to the widespread availability of such services and a lack of similar foreign regulation. The Department assesses that, when incorporated into an otherwise civil aircraft without modifications to incorporate other defense articles, ASE supports a purely protective function. For this and other reasons, the Department assesses commercial servicing and maintenance of survivability-enhanced aircraft does not provide a critical military or intelligence advantage that warrants continued ITAR control.

Following the changes in this rule to remove certain aircraft from paragraph (a)(8), ASE will still be described on the USML in Category XI. The Department has determined that ASE, and directly related technical data and defense services, continue to provide a critical military or intelligence advantage and therefore should remain on the USML. ITAR § 120.11(c) will continue to apply to ASE incorporated into an aircraft, regardless of the export jurisdiction of the aircraft. As a result, servicing ASE for a foreign person continues to be a defense service. Furthermore, assisting a foreign person in the modification of an aircraft to facilitate incorporation of ASE is a defense service described in USML Category XI(d) even before the ASE is installed. Such assistance is directly related to the ASE and, at a minimum, assists the foreign person in the use of the ASE. Similarly, assisting a foreign person in maintaining or repairing portions of the aircraft modified for the purpose of incorporating ASE (*e.g.,* upgraded power supplies, dedicated wiring) are defense services described in USML Category XI(d). Even when such services are performed on aircraft components subject to the EAR, they both directly relate to the ASE and assist the foreign person in the use of the ASE.

The new definition of secured ASE in § 121.0 limits the scope of that term to specific types of defensive EW equipment. The Department considered further limiting the scope of the exclusion to ASE designed to provide protection against MANPADS; however, the Department's review of civil aircraft losses concluded that the threat is no longer limited to MANPADS. The new definition of secured ASE also specifies that certain anti-tamper protections must be in place when the ASE is incorporated into the aircraft.

The new definition of survivability-enhanced aircraft specifically excludes unmanned aircraft, aircraft that did not start out as civil aircraft (as described in paragraph (1) of the new definition for ''survivability-enhanced aircraft''), and aircraft described in USML Category VIII(a)(8) or elsewhere on the USML for reasons other than incorporating secured ASE.

New Entries in § 120.54(a)

The Department is adding two new paragraphs to § 120.54(a) to remove the ITAR authorization requirement for certain reexports and temporary imports of defense articles that meet the new § 121.0 definition of secured ASE. Pursuant to § 120.11(c), ASE retains its status as a defense article following incorporation or integration into an aircraft, regardless of the jurisdiction of the aircraft. For example, an ITAR license or other authorization type is currently required for all exports of ASE out of the United States and for all temporary imports of ASE into the United States, including instances in which the ASE is incorporated into an aircraft not described on the USML. Similarly, when ASE is subject to the reexport or retransfer restrictions of the ITAR (*e.g.,* U.S.-origin defense articles and defense articles subject to ITAR § 124.8(a)(5)), an ITAR authorization is currently required for all reexports and retransfers, including when an aircraft incorporating secured ASE travels to a third country.

The Department determined ASE provides a critical military or intelligence advantage such that it warrants description on the USML. ASE is military technology, regardless of its use by civilian entities. In providing notifications of guided missile threats and assisting pilots in defending against those threats, ASE provides a critical advantage—including during contested airspace operations. However, standard ITAR requirements impose an

unnecessary compliance burden on international partners using secured ASE to protect dignitaries and commercial passengers, particularly when traveling to a country identified in ITAR § 126.1. The requirements also place U.S. manufacturers at a competitive disadvantage relative to foreign manufacturers whose products are not subject to ITAR regulation of reexports.

The Department assesses that, when ASE has previously been authorized for export from the United States pursuant to a license issued under the ITAR (and thus subjected to a U.S. national security review), for incorporation into a survivability-enhanced aircraft, and continues to be utilized only for its authorized use by an authorized end user, it is not necessary for the Department to review the operational movements of that aircraft. Similarly, the Department assesses that temporary imports of secured ASE incorporated into survivability-enhanced aircraft, without other modifications that make the aircraft described on the USML, do not require its review while the ASE remains incorporated.

For these reasons, the Department is adding two new paragraphs to § 120.54(a) to exclude what would otherwise be a reexport or temporary import of secured ASE while it is incorporated into survivability-enhanced aircraft, under specified conditions. Defense services directly related to ASE and transfer to a foreign person of technical data directly related to ASE remain controlled events, regardless of the ASE status.

The primary purpose of the new § 120.54(a)(8) is to remove certain restrictions on otherwise civil aircraft temporarily entering and exiting the United States with secured ASE installed. Similarly, the primary purpose of the new § 120.54(a)(9) is to remove certain restrictions on the movement of aircraft that incorporate secured ASE already approved for export from the United States pursuant to a license and remaining under the control of users already authorized to possess the ASE. Such aircraft may include those operated by civilian airlines or those maintained or operated for the benefit of heads of state, international organizations like the United Nations, and humanitarian organizations. New paragraphs (a)(8) and (9) apply only to the physical movement of the secured ASE while it is incorporated into a survivability-enhanced aircraft; these paragraphs do not authorize any defense services or release of technical data directly related to the ASE (including removal of the ASE from the aircraft). New paragraph (a)(9) applies only to ASE previously authorized for export from the United States pursuant to a license; it does not apply to ASE that has only been exported pursuant to an exemption.

Retransfer of ASE to a foreign person while outside the United States remains a controlled event in all cases. The new § 120.54(a)(8) does not enable temporary imports that involve transfers of the aircraft or the incorporated ASE to a different foreign person while inside the United States. If the ASE has been authorized for export under a separate ITAR authorization, for use by a particular organization and its employees, then a transfer of control of the aircraft and secured ASE between employees of the same organization must be completed using that ITAR authorization.

Effective Date and Updating of Licenses and Agreements

The Department is implementing an effective date of October 13, 2026, in making the revisions described in this interim final rule. The Department's website (*www.pmddtc.state.gov*) includes guidance for practitioners on the treatment of items removed from the USML.

Submission of Voluntary Disclosures or Voluntary Self-Disclosures

In reviewing the clarifications provided by this rule, if you identify a potential violation of the ITAR, you may submit a voluntary disclosure to DDTC, consistent with the procedures outlined in ITAR § 127.12. For potential violations of the EAR, persons are encouraged to disclose violations to BIS, including through the submission of voluntary self-disclosures, consistent with the procedures outlined in EAR §§ 764.4 and 764.5. For potential violations of both the EAR and the ITAR, persons are encouraged to submit disclosures to both agencies.

Request for Comments

Comments Requested

The Department is requesting public comments on the revisions described in this rulemaking. The Department encourages the public to provide comments related to this rule, as well as comments specifically responsive to the five questions described in this section. To facilitate timely review and assessment of the comments, comments should be provided in a concise sentence or paragraph, followed by supporting explanatory paragraphs and examples, with each distinct comment treated separately (as opposed to multiple comments in one paragraph or section). The Department requests comments focused on the following questions:

1. How much would practitioners benefit from the Department defining the terms for the eligible types of ASE?

2. Are there commodities, services, or technical data closely related to these revisions that warrant ITAR control, but are currently either not described on the USML, or not described with sufficient clarity? If so, please provide examples and a concise explanation.

3. Are there commodities, services, or technical data closely related to these revisions that do not warrant ITAR control? If so, please provide examples and a concise explanation.

4. Are there specific functions, performance levels, or characteristics related to these revisions that could better:

a. Distinguish between the commodities that do, and do not, warrant ITAR control; or

b. Align with the constructions or language used elsewhere in the ITAR?

5. Can any of these revisions be more clearly or concisely stated?

Comment Submission Instructions

Include the Regulatory Information Number (RIN) (1400–AG17) for all submissions related to this rule. Parties who wish to comment anonymously may do so by submitting their comments via *www.regulations.gov,* leaving the fields that would identify the commenter blank and including no identifying information in the comment itself. Commenters are cautioned not to include proprietary, export-controlled, personal, or other sensitive information in their comments that they would not want to be made public. If such information would provide useful insight to the comment: (1) assemble that information in a separate document with proprietary markings; (2) include ''Proprietary supplement on file with: [provide POC]'' as the first line in the body of the email submission; (3) submit the public portion of the comment via email; and (4) call DDTC at (202) 663–1282 to coordinate submission of the proprietary supplement.

Regulatory Analysis and Notices

Administrative Procedure Act

This rulemaking is exempt from the rulemaking requirements of the Administrative Procedure Act (APA) pursuant to 5 U.S.C. 553(a)(1) as it involves a military or foreign affairs function of the United States. Nevertheless, and without prejudice to

this determination, the Department seeks certain public comments in this rule.

Regulatory Flexibility Act

Since this rule is exempt from the notice-and-comment rulemaking provisions of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not involve a mandate that will 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 and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This rule does not meet the criteria of 5 U.S.C. 804(2).

Executive Orders 12372 and 13132

This rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866 and 13563

Executive Order 12866, as supplemented and affirmed by Executive Order 13563, 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, distributed impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Department specifically welcomes public comment on the effects, including costs and benefits, of this rule. After review by the Office of Management and Budget (OMB), this rule has been deemed a ''significant regulatory action'' under section 3(f) of Executive Order 12866.

This rule was undertaken pursuant to a statutory directive to periodically review the items on the USML. The Department generally determines which items warrant addition to, or removal from, the USML by assessing whether each provides a critical military or intelligence advantage based on national security and foreign policy considerations. Because the costs and benefits of changing what is controlled focus on the effect or utility of the item or service, rather than its market prevalence or economic value, quantitative analyses cannot be usefully estimated and are not available, particularly since the global prevalence or availability of the item or service are not known. Qualitatively, the rule was assessed for costs and benefits. These revisions are also informed by confidential commodity jurisdiction determination and advisory opinion requests, submitted by industry. The Department takes into account common questions and strives to streamline and simplify USML entries based on how it understands industry experience with certain parts of the USML.

This rule moves the export regulation of certain aircraft from the ITAR to the EAR, and it excludes from ITAR authorization requirements certain transfers of defense articles while they are incorporated into those aircraft. These actions reduce the regulatory burden on those who transfer, repair, or maintain such aircraft. The Department assesses that continuing to regulate these modified aircraft under the ITAR is unnecessary and that removing them will add options for U.S. participation in improving aviation safety. The Department assesses the benefits of this rulemaking outweigh any costs, that modifying the USML in this manner is the most cost-effective method to achieve the Department's regulatory objectives on this matter, and that doing so will result in a net reduction of the burden on the regulated community.

The alternative to this rule was inaction or delay. The Department could have waited to amend larger parts of the USML at once or continued to gather data to evaluate the controls affected by this rule. These alternatives were rejected. Statutory requirements, including section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)), and section 1345 of the National Defense Authorization Act for Fiscal Year 2024, require a periodic review of the USML for edits like those made by this rule. While the Department continuously reviews the entire USML, it aims to focus on particular USML revisions in cycles, as it has done in implementing this rule.

Executive Order 14192

This rule is exempt from Executive Order 14192 as it is a regulation issued with respect to a foreign affairs or national security function of the United States.

Executive Order 12988

The Department of State has reviewed this rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rulemaking does not impose or revise any information collections subject to 44 U.S.C. chapter 35.

List of Subjects

22 CFR Part 120

Arms and munitions, Classified information, Exports.

22 CFR Part 121

Arms and munitions, Classified information, Exports.

For reasons stated in the preamble, the Department of State amends 22 CFR parts 120 and 121, the United States Munitions List, as follows:

PART 120—PURPOSE AND DEFINITIONS

■ 1. The authority citation for part 120 continues to read as follows:

Authority: 22 U.S.C. 2651a, 2752, 2753, 2776, 2778, 2779, 2779a, 2785, 2794, 2797; E.O. 13637, 78 FR 16129, 3 CFR, 2013 Comp., p. 223.

■ Amend § 120.54 by revising paragraphs (a)(6) and (a)(7) and adding paragraphs (a)(8) and (a)(9), to read as follows:

§ 120.54 Activities that are not exports, reexports, retransfers, or temporary imports.

(a) * * *

(6) * * *

(iii) The defense article is not being exported from or temporarily imported into the United States;

(7) * * *

(iii) The defense article is not being exported from or temporarily imported into the United States;

(8) Temporarily bringing secured ASE (as defined in § 121.0) into the United States; provided that neither the ASE,

nor the aircraft in which it is incorporated, is transferred without a license or other approval under this subchapter to another foreign person while in the United States; and

(9) Taking secured ASE (as defined in § 121.0), previously exported from the United States pursuant to a license under this subchapter, from one foreign country to another while it is incorporated into a survivability-enhanced aircraft (as defined in § 121.0).

PART 121—THE UNITED STATES MUNITIONS LIST

■ 3. The authority citation for part 121 continues to read as follows:

Authority: 22 U.S.C. 2752, 2778, 2797; 22 U.S.C. 2651a; Sec. 1514, Pub. L. 105–261, 112 Stat. 2175; E.O. 13637, 78 FR 16129, 3 CFR, 2013 Comp., p. 223.

■ 4. Amend § 121.0 by adding definitions of ASE, secured ASE, survivability-enhanced aircraft, and USML, as follows:

§ 121.0 United States Munitions List description and definitions.

* * * * *

ASE means Aircraft Survivability Equipment.

* * * * *

Secured ASE means a system or equipment that meets all of the following conditions:

(1) Is one of the following defense articles designed for the purpose of aircraft survivability:

(i) Directed/directional infrared countermeasures (DIRCM) systems; or

(ii) Infrared or ultraviolet missile warning systems necessary for the operation of DIRCM;

(2) Is incorporated into an aircraft; and

(3) Employs anti-tamper measures to deter, delay, and detect access to, or exploitation of, critical system components and software.

Survivability-enhanced aircraft means a manned aircraft meeting all of the following criteria:

(1) Prior to the modifications described in paragraph (2) of this definition, was an aircraft in production that:

(i) Is not described on the USML;

(ii) Is described only in ECCN 9A991.b; and

(iii) Was issued either:

A. A type certificate by the U.S. Federal Aviation Administration as a transport airplane or small commuter airplane, or

B. An equivalent certification by the civil aviation authorities of one or more North Atlantic Treaty Organization member states or major non-NATO allies;

(2) Has been modified to facilitate the incorporation of one or more items of secured ASE as defined in this section;

(3) But for the modifications performed to incorporate secured ASE, would not be described in paragraph (a)(8) of USML Category VIII; and

(4) Is not described in any USML paragraph other than paragraph (a)(8) of USML Category VIII.

USML means the United States Munitions List in § 121.1.

* * * * *

■ 5. Amend § 121.1 by revising paragraph (a)(8) under Category VIII, as follows:

§ 121.1 The United States Munitions List.

* * * * *

Category VIII—Aircraft and Related Articles

(a) * * *

* (8) Aircraft specially designed to incorporate a defense article for the purpose of performing an electronic warfare function, excluding survivability-enhanced aircraft (see § 121.0 of this subchapter); airborne warning and control aircraft; or aircraft specially designed to incorporate a defense article for the purpose of performing a command, control, and communications function;

* * * * *

Thomas G. DiNanno,

Under Secretary for Arms Control and International Security, U.S. Department of State.

[FR Doc. 2026–17660 Filed 8–27–26; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

22 CFR Part 121

[Public Notice: 13110]

RIN 1400–AG36

International Traffic in Arms Regulations: Extension of Temporary Modification of Category XI(b) of the U.S. Munitions List

ACTION: Final rule; extension of temporary modification.

SUMMARY: The Department of State (the Department), pursuant to its regulations and in the interest of the national security and foreign policy of the United States, extends a previous temporary modification of Category XI(b) of the United States Munitions List (USML).

DATES: This rule is effective August 30, 2026, except for amendatory instruction 3, which is effective August 30, 2028.

FOR FURTHER INFORMATION CONTACT: Mrs. Engda Wubneh, Office of Defense Trade Controls Policy, Department of State, telephone (771) 205–9566; email *DDTCCustomerService@state.gov*. ATTN: Extension of Temporary Modification—USML Category XI(b).

SUPPLEMENTARY INFORMATION: On July 1, 2014, the Department published a final rule revising Category XI of the USML, 79 FR 37536, effective December 30, 2014. That final rule, consistent with the two prior proposed rules for USML Category XI (78 FR 45018, July 25, 2013 and 77 FR 70958, November 28, 2012), revised paragraph (b) of Category XI to clarify the extent of control and maintain the existing scope of control on items described in paragraph (b) and the directly related software described in paragraph (d). The Department later determined that exporters may read the revised control language to exclude certain intelligence-analytics software that has been and remains controlled on the USML.

Section 126.2 of the ITAR provides that the Deputy Assistant Secretary for Defense Trade Controls may order the temporary suspension or modification of any or all provisions of the ITAR when in the interest of the security and foreign policy of the United States. Therefore, the Department determined that it was in the interest of the security of the United States to temporarily revise USML Category XI paragraph (b), pursuant to the provisions of 22 CFR 126.2, while a long-term solution was developed. The Department previously published a final rule on July 2, 2015 (80 FR 37974) that temporarily modified USML Category XI(b) until December 29, 2015. The Department subsequently published a series of rules that had the effect of continuing the modification, the most recent ending on August 30, 2026 (86 FR 48021).

The scope of control in existence prior to December 30, 2014 for USML Category XI paragraph (b) and directly related software in paragraph (d) remains in effect. This clarification is achieved by reinserting the words ''analyze and produce information from'' and by adding software to the description of items controlled with the modification of the regulations.

The Department extends the temporary modification of USML Category XI(b) for two years, to August 30, 2028, while the Department, with its interagency partners, continues to review the U.S. Munitions List as mandated by the Arms Export Control Act, 22 U.S.C. 2778(f) and every three years as mandated by section 1345 of the National Defense Authorization Act FY24.

Regulatory Analysis and Notices

Administrative Procedure Act

This rulemaking is exempt from the rulemaking requirements of the Administrative Procedure Act (APA) pursuant to 5 U.S.C. 553(a)(1) as it involves a military or foreign affairs function of the United States.

Regulatory Flexibility Act

Since this rule is exempt from the notice-and-comment rulemaking provisions of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not involve a mandate that will 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 and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

The Office of Information and Regulatory Affairs has found that this rulemaking is not a major rule within the criteria of 5 U.S.C. 804(2).

Executive Orders 12372 and 13132

This rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866 and 13563

Executive Order 12866, as supplemented and affirmed by Executive Order 13563, 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, distributed impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rulemaking is deemed a not significant rule under section 3(f) of Executive Order 12866.

Executive Order 14192

This rule is exempt from Executive Order 14192 as it is a regulation issued with respect to a foreign affairs or national security function of the United States.

Executive Order 12988

The Department of State has reviewed this rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rulemaking does not impose or revise any information collections subject to 44 U.S.C. chapter 35.

List of Subjects in 22 CFR Part 121

Arms and munitions, Classified information, Exports.

For reasons stated in the preamble, the Department of State amends 22 CFR part 121 as follows:

PART 121—THE UNITED STATES MUNITIONS LIST

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 22 U.S.C. 2752, 2778, 2797; 22 U.S.C. 2651a; Sec. 1514, Pub. L. 105–261, 112 Stat. 2175; E.O. 13637, 78 FR 16129, 3 CFR, 2013 Comp., p. 223.

■ 2. In § 121.1, under Category XI, revise paragraph (b) to read as follows:

§ 121.1 The United States Munitions List.

* * * * *

Category XI—Military Electronics

* * * * *

* (b) Electronic systems, equipment or software, not elsewhere enumerated in this subchapter, specially designed for intelligence purposes that collect, survey, monitor, or exploit, or analyze and produce information from, the electromagnetic spectrum (regardless of transmission medium), or for counteracting such activities.

* * * * *

■ 3. Effective August 30, 2028, in § 121.1. under Category XI, revise paragraph (b) to read as follows:

§ 121.1 The United States Munitions List.

* * * * *

Category XI—Military Electronics

* * * * *

* (b) Electronic systems or equipment, not elsewhere enumerated in this subchapter, specially designed for intelligence purposes that collect, survey, monitor, or exploit the electromagnetic spectrum (regardless of transmission medium), or for counteracting such activities.

* * * * *

Fleet R. White,

Assistant Secretary, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 2026–17576 Filed 8–27–26; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[TD 10049]

RIN 1545–BQ55

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2590

RIN 1210–AC17

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 149

[CMS–9897–F2]

RIN 0938–AV15

Federal Independent Dispute Resolution Operations; Correction

AGENCY: Office of Personnel Management; Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Correcting amendment.

SUMMARY: This document corrects typographical errors and omissions in the final rule that appeared in the June 4, 2026, **Federal Register** titled ''Federal Independent Dispute Resolution Operations'' (referred to hereafter as the ''IDR final rule''). The effective date of the IDR final rule was August 3, 2026.

DATES:

Effective date: This correcting amendment is effective on August 28, 2026.

Applicability date: The corrections indicated in this document are applicable beginning on August 3, 2026.

FOR FURTHER INFORMATION CONTACT: Cameron Stokes, Office of Personnel Management, at (202) 936–0162; Alexander Krupnick, Internal Revenue Service, Department of the Treasury, at (202) 317–5500; Elizabeth Schumacher or Rebecca Miller, Employee Benefits Security Administration, Department of Labor, at (202) 693–8335; Camille Henley, Centers for Medicare & Medicaid Services, Department of Health and Human Services, at (410) 786–1492.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2026–11140 of June 4, 2026 (91 FR 33900), there were typographical errors and omissions that are identified and corrected in this correcting document.

II. Summary of Errors in Regulations Text

On page 34047, in amendatory instruction 6.a. for § 54.9816–6, we did not specify ''introductory text'' after paragraph (a) and therefore, regulation text was inadvertently omitted.

On page 34054, § 54.9816–8(c)(5), we inadvertently omitted regulation text for paragraphs (c)(5)(vii)(A)(*1*) and (*2*) after paragraph (c)(5)(vii)(A) introductory text.

On page 34057, § 54.9816–8(h)(1), we inadvertently included the word ''revised''.

On page 34057, § 54.9816–8(h)(3), we incorrectly formatted the second cross-reference to paragraph (c)(1) of that section.

On page 34057, § 54.9816–8(h)(4), we incorrectly formatted the cross-references to paragraphs (c)(3)(i) and (c)(3)(ii)(C) and (D) and paragraphs (c)(2), (c)(3)(ii)(A) and (B), and (c)(4) of that section.

On page 34057, § 54.9816–8(h)(5), we incorrectly formatted the cross-references to paragraphs (c)(5)(i) and (ii) and (c)(5)(vii)(B) and (C) of that section.

On page 34057, § 54.9816–8(h)(9), we incorrectly formatted the second cross-reference to paragraph (g) of that section.

On page 34057, § 54.9816–8(h)(10), we inadvertently used the word ''section'' instead of the word ''requirements'' in a cross-reference to that section.

On pages 34059 through 34060, in amendatory instructions 13.a. through 13.h. for § 2590.716–8, we included instructions for individual revisions to paragraph (b) rather than stating that paragraph (b) was being revised in its entirety.

On page 34060, in amendatory instruction 13.l. for § 2590.716–8, we included instructions for individual revisions to paragraph (c)(4) rather than stating that paragraph (c)(4) was being revised in its entirety, and we inadvertently omitted the revision to paragraph (c)(5)(iii).

On page 34063, § 2590.716–8(c)(1)(i), we incorrectly formatted the cross-reference to paragraph (b)(2)(iii)(A)(*11*) of that section.

On page 34065, § 2590.716–8(c)(4)(i), we incorrectly formatted the cross-reference to that paragraph.

On page 34066, § 2590.716–8(c)(5)(ii)(A), we incorrectly formatted the second cross-reference to paragraph (c)(5)(i) of that section and inadvertently omitted a closing parenthesis.

On page 34066, § 2590.716–8(c)(5)(ii)(B), we incorrectly formatted the cross-reference to paragraph (c)(5)(vi) of that section.

On page 34066, § 2590.716–8(c)(5)(iii)(D), we inadvertently referenced ''(c)(4)(v)'' rather than ''(c)(5)(v)''.

On page 34066, we inadvertently omitted the text of § 2590.716–8(c)(5)(vii)(A)(*1*) and (*2*).

On page 34068, § 2590.716–8(h)(1), we inadvertently included the word ''revised''.

On page 34068, § 2590.716–8(h)(3), we incorrectly formatted the second cross-reference to paragraph (c)(1) of that section.

On page 34068, § 2590.716–8(h)(4), we incorrectly formatted the cross-references to paragraphs (c)(3)(i) and (c)(3)(ii)(C) and (D) and paragraphs (c)(2), (c)(3)(ii)(A) and (B), and (c)(4) of that section.

On page 34068, § 2590.716–8(h)(5), we incorrectly formatted the cross-references to paragraphs (c)(5)(i) and (ii) and (c)(5)(vii)(B) and (C) of that section.

On page 34068, § 2590.716–8(h)(9), we incorrectly formatted the second cross-reference to paragraph (g) of that section.

On page 34068, § 2590.716–8(h)(10), we inadvertently used the word ''section'' instead of the word ''requirements'' in a cross-reference to that section.

On page 34069, § 2590.716–9(c)(2), we inadvertently referenced ''2590.716A–6'' rather than ''2590.716–6A''.

On page 34076, § 149.510(c)(4)(i) we stated ''of this section'' to an already cross-referenced paragraph and inadvertently included an asterisks placeholder.

On page 34076, § 149.510(c)(5)(i) we inadvertently included an asterisks placeholder.

On page 34077, § 149.510(c)(5)(ii)(B), we inadvertently omitted the word ''paragraph''.

On page 34077, § 149.510(c)(5)(iii)(D), we inadvertently referenced ''(c)(4)(v)'' rather than ''(c)(5)(v)''.

On page 34077, § 149.510(c)(5)(vii)(A), we inadvertently included an asterisks placeholder.

On page 34077, § 149.510(c)(5)(vii)(C), we inadvertently italicized ''(c)(5)(vii)(*C*)''.

On page 34078, § 149.510(c)(5)(vii), we inadvertently included an asterisks placeholder.

On page 34079, § 149.510(h)(1), we inadvertently included the word ''revised''.

On page 34079, § 149.510(h)(3), we incorrectly formatted the second cross-reference to paragraph (c)(1) of that section.

On page 34079, § 149.510(h)(4), we incorrectly formatted the cross-references to paragraphs (c)(3)(i) and (c)(3)(ii)(C) and (D) and paragraphs (c)(2), (c)(3)(ii)(A) and (B), and (c)(4) of that section.

On page 34079, § 149.510(h)(5), we incorrectly formatted the cross-references to paragraphs (c)(5)(i) and (ii) and (c)(5)(vii)(B) and (C) of that section.

On page 34079, § 149.510(h)(9), we incorrectly formatted the second cross-reference to paragraph (g) of that section.

On page 34079, § 149.510(h)(10), we inadvertently used the word ''section'' instead of the word ''requirements'' in a cross-reference to that section.

Due to the errors noted in this correcting amendment for § 149.510(c) and incomplete regulations text in the IDR final rule, we are including the regulations text for paragraph (c) in its entirety.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

Under the Administrative Procedure Act (APA) (5 U.S.C. 551, *et seq.*), a general notice of proposed rulemaking and an opportunity for public comment is generally required before the promulgation of regulations. The APA also generally requires that a final rule be effective no sooner than 30 days after the date of publication in the **Federal Register**.

Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the APA notice and comment and delay in effective date requirements. Section 553(b)(B) of the APA authorizes an

agency to dispense with normal notice and comment rulemaking procedures for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest and includes a statement of the finding and the reasons for it in the rule. Similarly, section 553(d)(3) of the APA allows the agency to avoid the 30-day delay in effective date where good cause is found and the agency includes in the rule a statement of the finding and the reasons for it.

The Departments are publishing this technical correction without advance notice or an opportunity for comment because notice and comment would be unnecessary under the APA, 5 U.S.C. 553(b)(B). The Departments are also waiving the 30-day delay in effective date for these corrections because a delayed effective date would be contrary to the public interest under the APA, 5 U.S.C. 553(d)(3).

This document corrects technical and typographical errors made in the final rules, which were published in accordance with the APA after the Departments proposed the rules and provided the public with an opportunity to comment on the proposals. The corrections contained in this document do not make any substantive changes to the policies adopted in the final rules. Where this document makes technical and typographical corrections to the amendatory instructions of the regulations text and regulatory text, it makes no changes to any substantive requirements. Where this document makes substantive changes to the regulatory text to correct typographical errors, the changes reflect the policies described in the proposed and final rules which were subject to notice and comment as required under the APA. If the corrections in this document were proposed and subjected to notice and comment, there would be nothing of substance on which the public could comment. Therefore, the Departments find that notice and comment would be unnecessary and there is good cause to waive the notice and comment requirement under the APA, 5 U.S.C. 553(b)(B).

The Departments are also waiving the 30-day delay in effective date for these corrections. It is in the public interest to ensure that the final rules setting forth requirements for group health plans, health insurance issuers offering group or individual health insurance coverage, providers, facilities, and providers of air ambulance services relating to participation in the Federal IDR process accurately describe the Departments' policies as of the date they take effect. Therefore, the Departments find that delaying the effective date of these corrections beyond the August 3, 2026, effective date of the final rules would be contrary to the public interest. In doing so, the Departments find good cause to waive the 30-day delay in the effective date.

List of Subjects

26 CFR Part 54

Excise taxes, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 2590

Continuation coverage, Disclosure, Employee benefit plans, Group health plans, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

45 CFR Part 149

Balance billing, Health care, Health insurance, Reporting and recordkeeping requirements, State regulation of health insurance, Surprise billing, Transparency in coverage.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Accordingly, 26 CFR part 54 is corrected by making the following correcting amendments:

PART 54—PENSION EXCISE TAXES

■ **Par. 1.** The authority citation for part 54 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

* * * * *

■ **Par. 2.** Section 54.9816–6 is amended by revising paragraph (a) to read as follows:

§ 54.9816-6 Methodology for calculating qualifying payment amount.

(a) *Definitions.* For further guidance, see 29 CFR 2590.716–6(a) introductory text through (a)(17).

(1)–(17) [Reserved]

(18) *Downcode* means the alteration by a plan or issuer of a service code to another service code, or the alteration, addition, or removal by a plan or issuer of a modifier, if the changed code or modifier is associated with a lower qualifying payment amount than the service code or modifier billed by the provider, facility, or provider of air ambulance services.

* * * * *

■ **Par. 3.** Section 54.9816–8 is amended—

■ a. By revising paragraph (c)(5)(vii)(A);

■ b. In paragraph (h)(1), by removing the word ''revised'' before ''definition for batched'';

■ c. In paragraph (h)(3), by removing the phrase ''the modifications at paragraph (c)(1) of this section are'' and adding in its place ''paragraph (c)(1) of this section is'';

■ d. In paragraph (h)(4), by removing the phrases ''The modifications at paragraphs'' and ''The amendments at paragraphs'' and adding in their place ''Paragraphs'';

■ e. In paragraph (h)(5), by removing the phrase ''The modifications at paragraphs'' and adding in its place ''Paragraphs'';

■ f. In paragraph (h)(9), by removing the phrase ''The modifications at paragraph (g) of this section are'' and adding in its place ''Paragraph (g) of this section is''; and

■ g. In paragraph (h)(10), by removing the phrase ''the corresponding section of § 54.9816–8'' and adding in its place ''the corresponding requirements of § 54.9816–8''.

The revision reads as follows:

§ 54.9816-8 Independent dispute resolution process.

* * * * *

(c) * * *

(5) * * *

(vii) * * *

(A) *Binding.* A determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section:

(*1*) Is binding upon the parties, in the absence of fraud or evidence of intentional misrepresentation of material facts presented to the certified IDR entity regarding the claim; and

(*2*) Is not subject to judicial review, except in a case described in any of paragraphs (1) through (4) of section 10(a) of title 9, United States Code.

* * * * *

DEPARTMENT OF LABOR

Employee Benefits Security Administration

For the reasons stated in the preamble, the Department of Labor amends 29 CFR part 2590 by making the following correcting amendments:

PART 2590—RULES AND REGULATIONS FOR GROUP HEALTH PLANS

■ 4. The authority citation for part 2590 continues to read as follows:

Authority: 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a–n, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Pub. L. 104–191, 110 Stat. 1936; sec. 401(b), Pub. L. 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Pub. L. 110–343, 122 Stat. 3881; sec. 1001, 1201, and 1562(e), Pub. L. 111–148, 124 Stat. 119, as amended by Pub. L. 111–152, 124 Stat. 1029;

Division M, Pub. L. 113–235, 128 Stat. 2130; Pub. L. 116–260, 134 Stat. 1182; Secretary of Labor's Order 1–2011, 77 FR 1088 (Jan. 9, 2012).

■ 5. Section 2590.716–8 is amended—
■ a. By revising paragraph (b);
■ b. In paragraph (c)(1)(i) introductory text, by removing the phrase ''subordinate paragraph (b)(2)(iii)(A)(*11*) thereof'' and adding in its place ''paragraph (b)(2)(iii)(A)(*11*) of this section'';
■ c. In paragraph (c)(4)(i) introductory text, by removing the phrase ''of this section'';
■ d. In paragraph (c)(5)(ii)(A) introductory text, by removing the regulatory citation ''29 CFR 2590.716–8(c)(5)(i)'' and adding in its place ''paragraph (c)(5)(i) of this section)'';
■ e. In paragraph (c)(5)(ii)(B), by adding the word ''paragraph'' before ''(c)(5)(vi) of this section'';
■ f. By revising paragraph (c)(5)(iii);
■ g. By adding paragraphs (c)(5)(vii)(A)(*1*) and (*2*);
■ h. In paragraph (h)(1), by removing the word ''revised'' before ''definition for batched'';
■ i. In paragraph (h)(3), by removing the phrase ''the modifications at paragraph (c)(1) of this section are'' and adding in its place ''paragraph (c)(1) of this section is'';
■ j. In paragraph (h)(4), by removing the phrases ''The modifications at paragraphs'' and ''The amendments at paragraphs'' and adding in their place ''Paragraphs'';
■ k. In paragraph (h)(5), by removing the phrase ''The modifications at paragraphs'' and adding in its place ''Paragraphs'';
■ l. In paragraph (h)(9), by removing the phrase ''The modifications at paragraph (g) of this section are'' and adding in its place ''Paragraph (g) of this section is''; and
■ m. In paragraph (h)(10), by removing the phrase ''the corresponding section of § 2590.716–8'' and adding in its place ''the corresponding requirements of § 2590.716–8''.

The revisions and additions read as follows:

§ 2590.716-8 Independent dispute resolution process.

* * * * *

(b) *Determination of payment amount through open negotiation and initiation of the Federal IDR process*—(1) *Determination of payment amount through open negotiation*—(i) *In general.* For an item or service that meets the requirements of paragraph (a)(2)(xi)(A) of this section, the provider, facility, or provider of air ambulance services or the group health plan or health insurance issuer offering group or individual health insurance coverage may, during the 30-business-day period beginning on the day the provider, facility, or provider of air ambulance services receives an initial payment or notice of denial of payment regarding the item or service, initiate a 30-business-day open negotiation period for purposes of determining the out-of-network rate for such item or service. To initiate the open negotiation period, a party must submit a written open negotiation notice with the content specified in paragraph (b)(1)(ii) of this section to the other party and to the Secretary in the manner specified in paragraph (b)(3) of this section. The 30-business-day open negotiation period begins on the day on which the party first submits the open negotiation notice, including the remittance advice documentation specified in paragraph (b)(1)(ii)(A)(*12*) of this section to the other party and the Secretary. The party in receipt of the open negotiation notice must provide to the party that initiated open negotiation and to the Secretary in the manner specified in paragraph (b)(3) of this section, as soon as practicable, but no later than the 15th business day of the 30-business-day open negotiation period, a written notice and supporting documentation in response to the open negotiation notice, as specified in paragraph (b)(1)(iii)(A) of this section.

(ii) *Open negotiation notice*—(A) *Content.* The open negotiation notice must include, for the item or service that is the subject of the open negotiation notice, information about the item or service and the parties, including:

(*1*) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address) as provided with the claim form submitted by the provider, facility, or provider of air ambulance services to the plan or issuer, and the applicable National Provider Identifier (NPI);

(*2*) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 2590.716–9, or an attestation from the party submitting the open negotiation notice that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service; the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), as well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and if the party submitting the open negotiation notice is a plan or issuer, the plan type (for example, self-insured or fully-insured);

(*3*) The name and contact information (including the legal business name, email address, phone number, and mailing address) for any third party representing the party submitting the open negotiation notice, and an attestation that the third party has the authority to act on behalf of the party it represents in the open negotiation;

(*4*) Information sufficient to identify the item or service, including: the date(s) the item or service was furnished and, if the party submitting the open negotiation notice is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for the item or service from the plan or issuer; the type of item or service (specifically, whether the item or service is an emergency service as defined in § 2590.716–4(c)(2)(i) or (ii), a non-emergency service as described in § 2590.716–5(b), or an air ambulance service as defined in § 2590.716–3); whether the service is a professional service or facility-based service; the State where the item or service was furnished; the claim number; the service code; and information to identify the location where the item or service was furnished (such as, place of service code or bill type code);

(*5*) The initial payment amount (including $0 if payment is denied);

(*6*) The qualifying payment amount, if provided in a remittance advice associated with the initial payment or notice of denial of payment, or if the party submitting the open negotiation notice is a plan or issuer;

(*7*) An offer of an out-of-network rate for each item or service;

(*8*) If the party submitting the open negotiation notice is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(*9*) If the party submitting the open negotiation notice is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 149.420(c) through (i);

(*10*) A statement that the provider, facility, or provider of air ambulance

services was a nonparticipating provider, nonparticipating emergency facility, or nonparticipating provider of air ambulance services on the date the item or service was furnished;

(*11*) General information listed in the standard open negotiation notice developed by the Secretary pursuant to paragraph (b)(3) of this section describing the open negotiation period and the Federal IDR process (including a description of the purpose of the open negotiation period and Federal IDR process and key deadlines in the open negotiation period and Federal IDR process); and

(*12*) A copy of any remittance advice associated with the initial payment or notice of denial of payment for the item or service.

(B) [Reserved]

(iii) *Open negotiation response notice*—(A) *Content.* The response to the open negotiation notice must include, for the item or service that is the subject of the open negotiation response notice, information about the item or service and the parties, including:

(*1*) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address) as provided with the claim form submitted by the provider, facility, or provider of air ambulance services to the plan or issuer, and the applicable NPI;

(*2*) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 2590.716–9, or an attestation from the party submitting the open negotiation response notice that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service, as well as the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and if the party submitting the open negotiation response notice is a plan or issuer, the plan type (for example, self-insured or fully-insured);

(*3*) The name and contact information (including the legal business name, email address, phone number, and mailing address) for any third party representing the party submitting the open negotiation response notice, and an attestation that the third party has the authority to act on behalf of the party it represents in the open negotiation;

(*4*) Information sufficient to identify the item or service included in the open negotiation notice, including the date(s) the item or service was furnished, and if the party submitting the open negotiation response notice is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for the item or service from the plan or issuer, and the claim number;

(*5*) If the party submitting the open negotiation response notice is a plan or issuer, a statement as to whether it agrees that the initial payment amount (including $0 if payment is denied) and the qualifying payment amount reflected in the open negotiation notice accurately reflect the initial payment amount and qualifying payment amount disclosed with the initial payment for the item or service, and if not, or if the open negotiation notice indicates that the initial payment amount or qualifying payment amount was not communicated by the plan or issuer in a remittance advice associated with the initial payment or notice of denial of payment, the initial payment amount (including $0 if payment is denied) and/or qualifying payment amount it believes to be correct, and documentation to support the statement (for example, the remittance advice confirming the qualifying payment amount);

(*6*) If the party submitting the open negotiation response notice is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(*7*) If the party submitting the open negotiation response notice is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 149.420(c) through (i);

(*8*) For each item or service, either a statement and supporting documentation that explains why the item or service is not subject to the Federal IDR process or a statement agreeing that the item or service is subject to the Federal IDR process;

(*9*) A statement as to whether any of the information provided in the open negotiation notice is inaccurate and the basis for the statement, as well as supporting documentation; and

(*10*) A statement confirming that the initial payment or notice of denial of payment or other remittance advice reflected in the open negotiation notice under paragraph (b)(1)(ii)(A)(*12*) of this section is accurate, or, if inaccurate, a copy of the accurate remittance advice associated with the initial payment or notice of denial of payment for the item or service.

(B) [Reserved]

(2) *Initiating the Federal IDR process*—(i) *In general.* Either party may initiate the Federal IDR process for a qualified IDR item or service as defined in paragraph (a)(2)(xi) of this section for which the parties have not agreed on an out-of-network rate by the last day of the open negotiation period provided for under paragraph (b)(1) of this section. To initiate the Federal IDR process, a party (the initiating party) must submit a written notice of IDR initiation, consistent with paragraph (b)(2)(ii) of this section, to the other party to the dispute (the non-initiating party) and to the Secretary in the manner specified in paragraph (b)(3) of this section, during the 4-business-day period beginning on the first business day after the last day of the open negotiation period (unless it is otherwise required to be submitted in the timeframe specified in paragraph (c)(5)(vii)(C) of this section). The date of IDR initiation is the date the Secretary receives the notice of IDR initiation described in paragraph (b)(2)(ii) of this section.

(A) *Exception for items and services provided by certain nonparticipating providers and facilities.* A party may not initiate the Federal IDR process for an item or service if, for that item or service, the party knows (or reasonably should have known) that the provider or facility provided notice and received consent under 45 CFR 149.410(b) or 149.420(c) through (i).

(B) [Reserved]

(ii) *Notice of IDR initiation*—(A) *Content.* The notice of IDR initiation must include, for the item or service that is the subject of the notice, information about the item or service and the parties, including:

(*1*) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address), and the NPI; and if the initiating party is a provider, facility, or provider of air ambulance services, the Taxpayer Identification Number (TIN);

(*2*) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 2590.716–9, or an

attestation from the initiating party that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service; the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), as well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and if the initiating party is a plan or issuer, the plan type (for example, self-insured or fully-insured) and TIN (or, in the case of a plan that does not have a TIN, the TIN of the plan sponsor);

(*3*) The name and contact information (including the legal business name, email address, phone number, TIN, and mailing address) for any third party representing the initiating party, and an attestation that the third party has the authority to act on behalf of the party it represents in the Federal IDR process;

(*4*) Information sufficient to identify whether the dispute being initiated includes batched or bundled qualified IDR items or services as described in paragraph (c)(4) of this section;

(*5*) Information sufficient to identify the qualified IDR item or service that is the subject of the notice of IDR initiation, including the date(s) the qualified IDR item or service was furnished; if the initiating party is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for such item or service from the plan or issuer; the date the open negotiation period under paragraph (b)(1) of this section began; the type of item or service (specifically, whether the item or service that meets the requirements of paragraph (a)(2)(xi)(A) of this section is an emergency service as defined in § 2590.716–4(c)(2)(i) or (ii), a non-emergency service as described in § 2590.716–5(b), or an air ambulance service as defined in § 2590.716–3); whether the service is a professional service or facility-based service; the State where the item or service was furnished; the claim number; the service code; and information to identify the location the item or service was furnished (including place of service code or bill type code);

(*6*) The initial payment amount (including $0 if payment is denied);

(*7*) If the initiating party is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(*8*) The qualifying payment amount, if provided with the initial payment or notice of denial of payment, or if the initiating party is a plan or issuer;

(*9*) If the initiating party is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 149.420(c) through (i);

(*10*) A statement that the provider, facility, or provider of air ambulance services was a nonparticipating provider, a nonparticipating emergency facility, or a nonparticipating provider of air ambulance services on the date the item or service was furnished;

(*11*) Attestation that the item or service under dispute is a qualified IDR item or service as defined in paragraph (a)(2)(xi) of this section and is eligible for the Federal IDR process, and the basis for the attestation;

(*12*) General information listed in the standard notice of IDR initiation developed by the Secretary under paragraph (b)(3) of this section describing the Federal IDR process (including a description of the purpose of the Federal IDR process and key deadlines in the Federal IDR process);

(*13*) A copy of any remittance advice associated with the initial payment or notice of denial of payment for the item or service; and

(*14*) Preferred certified IDR entity.

(B) [Reserved]

(iii) *Notice of IDR initiation response.* The non-initiating party must provide to the initiating party and the Secretary in the manner specified in paragraph (b)(3) of this section within 3 business days after the date of IDR initiation, a written notice and supporting documentation in response to the notice of IDR initiation, as specified in paragraph (b)(2)(iii)(A) of this section.

(A) *Content.* The notice of IDR initiation response must include, for the item or service that is the subject of the notice, information about the item or service and the parties, including:

(*1*) Information sufficient to identify the provider, facility, or provider of air ambulance services, including the name and current contact information (including the legal business name, email address, phone number, and mailing address), and the NPI; and if the non-initiating party is a provider, facility, or provider of air ambulance services, the TIN;

(*2*) Information sufficient to identify the plan or issuer, including the plan's or issuer's registration number, as required under § 2590.716–9, or an attestation from the non-initiating party that the plan's or issuer's registration number was not provided on any remittance advice associated with the initial payment or notice of denial of payment for the item or service; the legal business name of the plan or issuer (or, in the case of a self-insured group health plan that does not have a legal business name, the legal business name of the plan sponsor), as well as the current contact information (name, email address, phone number, and mailing address) of the plan or issuer as provided with any remittance advice associated with the initial payment or notice of denial of payment; and if the non-initiating party is a plan or issuer, the plan type (for example, self-insured or fully-insured) and TIN (or, in the case of a plan that does not have a TIN, the TIN of the plan sponsor);

(*3*) The name and contact information (including the legal business name, email address, phone number, TIN, and mailing address) for any third party representing the non-initiating party, and an attestation that the third party has the authority to act on behalf of the party it represents in the Federal IDR process;

(*4*) Information sufficient to identify each item or service included in the notice of IDR initiation, including the date(s) the item or service was furnished and if the non-initiating party is a provider, facility, or provider of air ambulance services, the date(s) that the provider, facility, or provider of air ambulance services received the initial payment or notice of denial of payment for such item or service from the plan or issuer, and the claim number;

(*5*) If the non-initiating party is a plan or issuer, a statement as to whether the non-initiating party agrees that the initial payment (including $0 if payment is denied) and the qualifying payment amount reflected in the notice of IDR initiation is accurate for the item or service that is the subject of the dispute, and if not, the initial payment amount (including $0 if payment is denied) and/or qualifying payment amount it believes to be correct, and documentation to support the statement (for example, the remittance advice confirming the qualifying payment amount);

(*6*) If the non-initiating party is a plan or issuer, the amount of cost sharing imposed for the item or service, if any;

(*7*) If the non-initiating party is a provider or facility, a statement that the items and services do not qualify for the notice and consent exception described at 45 CFR 149.410(b) or 149.420(c) through (i);

(*8*) For each item or service that is the subject of the dispute, either an attestation that the item or service is a qualified IDR item or service as defined in paragraph (a)(2)(xi) of this section and is eligible for the Federal IDR process, or for each item or service that the non-initiating party asserts is not a qualified IDR item or service that is eligible for the Federal IDR process, an explanation and documentation to support the assertion;

(*9*) A statement confirming that the remittance advice associated with the initial payment or notice of denial of payment provided by the initiating party under paragraph (b)(2)(ii)(A)(*13*) of this section is accurate, or if inaccurate, a copy of the accurate remittance advice associated with the initial payment or notice of denial of payment for the item or service;

(*10*) A statement as to whether any of the information provided in the notice of IDR initiation is inaccurate and the basis for the statement, as well as any supporting documentation; and

(*11*) A statement as to whether the non-initiating party agrees or objects to the initiating party's preferred certified IDR entity. If the non-initiating party objects to the initiating party's preferred certified IDR entity, the notice of IDR initiation response must include the name of an alternative preferred certified IDR entity and, if applicable, an explanation of any conflict of interest with the initiating party's preferred certified IDR entity.

(B) [Reserved]

(3) *Manner.* A party furnishing notices as required under paragraphs (b)(1)(ii) and (iii) and (b)(2)(ii) and (iii) of this section must furnish the notices using the standard forms developed by the Secretary and must furnish the notices and supporting documentation to the other party and the Secretary through the Federal IDR portal.

(c) * * *

(5) * * *

(iii) *Considerations in determination.* In determining which offer to select:

(A) The certified IDR entity must consider the qualifying payment amount(s) for the applicable year for the same or similar item or service.

(B) The certified IDR entity must consider information submitted by a party that relates to the following circumstances:

(*1*) The level of training, experience, and quality and outcomes measurements of the provider or facility that furnished the qualified IDR item or service (such as those endorsed by the consensus-based entity authorized in section 1890 of the Social Security Act).

(*2*) The market share held by the provider or facility or that of the plan or issuer in the geographic region in which the qualified IDR item or service was provided.

(*3*) The acuity of the participant, beneficiary, or enrollee receiving the qualified IDR item or service, or the complexity of furnishing the qualified IDR item or service to the participant, beneficiary, or enrollee.

(*4*) The teaching status, case mix, and scope of services of the facility that furnished the qualified IDR item or service, if applicable.

(*5*) Demonstration of good faith efforts (or lack thereof) made by the provider or facility or the plan or issuer to enter into network agreements with each other, and, if applicable, contracted rates between the provider or facility, as applicable, and the plan or issuer, as applicable, during the previous 4 plan years.

(C) The certified IDR entity must also consider information provided by a party in response to a request by the certified IDR entity under paragraph (c)(5)(i)(A)(*2*) of this section that relates to the offer for the payment amount for the qualified IDR item or service that is the subject of the payment determination and that does not include information on factors described in paragraph (c)(5)(v) of this section.

(D) The certified IDR entity must also consider additional information submitted by a party that relates to the offer for the payment amount for the qualified IDR item or service that is the subject of the payment determination and that does not include information on factors described in paragraph (c)(5)(v) of this section.

* * * * *

(vii) * * *

(A) * * *

(*1*) Is binding upon the parties, in the absence of fraud or evidence of intentional misrepresentation of material facts presented to the certified IDR entity regarding the claim; and

(2) Is not subject to judicial review, except in a case described in any of paragraphs (1) through (4) of section 10(a) of title 9, United States Code.

* * * * *

§ 2490.716–9 [Amended]

■ 6. Section 2590.716–9 is amended in paragraph (c)(2) by removing the reference ''2590.716A–6'' and adding in its place ''2590.716–6A''.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

For the reasons stated in the preamble, the Department of Health and Human Services amends 45 CFR part 149 by making the following correcting amendments:

PART 149—SURPRISE BILLING AND TRANSPARENCY REQUIREMENTS

■ 7. The authority citation for part 149 continues to read as follows:

Authority: 42 U.S.C. 300gg-92 and 300gg-111 through 300gg-139, as amended.

■ 8. Section 149.510 is amended—

■ a. By revising paragraph (c);

■ b. In paragraph (h)(1), by removing the word ''revised'' before ''definition for batched'';

■ c. In paragraph (h)(3), by removing the phrase ''the modifications at paragraph (c)(1) of this section are'' and adding in its place ''paragraph (c)(1) of this section is'';

■ d. In paragraph (h)(4), by removing the phrases ''The modifications at paragraphs'' and ''The amendments at paragraphs'' and adding in their place ''Paragraphs'';

■ e. In paragraph (h)(5), by removing the phrase ''The modifications at paragraphs'' and adding in its place ''Paragraphs'';

■ f. In paragraph (h)(9), by removing the phrase ''The modifications at paragraph (g) of this section are'' and adding in its place ''Paragraph (g) of this section is''; and

■ g. In paragraph (h)(10), by removing the phrase ''the corresponding section of § 149.510'' and adding in its place ''the corresponding requirements of § 149.510''.

The revision reads as follows:

§ 149.510 Independent dispute resolution process.

* * * * *

(c) *Federal IDR process following initiation*—(1) *Selection of certified IDR entity*—(i) *Preliminary selection of the certified IDR entity.* Within 3 business days after the date of IDR initiation, the non-initiating party must agree or object to the preferred certified IDR entity identified in the notice of IDR initiation by submitting the notice of IDR initiation response described in paragraph (b)(2)(iii) of this section, which contains the information described in paragraph (b)(2)(iii)(A)(*11*) of this section.

(A) If the non-initiating party agrees or fails to respond to the selection of the initiating party's preferred certified IDR entity in the manner and timeframe described in this paragraph (c)(1)(i), the initiating party's preferred certified IDR entity will be considered jointly selected on the third business day after the date of IDR initiation.

(B) If the non-initiating party objects to the selection of the initiating party's

preferred certified IDR entity by designating an alternative preferred certified IDR entity in the manner and timeframe described in this paragraph (c)(1)(i), the initiating party may then agree or object to the non-initiating party's alternative preferred certified IDR entity by submitting the notice of certified IDR entity selection in the manner specified in paragraph (c)(1)(i)(D) of this section.

(*1*) If the initiating party agrees to the non-initiating party's alternative preferred certified IDR entity within 3 business days after the date of IDR initiation, the alternative preferred certified IDR entity will be considered jointly selected by the parties.

(*2*) If the non-initiating party submits the notice of IDR initiation response on the first or second business day after the date of IDR initiation, and the initiating party fails to respond within 3 business days after the date of IDR initiation, the alternative preferred certified IDR entity will be considered jointly selected by the parties.

(*3*) If the non-initiating party submits the notice of IDR initiation response on the third business day after the date of IDR initiation and the initiating party fails to respond on the same day, selection will proceed pursuant to paragraph (c)(1)(i)(C) of this section.

(C) If a certified IDR entity is not jointly selected under paragraph (c)(1)(i)(A) or (B) of this section, either party may select an alternative preferred certified IDR entity by submitting the notice of certified IDR entity selection in the manner specified in paragraph (c)(1)(i)(D) of this section, until the earlier of the date that the parties agree on the alternative preferred certified IDR entity or the deadline for joint selection, which is 3 business days after the date of IDR initiation. Once a party submits a notice of certified IDR entity selection, it may not submit another notice of certified IDR entity selection until it receives a responding notice of certified IDR entity selection from the other party.

(*1*) If a party submits a notice of certified IDR entity selection to the other party on the first or second business day after the date of IDR initiation and the party in receipt of the notice agrees or fails to respond to the alternative preferred certified IDR entity by the third business day after the date of IDR initiation, the alternative preferred certified IDR entity will be considered jointly selected by the parties.

(*2*) If a party submits a notice of certified IDR entity selection to the other party on the third business day after the date of IDR initiation and the party last in receipt of the notice agrees to the alternative preferred certified IDR entity on the same day, the alternative preferred certified IDR entity will be considered jointly selected by the parties.

(*3*) If a party submits a notice of certified IDR entity selection to the other party on the third business day after the date of IDR initiation, and the party last in receipt of the notice fails to respond to the alternative preferred certified IDR entity on the same day, the parties will have failed to jointly select a certified IDR entity.

(D) To notify the other party and the Secretary of an agreement or objection to an alternative preferred certified IDR entity as described in paragraph (c)(1)(i)(C) of this section, a party must furnish a notice of certified IDR entity selection, using the standard form developed by the Secretary, to the other party and the Secretary through the Federal IDR portal within 3 business days after the date of IDR initiation. The notice of certified IDR entity selection must include a statement indicating the party's agreement with or objection to the other party's alternative preferred certified IDR entity and, if applicable, an explanation of any conflict of interest with the alternative preferred certified IDR entity, and the name of another alternative preferred certified IDR entity. However, in the event the conditions for failure to jointly select a certified IDR entity apply, selection will proceed in accordance with paragraph (c)(1)(ii) of this section.

(ii) *Failure to jointly select a certified IDR entity.* If the parties fail to jointly select a certified IDR entity within 3 business days after the date of IDR initiation, the Secretary will select a certified IDR entity. The parties will have failed to jointly select a certified IDR entity if, by the end of the third business day after the date of IDR initiation, the party last in receipt of the notice of IDR initiation response or the notice of certified IDR entity selection has received an objection to their preferred or alternative preferred certified IDR entity in the applicable notice. Alternatively, the parties will have failed to jointly select a certified IDR entity if the notice of IDR initiation response or the notice of certified IDR entity selection is submitted to the other party on the third business day after the date of IDR initiation and the party in receipt of the notice fails to respond to the alternative preferred certified IDR entity on the same day.

(A) In selecting the certified IDR entity, the Secretary will first confirm whether a party submitted the notice of IDR initiation response or the notice of certified IDR entity selection with an alternative preferred certified IDR entity on the third business day after the date of IDR initiation without the other party's agreement to the selection. If either notice was provided on the third business day after the date of IDR initiation without the other party's agreement to the alternative preferred certified IDR entity by the end of the third business day after the date of IDR initiation, the Secretary will provide the party last in receipt of the applicable notice, as of the end of the third business day after the date of IDR initiation, 2 additional business days to agree or object to the other party's alternative preferred certified IDR entity selection.

(*1*) If the party last in receipt of the applicable notice, as of the end of the third business day after the date of IDR initiation, agrees with the other party's alternative preferred certified IDR entity and notifies the Secretary of the agreement, or fails to respond, in the Federal IDR portal by the fifth business day after the date of IDR initiation, the Secretary will select the final alternative preferred certified IDR entity selected in the applicable notice.

(*2*) If the party last in receipt of the applicable notice, as of the end of the third business day after the date of IDR initiation, notifies the Secretary of its objection to the alternative preferred certified IDR entity by the fifth business day after the date of IDR initiation, the Secretary will randomly select a certified IDR entity from among the certified IDR entities (other than the preferred certified IDR entity and any alternative preferred certified IDR entity previously selected in such dispute by a party, unless there is no other certified IDR entity available to select) that charge a fee within the allowed range of certified IDR entity fees, not later than the sixth business day after the date of IDR initiation. If there are insufficient certified IDR entities that charge a fee within the allowed range of certified IDR entity fees available to arbitrate the dispute, the Secretary will select a certified IDR entity that has received approval, as described in paragraph (e)(2)(vii)(A) of this section, to charge a fee outside of the allowed range of certified IDR entity fees. In either case, the Secretary will notify the parties of the preliminary selection of the certified IDR entity not later than 6 business days after the date of IDR initiation.

(B) [Reserved]

(iii) *Date of preliminary selection of the certified IDR entity.* The date of preliminary selection of the certified IDR entity will be:

(A) Three business days after the date of IDR initiation if the parties jointly select a certified IDR entity, as specified in paragraph (c)(1)(i) of this section; or

(B) Six business days after the date of IDR initiation, if the parties fail to jointly select a certified IDR entity as specified in paragraph (c)(1)(ii) of this section.

(iv) *Final selection of the certified IDR entity*—(A) *Conflict-of-interest review.* The certified IDR entity preliminarily selected for a dispute must review the selection. The selection of the certified IDR entity will be finalized only if the certified IDR entity attests to the Secretary that it meets the following requirements:

(*1*) The certified IDR entity does not have a conflict of interest as defined in paragraph (a)(2)(iv) of this section;

(*2*) The certified IDR entity will only assign personnel to a dispute and make decisions regarding hiring, compensation, termination, promotion, or other similar matters related to personnel assigned to the dispute in a manner that is not based upon the likelihood that the assigned personnel will support a particular party to the dispute; and

(*3*) The certified IDR entity will not assign any personnel to a dispute who would have any conflicts of interest, as defined in paragraph (a)(2)(iv) of this section, regarding any party to the dispute or whose relationship with a party within the 1 year immediately preceding the assignment to the dispute would violate the restrictions on aiding or advising a former employer or principal in a manner similar to the restrictions set forth in 18 U.S.C. 207(b).

(B) *Failure to meet conflict-of-interest requirements.* If the certified IDR entity fails to attest to the Secretary within 3 business days of the date of preliminary selection of the certified IDR entity that it meets the requirements of paragraphs (c)(1)(iv)(A)(*1*) through (*3*) of this section, the Secretary will randomly select another certified IDR entity consistent with paragraph (c)(1)(ii) of this section. The Secretary will notify the parties of the new randomly preliminarily selected certified IDR entity no later than 1 business day after the date of preliminary selection of the certified IDR entity, no later than 1 business day after the end of the 3-business-day period.

(C) *Date of final selection of the certified IDR entity.* If the certified IDR entity that has been preliminarily selected attests within 3 business days that it meets the requirements of paragraph (c)(1)(iv)(A) of this section, the Secretary will notify the parties of the final selection of the certified IDR entity no later than 1 business day after the certified IDR entity attests that it meets the conflict-of-interest requirements. The date of final selection of the certified IDR entity is the date that the Secretary provides this notice to the parties.

(2) *Federal IDR process eligibility review*—(i) *Federal IDR process eligibility determination by certified IDR entity.* The selected certified IDR entity must review the information in the notice of IDR initiation, notice of IDR initiation response, and any additional information described in paragraph (c)(2)(ii) of this section, and make a final determination as to whether the item or service is a qualified IDR item or service (and in the case of a batched dispute, whether the items or services are qualified IDR items or services), as defined in paragraph (a)(2)(xi) of this section, that is eligible for the Federal IDR process. The certified IDR entity must make such a determination and notify the Secretary and both parties no later than 5 business days after the date of final selection of the certified IDR entity. If the certified IDR entity determines that the item or service is not a qualified IDR item or service that is eligible for the Federal IDR process, the dispute will be closed, and the selected certified IDR entity will not take any further action with respect to the dispute. In the case of a batched dispute, only those items and services determined to be qualified IDR items or services that are eligible for the Federal IDR process and that meet the requirements of paragraph (c)(4)(i) of this section will continue through the Federal IDR process, and the selected certified IDR entity will not take any further action with respect to the other items and services included in the batched dispute.

(ii) *Request for additional information.* The selected certified IDR entity may request additional information from either party to a dispute at any time, including for the purpose of assessing whether a conflict of interest exists, conducting an eligibility determination, or making a payment determination.

(A) Upon request, a party must submit the additional information within 5 business days to the selected certified IDR entity through the Federal IDR portal. Following a request for additional information, the time period for the applicable stage of the Federal IDR process will be tolled until the earlier of the date either all of the requested information is provided or the 5-business-day period expires, and each subsequent timeframe in the Federal IDR process will be determined based on the date of completion of the stage of the Federal IDR process that was tolled for provision of the requested information.

(B) If a party fails to submit the additional information as required, the related determination, including the conflict-of-interest review, eligibility determination, or payment determination, will be made without the requested information unless a good-cause extension of the 5-business-day period, as specified in paragraph (g)(1)(i) of this section, has been provided, and the party subsequently submits the additional information requested within the extended period. If the related determination cannot be made because both parties failed to provide the additional information as required, the dispute will be considered withdrawn, as specified in paragraph (c)(3)(ii) of this section.

(3) *Authority to continue negotiations or withdraw*—(i) *Authority to continue to negotiate.* If the parties to the Federal IDR process agree on an out-of-network rate for a qualified IDR item or service after providing the notice of IDR initiation to the Secretary required under paragraph (b)(2)(ii) of this section, but before the certified IDR entity has made its payment determination, the amount agreed to by the parties for the qualified IDR item or service will be treated as the out-of-network rate for the qualified IDR item or service. To the extent the amount exceeds the initial payment amount and any cost sharing paid or owed by the participant, beneficiary, or enrollee, payment must be made directly by the plan or issuer to the nonparticipating provider, nonparticipating facility, or nonparticipating provider of air ambulance services not later than 30 calendar days after the date the agreement is reached. In no instance may either party seek additional payment from the participant, beneficiary, or enrollee, calculated based on the agreed-upon amount, in instances in which the out-of-network rate exceeds the qualifying payment amount. The initiating party must send a notification for the parties' agreement to the Secretary and the certified IDR entity (if selected) through the Federal IDR portal as soon as possible, but no later than 3 business days after the date of the agreement. The notification must include the dispute number, a statement of the agreed-on out-of-network rate for the qualified IDR item or service, and signatures from authorized signatories for both parties.

(ii) *Withdrawal of disputes.* A dispute may be withdrawn from the Federal IDR process by the initiating party, the

Secretary, or a certified IDR entity before a payment determination is made, if one of the following conditions is met:

(A) The initiating party provides notification through the Federal IDR portal to the Secretary and the certified IDR entity (if selected) that both parties to the dispute agree to withdraw the dispute from the Federal IDR process without agreement on an out-of-network rate. The notification must include the dispute number, a statement about both parties' agreement to withdraw, and signatures from authorized signatories for both parties;

(B) The initiating party provides a standard withdrawal request notice through the Federal IDR portal to the Secretary, the certified IDR entity (if selected), and the non-initiating party of its request to withdraw the dispute from the Federal IDR process, and the non-initiating party notifies the Secretary, certified IDR entity (if selected), and the initiating party through the Federal IDR portal of its agreement to withdraw from the Federal IDR process within 5 business days of the initiating party's request. Provision of the withdrawal request through the Federal IDR portal pauses the Federal IDR process for 5 business days or until the non-initiating party responds, whichever happens first. If the non-initiating party fails to respond within 5 business days of the initiating party's request, the non-initiating party will be considered to have agreed to the withdrawal, and the dispute will be withdrawn;

(C) The certified IDR entity cannot determine eligibility, for example, because both parties to the dispute are nonresponsive to any requests for additional information to determine eligibility as described in paragraph (c)(2)(ii) of this section; or

(D) The certified IDR entity cannot make a payment determination, for example, because both parties to the dispute have failed to submit an offer as described in paragraph (c)(5)(i) of this section.

(4) *Treatment of batched qualified IDR items and services*—(i) *In general.* For purposes of encouraging efficiencies (including minimizing costs) in the Federal IDR process, a certified IDR entity may consider up to 50 qualified IDR items and services jointly as part of a single payment determination that is subject to the certified IDR entity fee for batched disputes, only if the qualified IDR items and services meet the requirements of this paragraph (c)(4)(i):

(A) The qualified IDR items and services are billed by the same provider or group of providers, the same facility, or the same provider of air ambulance services. Items and services are billed by the same provider or group of providers, the same facility, or the same provider of air ambulance services if the items or services are billed with the same National Provider Identifier or Tax Identification Number;

(B) Payment for the qualified IDR items and services is required to be made by the same group health plan or health insurance issuer. For group or individual health insurance coverage, this requirement is satisfied if the same issuer is required to make payment for the qualified IDR items and services, even if the qualified IDR items and services relate to claims from different group health plans or individual market policies. For self-insured group health plans, this requirement is satisfied if the same self-insured group health plan is required to make payment for the qualified IDR items and services, including when the plan makes payments through a third party administrator; the requirement is not satisfied if multiple self-insured group health plans are required to make payments for the qualified IDR items and services, even if those group health plans make payments through the same third party administrator;

(C) The qualified IDR items and services meet any of the following criteria under which multiple qualified IDR items and services relate to the treatment of a similar condition:

(*1*) The qualified IDR items or services were furnished to a single patient during a single patient encounter. For purposes of this section, a single patient encounter is defined as a patient encounter on one or more consecutive days during which the qualified IDR items or services were furnished to the same patient and billed on the same claim form; or

(*2*) The qualified IDR items and services were furnished to one or more patients and were billed under the same service code or a comparable code under a different procedural coding system, such as Current Procedural Terminology (CPT) codes with modifiers, if applicable, Healthcare Common Procedure Coding System (HCPCS) codes with modifiers, if applicable, or Diagnosis-Related Group (DRG) codes with modifiers, if applicable; or

(*3*) For anesthesiology, radiology, pathology, and laboratory qualified IDR items and services, the qualified IDR items and services were furnished to one or more patients and were billed under service codes belonging to the same Category I CPT code range, as specified in guidance published by the Secretary; and

(D) All the qualified IDR items and services were furnished within the same 30-business-day period following the date on which the first item or service included in the batched dispute was furnished, and the qualified IDR items and services were the subjects of a 30-business-day open negotiation period that ended within 4 business days of IDR initiation, except as provided in paragraph (c)(5)(vii)(B) of this section.

(ii) *Treatment of bundled payment arrangements.* Qualified IDR items and services that meet the definition of a bundled payment arrangement under § 149.30 may be submitted and considered as a single payment determination, and the certified IDR entity must make a single payment determination for the multiple qualified IDR items and services included in the bundled payment arrangement. Bundled payment arrangements as defined in § 149.30 and submitted under this paragraph (c)(4)(ii) are subject to the certified IDR entity fee for single determinations.

(5) *Payment determination for a qualified IDR item or service*—(i) *Submission of offers.* Not later than 10 business days after the date of final selection of the certified IDR entity as described in paragraph (c)(1)(iv)(C) of this section (or not later than 10 business days after the qualified IDR items and services are determined eligible as described in paragraph (c)(2) of this section, when the Secretary determines that any of the extenuating circumstances described in paragraph (g)(1)(ii) of this section apply), the plan or issuer and the provider, facility, or provider of air ambulance services:

(A) Must each submit to the certified IDR entity:

(*1*) An offer of an out-of-network rate expressed as both a dollar amount and the corresponding percentage of the qualifying payment amount represented by that dollar amount.

(*2*) Information requested by the certified IDR entity relating to the offer.

(*3*) The following additional information, as applicable—

(*i*) For providers and facilities, information on the size of the provider's practice or of the facility (if applicable). Specifically, a group of providers must specify whether the providers' practice has fewer than 20 employees, 20 to 50 employees, 51 to 100 employees, 101 to 500 employees, or more than 500 employees. For facilities, the facility must specify whether the facility has 50 or fewer employees, 51 to 100 employees, 101 to 500 employees, or more than 500 employees;

(*ii*) For providers and facilities, information on the practice specialty or type, respectively (if applicable);

(*iii*) For plans and issuers, information on the coverage area of the plan or issuer, the relevant geographic region for purposes of the qualifying payment amount, whether the coverage is fully-insured or partially or fully self-insured (or a FEHB carrier if the item or service relates to FEHB plans); and

(*iv*) The qualifying payment amount for the applicable year for the same or similar item or service as the qualified IDR item or service.

(B) May each submit to the certified IDR entity any information relating to the offer that was submitted by either party, except that the information may not include information on factors described in paragraph (c)(5)(v) of this section.

(ii) *Payment determination and notification.* Not later than 30 business days after the date of final selection of the certified IDR entity as described in paragraph (c)(1)(iv)(C) of this section (or not later than 30 business days after the qualified IDR items and services are determined eligible as described in paragraph (c)(2) of this section, when the Secretary determines that any of the extenuating circumstances described in paragraph (g) of this section apply), the certified IDR entity must:

(A) Select as the out-of-network rate for the qualified IDR item or service one of the offers submitted under paragraph (c)(5)(i) of this section, weighing only the considerations specified in paragraph (c)(5)(iii) of this section (as applied to the information provided by the parties pursuant to 29 CFR 2590.716–8(c)(5)(i). The certified IDR entity must select the offer that the certified IDR entity determines best represents the value of the qualified IDR item or service as the out-of-network rate.

(*1*) *Prevailing party.* In the case of single determinations, the party whose offer is selected by the certified IDR entity is considered the prevailing party. In the case of batched determinations, the party with the most determinations in its favor is considered the prevailing party.

(*2*) *Non-prevailing party.* In the case of single determinations, the party whose offer is not selected by the certified IDR entity is considered the non-prevailing party. In the case of batched determinations, the party with the fewest determinations in its favor is considered the non-prevailing party.

(*3*) *Parties prevailing in equal numbers of determinations.* If each party prevails in an equal number of determinations, neither party will be considered the prevailing party or the non-prevailing party, and the certified IDR entity fee will be split evenly between the parties.

(B) Notify the plan or issuer and the provider or facility, as applicable, of the selection of the offer under paragraph (c)(5)(ii)(A) of this section, and provide the written decision required under paragraph (c)(5)(vi) of this section.

(iii) *Considerations in determination.* In determining which offer to select:

(A) The certified IDR entity must consider the qualifying payment amount(s) for the applicable year for the same or similar item or service.

(B) The certified IDR entity must consider information submitted by a party that relates to the following circumstances:

(*1*) The level of training, experience, and quality and outcomes measurements of the provider or facility that furnished the qualified IDR item or service (such as those endorsed by the consensus-based entity authorized in section 1890 of the Social Security Act).

(*2*) The market share held by the provider or facility or that of the plan or issuer in the geographic region in which the qualified IDR item or service was provided.

(*3*) The acuity of the participant, beneficiary, or enrollee receiving the qualified IDR item or service, or the complexity of furnishing the qualified IDR item or service to the participant, beneficiary, or enrollee.

(*4*) The teaching status, case mix, and scope of services of the facility that furnished the qualified IDR item or service, if applicable.

(*5*) Demonstration of good faith efforts (or lack thereof) made by the provider or facility or the plan or issuer to enter into network agreements with each other, and, if applicable, contracted rates between the provider or facility, as applicable, and the plan or issuer, as applicable, during the previous 4 plan years.

(C) The certified IDR entity must also consider information provided by a party in response to a request by the certified IDR entity under paragraph (c)(5)(i)(A)(*2*) of this section that relates to the offer for the payment amount for the qualified IDR item or service that is the subject of the payment determination and that does not include information on factors described in paragraph (c)(5)(v) of this section.

(D) The certified IDR entity must also consider additional information submitted by a party that relates to the offer for the payment amount for the qualified IDR item or service that is the subject of the payment determination and that does not include information on factors described in paragraph (c)(5)(v) of this section.

(iv) [Reserved]

(v) *Prohibition on consideration of certain factors.* In determining which offer to select, the certified IDR entity must not consider:

(A) Usual and customary charges (including payment or reimbursement rates expressed as a proportion of usual and customary charges);

(B) The amount that would have been billed by the provider or facility for the qualified IDR item or service had the provisions of §§ 149.410 and 149.420 (as applicable) not applied; or

(C) The payment or reimbursement rate for items and services furnished by the provider or facility payable by a public payor, including under the Medicare program under title XVIII of the Social Security Act; the Medicaid program under title XIX of the Social Security Act; the Children's Health Insurance Program under title XXI of the Social Security Act; the TRICARE program under chapter 55 of title 10, United States Code; chapter 17 of title 38, United States Code; or demonstration projects under section 1115 of the Social Security Act.

(vi) *Written decision.* (A) The certified IDR entity must explain its determination in a written decision submitted to the parties and the Secretary, in a form and manner specified by the Secretary.

(B) The certified IDR entity's written decision must include an explanation of their determination, including what information the certified IDR entity determined demonstrated that the offer selected as the out-of-network rate is the offer that best represents the value of the qualified IDR item or service, including the weight given to the qualifying payment amount and any additional credible information under paragraphs (c)(5)(iii)(B) through (D) of this section.

(vii) *Effects of determination*—(A) *Binding.* A determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section:

(1) Is binding upon the parties, in the absence of fraud or evidence of intentional misrepresentation of material facts presented to the certified IDR entity regarding the claim; and

(2) Is not subject to judicial review, except in a case described in any of paragraphs (1) through (4) of section 10(a) of title 9, United States Code.

(B) *Suspension of certain subsequent IDR requests.* In the case of a single determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section, the party that submitted the initial notification under paragraph (b)(2) of this section may not submit a

subsequent notification involving the same other party for a claim for the same item or service that was the subject of the initial notification during the 90-calendar-day period following the determination. In the case of a batched determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section, the party that submitted the initial notification under paragraph (b)(2) of this section may not submit a subsequent notification involving the same other party for a claim for the same items or services that were the subject of the initial notification during the 30-business-day period following the determination.

(C) *Subsequent submission of requests permitted.* In the case of a single determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section, if the end of the open negotiation period specified in paragraph (b)(1) of this section occurs during the 90-calendar-day suspension period regarding claims for the same item or service that were the subject of the single determination, either party may initiate the Federal IDR process for those claims by submitting a notification as specified in paragraph (b)(2) of this section during the 30-business-day period beginning on the day after the last day of the 90-calendar-day suspension period. In the case of a batched determination made by a certified IDR entity under paragraph (c)(5)(ii) of this section, if the end of the open negotiation period specified in paragraph (b)(1) of this section is completed in the 30 business days prior to or during the 30-business-day suspension period regarding claims for the same items or services that were the subject of the batched determination, either party may initiate the Federal IDR process for those claims by submitting a notification as specified in paragraph (b)(2) of this section during the 4-business-day period beginning on the business day after the 30-business-day suspension period as described in paragraph (c)(5)(vii)(B) of this section.

(viii) *Recordkeeping requirements.* The certified IDR entity must maintain records of all claims and notices associated with the Federal IDR process with respect to any determination for 6 years. The certified IDR entity must make these records available for examination by the plan, issuer, FEHB carrier, provider, facility, or provider of air ambulance services, or a State or Federal oversight agency upon request, except to the extent the disclosure would violate either State or Federal privacy law.

(ix) *Payment.* If applicable, the amount of the offer selected by the certified IDR entity (less the sum of the initial payment and any cost sharing paid or owed by the participant or beneficiary) must be paid directly to the provider, facility, or provider of air ambulance services not later than 30 calendar days after the determination by the certified IDR entity. If the offer selected by the certified IDR entity is less than the sum of the initial payment and any cost sharing paid by the participant or beneficiary, the provider, facility, or provider of air ambulance services will be liable to the plan or issuer for the difference. The provider, facility, or provider of air ambulance services must pay the difference directly to the plan or issuer not later than 30 calendar days after the determination by the certified IDR entity.

Liesl I. Fowler,

Executive Secretary to the Department, Department of Health and Human Services.

Daniel Aronowitz,

Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

Kalle L. Wardlow,

Federal Register Liaison, Publications and Regulations, Associate Chief Counsel, (Procedure and Administration) Department of the Treasury.

In concurrence:

Kurt D. Dykstra,

General Counsel, Office of Personnel Management.

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FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1404

RIN3076–AA31

Requests for Arbitration Panels

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Interim final rule; request for comments.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is issuing an interim final rule with requests for comments to amend its arbitration services regulations. The interim final rule clarifies the circumstances in which the Office of Arbitration (OA) may decline to issue an arbitration panel, make a direct appointment, or provide related arbitration services. The rule would remove language that could be read to require FMCS to honor every unilateral request for an arbitration panel, regardless of legal constraints or FMCS's authority. Due to a technical error, FMCS is reposting this IFR and extending the deadline for comments to 30 days from the date of publication in the **Federal Register**. FMCS seeks public comment on this interim final rule.

DATES: This interim final rule is effective August 28, 2026.

Comment date: Comments must be received on or before September 28, 2026. FMCS will consider all timely comments received. After reviewing the comments, FMCS may revise, withdraw, or confirm this interim final rule through a subsequent document published in the **Federal Register**.

ADDRESSES: You may submit comments for this interim final rule via email to *register@fmcs.gov* and include ''Requests for Arbitration Panel, RIN 3076–AA31'' in the subject line or via mail to Office of General Counsel, Federal Mediation and Conciliation Service, One Independence Square, 250 E St. SW, Washington, DC 20427.

All comments received will be posted without change, including any personal information provided via FMCS's public website. To ensure that your comments will be considered, you must submit them within the specified open comment period. FMCS will consider all comments received on or before the closing date for comments. FMCS may make changes to this rule after considering the comments received.

FOR FURTHER INFORMATION CONTACT: Anna Davis, General Counsel, Federal Mediation and Conciliation Service, (202) 606–3737, *adavis@fmcs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

FMCS administers a Roster of Arbitrators and provides arbitration-related services under 29 CFR part 1404. Those regulations provide that voluntary arbitration and fact-finding are important means of resolving labor disputes and that OA administers requests for labor arbitration services. Current § 1404.9(b) states that a panel request, ''whether joint or unilateral, will be honored,'' while also stating that FMCS does not adopt any position on the status of an arbitration agreement, arbitrability of a dispute, or the terms of the parties' contract by issuing a panel or appointing an arbitrator. Current § 1404.10 similarly provides that the Office of Arbitration will not decide that a dispute is not subject to arbitration.

FMCS's authority is administrative and facilitative. Current § 1404.9(c) provides that FMCS has no power to compel parties to appear before an arbitrator, enforce an agreement to

arbitrate, compel parties to arbitrate any issue, influence or set aside an arbitrator's decision, or compel, deny, or modify payment of compensation to an arbitrator. Current § 1404.9(d) also recognizes that the OA may decline to submit a panel or appoint an arbitrator if the request is overly burdensome or otherwise impracticable.

FMCS has determined that the current sentence stating that every joint or unilateral panel request ''will be honored'' could be misread as requiring FMCS to provide panels even where doing so would be inconsistent with law, a court order, or FMCS's statutory or regulatory authority. That was not the intended effect of the regulation. The proposed rule clarifies that FMCS retains authority to make limited threshold determinations concerning whether FMCS may lawfully provide the requested service.

FMCS's statutory authorities support that clarification. Section 203 of the Labor Management Relations Act authorizes FMCS to make services available to assist in the resolution of labor disputes and, in subsection (f), to make its services available to Federal agencies to aid in the resolution of disputes under subchapter IV of chapter 5 of title 5, including by maintaining rosters of neutrals and arbitrators. Those services are subject to provisions in 5 U.S.C. 572(a) and 572(c) making clear that alternative dispute-resolution procedures are voluntary and require mutual consent. In the Federal-sector collective-bargaining context, 5 U.S.C. 7121 separately governs negotiated grievance procedures and provides that unresolved grievances under such procedures are subject to binding arbitration invoked by either the exclusive representative or the agency.

Recent executive orders excluding certain agencies or subdivisions from Federal labor-management relations have increased the likelihood that FMCS will receive requests for arbitration panels in circumstances where one party asserts that participation in the requested arbitration process is prohibited by law, court order or otherwise outside FMCS's statutory or regulatory authority. Executive Order 14251 excluded identified agencies and subdivisions from coverage under chapter 71 of title 5 based on the President's national security determinations, and directed agencies covered by the exclusion, upon termination of applicable collective-bargaining agreements, to terminate agency participation in any pending grievance proceedings under 5 U.S.C. 7121. FMCS recognizes that litigation concerning these matters may affect particular requests and that FMCS must administer its arbitration services consistent with applicable law and any court orders.

This rule therefore clarifies the limited screening role FMCS may perform before issuing a panel or making an appointment. Where a request presents a threshold question about FMCS's authority to provide the requested service, FMCS may seek information from the parties and may decline the request, hold the request in abeyance, or take another administratively appropriate action. FMCS's action on such a threshold question does not adjudicate the parties' underlying contractual, statutory, or arbitrability dispute. These changes reflect the longstanding principle that arbitration is voluntary and correct confusing and potentially misleading language in FMCS's current regulation.

II. Regulatory Changes

This interim final rule amends 29 CFR part 1404, subpart C, which governs FMCS arbitration services, to clarify OA's authority to screen arbitration-panel and appointment requests before providing FMCS services. The rule preserves FMCS's existing role as an administrative provider of arbitration panels and appointments, but makes clear that FMCS is not required to issue a panel, make a direct appointment, or provide related arbitration services where doing so would be inconsistent with applicable law, a court order, or FMCS's statutory or regulatory authority.

Section 1404.9—Procedures for Requesting Arbitration Lists and Panels

The rule revises § 1404.9(b). Current § 1404.9(b) provides that, although parties are encouraged to make joint requests, a panel request ''whether joint or unilateral, will be honored,'' while also stating that issuance of a panel does not signify any FMCS position on the arbitration agreement, arbitrability, or contract terms.

The revised text retains the basic rule that, upon request, OA will refer a randomly selected panel of seven arbitrators to parties to an arbitration or fact-finding agreement, or where labor arbitration or fact-finding may be provided by statute. It also retains the requirement that each panel member's biographical sketch include the background, qualifications, experience, and fee information furnished to FMCS by the arbitrator.

The rule clarifies when a panel request may be unilateral and when joint authorization is required. Under the revised text, a request for a panel may be joint or unilateral unless part 1404, applicable law, or the parties' agreement requires joint authorization for the requested service. Requests for a panel of other than seven names, for direct appointment of an arbitrator, or for special qualifications or other special service continue to require joint submission or authorization by both parties pursuant to mutual agreement.

The rule adds a new limited threshold-inquiry provision. OA may conduct a limited threshold inquiry to determine whether issuing a panel, making a direct appointment, or providing related arbitration services would be inconsistent with applicable law, a court order, or FMCS's statutory or regulatory authority. In conducting that inquiry, OA may request the parties' agreement, a statutory provision, regulation, court order, written authorization, or other information needed to determine whether FMCS may provide the requested service.

Following that limited threshold inquiry, FMCS may issue the panel or appointment, decline to provide the requested service, hold the request in abeyance, or take another administratively appropriate action. The revised text further clarifies that FMCS's issuance of a panel or appointment, refusal to issue a panel or appointment, or decision to hold a request in abeyance does not decide the validity of any collective-bargaining agreement, the merits of any grievance, the arbitrability of any dispute, or the parties' rights or obligations under any agreement or law.

For example, the doctrine of sovereign immunity requires statutory authorization before an agency can engage in binding arbitration. Without such authorization agencies cannot be brought before an external tribunal.[1] Congress has provided statutory authorization for agencies to engage in binding arbitration in a number of contexts involving both private parties and Federal employees.[2] However, in situations where statutory authorization is not available, the executive branch's obligation to take care that the law is faithfully executed precludes FMCS from providing panels for unlawful arbitration proceedings. FMCS cannot facilitate constitutional violations.

[1] *See United States* v. *Shaw,* 309 U.S. 495, 500–501 (1940) (''without specific statutory consent, no suit may be brought against the United States. No officer, by his action, can confer jurisdiction''). *See also U.S.* v. *Mitchell,* 463 U.S. 206, 215–216 (1983) (without statutory authorization ''no contracting officer or other official is empowered to consent to suit against the United States.'').

[2] *See* 5 U.S.C. 572 and 5 U.S.C. 7121.

Section 1404.10—Arbitrability

The rule revises § 1404.10 to conform to the revised threshold-inquiry language in § 1404.9. The revised section preserves the rule that OA will not decide the merits of a claim by either party that a dispute is not subject to arbitration. It adds that OA may nevertheless conduct a limited threshold inquiry to determine whether FMCS may lawfully submit a panel, make a direct appointment, or provide related arbitration services under part 1404, consistent with § 1404.9.

Section 1404.11—Nominations of Arbitrators

The rule revises § 1404.11(b) and (c). Current § 1404.11(b) provides that OA will provide a randomly selected panel of arbitrators located near the hearing site, unless the parties jointly request special qualifications or no geographic restrictions. Current § 1404.11(c) provides that, if the parties do not agree on an arbitrator from the first panel, OA will furnish up to five additional panels upon joint request, or upon unilateral request if authorized by the applicable collective-bargaining agreement, and payment of additional fees.

The revised § 1404.11(b) makes nominations of arbitrators expressly subject to §§ 1404.9 and 1404.10. This conforming change ensures that ordinary panel nomination procedures do not override FMCS's threshold authority to decline or hold a request in abeyance where providing the requested service would be inconsistent with law, a court order, or FMCS's authority.

The rule also updates the nondiscrimination sentence in § 1404.11(b). It replaces ''gender'' with ''sex'' and adds a catchall prohibiting inclusions or exclusions based on ''any other basis prohibited by applicable law.''

The revised § 1404.11(c) preserves the existing additional-panel process but expands the sources of authority that may support a unilateral request for additional panels. Additional panels may be furnished upon joint request, or upon unilateral request if authorized by the applicable collective-bargaining agreement, statute, regulation, court order, or other binding authority, and payment of additional fees. The revised paragraph also states that the additional-panel process is subject to §§ 1404.9 and 1404.10, and that OA may decline to furnish an additional panel or hold the request in abeyance if furnishing the panel would be inconsistent with applicable law, a court order, or FMCS's statutory or regulatory authority.

Section 1404.12—Selection by Parties and Appointment of Arbitrators

The rule revises § 1404.12(b) and (c). Current § 1404.12(b) sets out the ranked-preference process for selecting an arbitrator from a panel and provides that, if one party submits its ranked preferences and the other party fails to respond within 14 days, the first party's choice will be honored. Current § 1404.12(c) provides that OA will make a direct appointment only upon joint request or as otherwise provided by part 1404.

The revised § 1404.12(b) retains the existing ranked preference process. Where the parties' collective-bargaining agreement permits each party to separately notify OA of its ranked preferences, or is silent on the selection method, FMCS will ask each party to rank the panel. If both parties respond, the arbitrator with the lowest combined number will be appointed. If one party fails to respond, the first party's choice will be honored.

The rule adds a conforming limitation to § 1404.12(b): the paragraph is subject to § 1404.9(b) and does not require OA to make an appointment where OA determines that the appointment would be inconsistent with applicable law, a court order, or FMCS's statutory or regulatory authority.

The revised § 1404.12(c) likewise makes direct appointments subject to §§ 1404.9 and 1404.10. OA will make a direct appointment only upon joint request or as otherwise provided by part 1404, but that appointment authority is now expressly subject to the rule's threshold-screening provisions.

III. Expected Impact

A. Statement of Need

FMCS is issuing this interim final rule to clarify its arbitration services regulations and prevent misinterpretation of current § 1404.9(b). The current language could be read to require FMCS to honor every unilateral request for an arbitration panel even when providing a panel, making a direct appointment, or providing related arbitration services would be inconsistent with applicable law, a court order, or FMCS's statutory or regulatory authority.

The interim final rule clarifies that OA may conduct a limited threshold inquiry into whether FMCS may lawfully provide the requested administrative arbitration service. The rule does not authorize FMCS to decide the merits of any grievance, the validity of any collective-bargaining agreement, the arbitrability of any dispute, or the rights or obligations of the parties under any agreement or law.

B. Costs

FMCS does not expect the rule to impose significant costs. The rule does not require any party to submit new recurring reports, maintain new records, or change the substantive terms of any collective-bargaining agreement. The rule clarifies FMCS's internal processing standards for arbitration-panel requests and related services. Some parties may submit information to FMCS in response to a threshold inquiry, but FMCS expects such submissions to be limited to circumstances in which a request presents a legal or authority-based objection to FMCS providing the requested service.

FMCS also expects any cost effects to be limited because the rule does not affect parties' ability to pursue any available remedy before the FLRA, a court, or another tribunal with jurisdiction. Where FMCS determines that it cannot provide a requested panel or appointment, parties remain free to pursue any other procedure or remedy available under law or their agreement.

C. Benefits

The rule will improve clarity, reduce confusion, and help ensure that FMCS administers its arbitration services consistent with law. The rule will make clear that FMCS's existing panel procedures do not require FMCS to provide a panel or appointment where doing so would exceed FMCS's authority or conflict with applicable law or court orders. The rule will also help parties understand that FMCS's threshold processing decisions do not decide the merits of a grievance, the validity of a collective-bargaining agreement, or the arbitrability of a dispute.

D. Alternatives Considered

FMCS considered retaining the current text of § 1404.9(b), but rejected that alternative because the phrase ''whether joint or unilateral, will be honored'' may be read too broadly and may create confusion about FMCS's obligations. FMCS also considered adopting a rule under which FMCS would decide arbitrability disputes before issuing a panel, but rejected that alternative because FMCS's role is administrative and facilitative, and current § 1404.10 provides that the Office of Arbitration does not decide the merits of arbitrability claims. The interim final rule adopts a narrower approach by authorizing only a limited threshold inquiry into FMCS's own

authority to provide the requested administrative arbitration service.

E. Reliance Interests

FMCS recognizes that some parties may have relied on current § 1404.9(b) and prior FMCS practice when drafting or administering arbitration procedures. This interim final rule does not retroactively invalidate any panel previously issued, appointment previously made, or request previously submitted. Nor does it alter any party's contractual or statutory rights. The rule clarifies only FMCS's own authority and procedures for providing arbitration panels, appointments, and related services.

To the extent parties expected FMCS to honor unilateral panel requests in all circumstances, FMCS has determined that any such reliance is outweighed by the need to ensure that FMCS does not provide arbitration services where doing so would be inconsistent with applicable law, a court order, or FMCS's authority. Further, FMCS does not believe any expectation that FMCS would honor requests that conflicted with applicable law to be reasonable. FMCS also notes that parties remain free to pursue available remedies before the FLRA, a court, or another tribunal with jurisdiction. For example, any allegations that a party failed to comply with any provision of a CBA, including any arbitration provision, may be presented to the Federal Labor Relations Authority as an unfair labor practice pursuant to 5 U.S.C. 7116.

F. Severability

FMCS intends the provisions of this interim final rule to be severable. If any provision of this rule, or the application of any provision to any person or circumstance, is held invalid, FMCS intends that the remainder of the rule and its application to other persons or circumstances remain in effect to the fullest extent permitted by law.

IV. Regulatory Compliance

A. Administrative Procedure Act

FMCS is issuing this rule as an interim final rule with request for comments. FMCS finds good cause under 5 U.S.C. 553(b)(B) to issue this rule without first publishing a notice of proposed rulemaking because prior notice and public procedure are impracticable, unnecessary, and contrary to the public interest. Current § 1404.9(b) could be read to require OA to honor every joint or unilateral request for an arbitration panel regardless of whether providing the requested service would be inconsistent with applicable law, a court order, or FMCS's statutory or regulatory authority. FMCS has determined that it is necessary to clarify promptly that FMCS retains authority to conduct a limited threshold inquiry and to decline, hold in abeyance, or otherwise act on requests that FMCS cannot lawfully process or that would otherwise be inconsistent with law.

Delaying issuance of this clarification until after completion of notice-and-comment rulemaking would risk continued confusion regarding FMCS's authority and obligations when presented with requests that raise threshold legal or authority-based objections. FMCS therefore finds that issuing this rule on an interim final basis is in the public interest.

Although FMCS finds good cause to issue this rule without prior notice and comment, FMCS invites public comment on all aspects of this interim final rule. FMCS will consider all timely comments and may revise, withdraw, delay the effective date of, or confirm this interim final rule through a subsequent **Federal Register** document.

FMCS also finds good cause under 5 U.S.C. 553(d)(3) to make this rule effective upon publication. The same reasons supporting issuance without prior notice and comment also support immediate effectiveness because delaying the rule's effective date would perpetuate uncertainty regarding FMCS's authority to decline, hold in abeyance, or otherwise act on requests for arbitration services that FMCS may not lawfully process or that would otherwise be inconsistent with law.

B. Regulatory Review

FMCS has considered the costs and benefits of this rule. The rule clarifies FMCS's procedures for providing arbitration panels and appointments and does not impose significant compliance costs. OIRA has determined that this rule is not a significant regulatory action under Executive Order 12866. This rule is not an Executive Order 14192 regulatory action because it imposes no more than de minimis regulatory costs.

C. Regulatory Flexibility Act

Because FMCS is issuing this rule without prior notice and comment based on the good-cause exception in 5 U.S.C. 553(b)(B), the requirements of the Regulatory Flexibility Act for an initial or final regulatory flexibility analysis do not apply. In any event, FMCS certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities.

This rule clarifies FMCS's procedures for processing requests for arbitration panels, direct appointments, and related arbitration services. It does not impose new substantive compliance obligations, recurring reporting requirements, or recordkeeping requirements on small entities. The rule does not alter the fee schedule in appendix A to part 1404. To the extent a small entity requests FMCS arbitration services, the rule may affect whether FMCS issues a panel or appointment in the limited circumstance where FMCS determines that providing the requested service would be inconsistent with applicable law, a court order, or FMCS's statutory or regulatory authority. FMCS expects any economic effect to be minimal.

D. Federalism

FMCS has analyzed this rule under Executive Order 13132 and has determined that it will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

E. Civil Justice Reform

This rulemaking meets the applicable standards set forth in section 3(a) and (b)(2) of Executive Order 12988.

F. Unfunded Mandates Reform Act

This rule will not result in expenditures by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, adjusted for inflation. Accordingly, FMCS has not prepared a written statement under the Unfunded Mandates Reform Act.

G. Congressional Review Act

FMCS will submit this interim final rule to Congress and the Comptroller General in accordance with 5 U.S.C. 801. OIRA has determined that this rule is not a ''major rule'' within the meaning of 5 U.S.C. 804(2).

H. Paperwork Reduction Act

This rule does not impose a new collection of information within the meaning of the Paperwork Reduction Act because it does not require standardized reporting or recordkeeping by the public. If FMCS later revises Form R–43 or creates a standardized submission requirement to implement threshold inquiries under this rule, FMCS will evaluate whether approval from OMB is required under the Paperwork Reduction Act.

List of Subjects in 29 Part 1404

Administrative practice and procedures; Arbitration; Labor management relations.

For the reasons stated in the preamble, the Federal Mediation and Conciliation Service amends 29 CFR part 1404 as follows:

PART 1404—ARBITRATION SERVICES

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

Authority: 29 U.S.C. 172 and 29 U.S.C. 173 *et seq.*

Subpart C—Procedures for Arbitration Services

■ 2. Amend § 1404.9 by revising paragraph (b) to read as follows:

§ 1404.9 Procedures for requesting arbitration lists and panels.

* * * * *

(b) (1) Upon request, OA will refer a randomly selected panel of seven arbitrators to parties to an agreement to arbitrate or engage in fact-finding, or where labor arbitration or fact-finding may be provided by statute. A biographical sketch will be provided for each member of the panel. This sketch states the background, qualifications, experience, and all fees as furnished to OA by the arbitrator.

(2) A request for a panel may be joint or unilateral unless this part, applicable law, or the parties' agreement requires joint authorization for the requested service. Requests for a panel of other than seven names, for direct appointment of an arbitrator, or for special qualifications or other special service will not be honored unless jointly submitted or authorized by both parties pursuant to mutual agreement.

(3) OA may conduct a limited threshold inquiry to determine whether issuing a panel, making a direct appointment, or providing related arbitration services would be inconsistent with applicable law, a court order, or FMCS's statutory or regulatory authority. OA may request from the parties the agreement, statutory provision, regulation, court order, written authorization, or other information necessary to determine whether OA may provide the requested service. Following such inquiry, FMCS may issue the panel or appointment, decline to provide the requested service, hold the request in abeyance, or take other administratively appropriate action.

(4) OA's issuance of a panel or appointment, refusal to issue a panel or appointment, or decision to hold a request in abeyance does not constitute a decision on the validity of any collective-bargaining agreement, the merits of any grievance, the arbitrability of any dispute, or the rights or obligations of the parties under any agreement or law.

* * * * *

■ 3. Revise § 1404.10 to read as follows:

§ 1404.10 Arbitrability.

OA will not decide the merits of a claim by either party that a dispute is not subject to arbitration. OA may, however, conduct a limited threshold inquiry to determine whether FMCS may lawfully submit a panel, make a direct appointment, or provide related arbitration services under this part, consistent with § 1404.9.

■ 4. Amend § 1404.11 by revising paragraphs (b) and (c) to read as follows:

§ 1404.11 Nominations of arbitrators.

* * * * *

(b) Subject to §§ 1404.9 and 1404.10, OA will provide a randomly selected panel of arbitrators located in geographical areas in proximity of the hearing site, as specified in the request. The parties may jointly request special qualification of arbitrators experienced in certain issues or industries or that possess certain backgrounds, or a panel with no geographic restrictions within the U.S. OA has no obligation to put an individual on any given panel or on a minimum number of panels in any fixed period. If at any time both parties request that a name or names be included, or omitted, from a panel, such name or names will be included, or omitted, unless the number of names is excessive. These inclusions/exclusions may not discriminate against anyone because of age, race, color, sex, national origin, disability, genetic information, religion, or any other basis prohibited by applicable law.

(c) If the parties do not agree on an arbitrator from the first panel, OA will furnish up to five additional panels to the parties upon joint request, or upon a unilateral request if authorized by the applicable collective bargaining agreement, statute, regulation, court order, or other binding authority, and payment of additional fees. This paragraph is subject to §§ 1404.9 and 1404.10. OA may decline to furnish an additional panel, or may hold the request in abeyance, if OA determines under § 1404.9(b) that furnishing the additional panel would be inconsistent with applicable law, a court order, or FMCS's statutory or regulatory authority.

■ 5. Amend § 1404.12 by revising paragraphs (b) and (c) to read as follows:

§ 1404.12 Selection by parties and appointment of arbitrators.

* * * * *

(b) Where the parties' collective bargaining agreement permits each party to separately notify OA of its ranked order of preference, or is silent on the manner of selecting arbitrators, FMCS will ask each party to advise OA of its order of preference by numbering each name on the panel and submitting the numbered list in writing to OA. Upon receiving the rank order from one party, OA will notify the other party that it has fourteen (14) days in which to submit its selections. Where both parties respond, the name that has the lowest combined number will be appointed. If the other party fails to respond, the first party's choice will be honored. This paragraph is subject to § 1404.9(b) and does not require OA to make an appointment where OA determines that the appointment would be inconsistent with applicable law, a court order, or FMCS's statutory or regulatory authority.

(c) Subject to §§ 1404.9 and 1404.10, OA will make a direct appointment of an arbitrator only upon joint request or as otherwise provided by this part.

Dated: August 26, 2026.

Anna Davis,

General Counsel.

[FR Doc. 2026–17652 Filed 8–27–26; 8:45 am]

BILLING CODE 6732–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2026–1092]

RIN 1625–AA08

Special Local Regulation; Chickahominy River, Williamsburg, VA

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation (SLR) for navigable waters of the Chickahominy River. This action is necessary to provide for the safety of life on these navigable waters near Williamsburg, VA during a rowing event. This regulation prohibits persons and vessels from entering the regulated area unless specifically authorized by

the Captain of the Port Virginia (COTP) or their designated representative.

DATES: This rule is effective from 9 a.m. until 3 p.m. on September 20, 2026.

ADDRESSES: To view available documents go to *https://www.regulations.gov* and search for USCG–2026–1092.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact LCDR Justin Z. Strassfield, Sector Virginia Waterways Management Division, U.S. Coast Guard; by phone, at (206) 815–7367, or by email, at *VirginiaWayerways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

Coast Guard regulations define ''regatta or marine parade'' as an organized water event of limited duration which is conducted according to a prearranged schedule. 33 CFR 100.05(a). And, as explained in 33 CFR 100.15, Coast Guard requires that an organization planning to hold a regatta or marine event apply for a permit if the event, by its nature, circumstances, or location, will introduce extra or unusual hazards to the safety of life on the navigable waters of the United States. These permits may be approved by the Coast Guard, or by the state in which the event is to take place, if there is a Coast Guard-State agreement in place. See 33 CFR 100.10. Upon the approval of an application, the Captain of the Port, Sector Virginia (COTP) may promulgate such ''Special Local Regulations'' (SLR's) as he or she deems necessary to ensure safety of life on the navigable waters immediately prior to, during, and immediately after the event. See 33 CFR 100.35(a).

On April 10, 2026, the Coast Guard received a request under 33 CFR 100.15 from the Williamsburg Boat Club for a Marine Event Permit to host a 4-kilometer-long rowing event. The event will be held from 9 a.m. through 3 p.m. on September 20, 2026, in Williamsburg, VA. The event will include approximately 400 participants.

The Captain of the Port Virginia (COTP) is issuing this Special Local Regulation (SLR) under the authority in 46 U.S.C. 70041. The COTP has determined that potential hazards associated with the rowing event include the possibility of participants rowing within the navigable channel, as well as the possibility that participants will interfere with boaters within the Chickahominy River, and collisions between participants and nonparticipants. The purpose of this rulemaking is to protect event participants, non-participants, such as spectators and transiting vessels before, during, and after the scheduled event.

The Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable to do so in the time since we received sufficient information to be able to publish a proposed rule, consider comments, issue a final rule, and leave thirty days after that for the rule to take effect by September 20, 2026, to protect personnel, vessels, and the marine environment.

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

III. Discussion of the Rule

This rule establishes a temporary SLR from 9 a.m. until 3 p.m. on September 20, 2026. The special local regulation will cover all navigable waters of the Chickahominy River between the Highway 5 Chickahominy River Bridge and Shields Point. No vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP or their designated representative.

IV. Regulatory Analyses

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

A. Impact on Small Entities

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

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

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

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

D. Unfunded Mandates Reform Act

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

E. Environment

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

This rule is a special local regulation. It is categorically excluded from further review under paragraph L61 of

Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

■ 2. Add § 100.T599–1092 to read as follows:

§ 100.T599–1092 Special Local Regulation; Chickahominy River, Williamsburg, VA.

(a) *Location.* This special local regulation applies to the following regulated area: All waters of the Chickahominy River shoreline to shoreline bounded to the South by the Highway 5 Chickahominy River Bridge over the Chickahominy River and bounded to the North by a line drawn from Shields Point, located at 37°18′19.3″ N, 76°52′25.0″ W, thence west across the Chickahominy River to 37°18′18.9″ N, 76°53′10.5″ W. These coordinates are based on the North American Datum 83 (NAD 83).

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

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

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at 877–722–5727. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 9 a.m. to 3 p.m. on September 20, 2026.

Dated: August 25, 2026.

Brett R. Workman,

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

[FR Doc. 2026–17608 Filed 8–27–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0465]

RIN 1625–AA00

Safety Zone; Hurricanes, Tropical Storms, and Severe Weather Events in the Sector Mobile Captain of the Port Zone

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the navigable waters within the Sector Mobile Captain of the Port (COTP) zone, to be enforced in the event of hurricanes, tropical storms, and other severe weather events. This regulation establishes requirements for industry and vessel operators in the Mobile COTP zone, to ensure the safety of the ports and waters within the zone prior to, during and immediately following these events.

DATES: This rule is effective September 28, 2026.

ADDRESSES: To view available documents, go to *https://www.regulations.gov* and search for USCG–2024–0465.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact Marine Science Technician Chief Petty Officer Stacy Stevenson, Waterways Management Division, U.S. Coast Guard; telephone 251–382–8653, or email *Sectormobilewaterways@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 Gulf Coast of Mississippi, Alabama, and northwest Florida has the potential to be affected by hurricanes, tropical storms or other severe weather events on a yearly basis, especially between the months of June and November. These storms and other events create hazardous conditions in the port, including but not limited to damaging winds, storm surge and heavy waves, inaccurate or off-station aids-to-navigation, and the potential for navigational obstructions. The purpose of this rulemaking is to establish a permanent safety zone regulation to allow for quick activation of limited access areas needed to protect mariners, port infrastructure, and the environment before, during, and after extreme weather events. The COTP is establishing 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.

III. Discussion of Comments and the Rule

The Coast Guard published a Notice of Proposed Rulemaking (NPRM) for this regulation on June 5, 2026 (91 FR 34183). During the comment period that ended on July 6, 2026, we received zero comments.

The Coast Guard is establishing a safety zone to be activated and enforced as needed to respond to hurricanes, tropical storms, or other severe weather events on navigable waters of the Coast Guard Sector Mobile COTP zone. This rule establishes actions to be completed by local industry and vessels in the Mobile COTP zone prior to landfall of hurricanes, tropical storms, or other severe weather events threatening the Mobile COTP zone. The safety zone consists of all navigable waters of the Mobile COTP zone, as prescribed in 33 CFR 3.40–10. However, for each particular hurricane or tropical storm, the specific restricted areas may be smaller and comprise only a portion of the Sector Mobile COTP zone. The area being enforced, along with the enforcement dates and times, would be announced to the public in advance by Broadcast Notice to Mariners and other public advisories.

There are no substantive changes in the regulatory text of this final rule from the NPRM. There is a technical change in the regulation number from 165.847 in the NPRM to 165.849 in this final rule.

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 (RFA) 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 that, although some small entities may intend to operate within the safety zone area, this rule will not have a significant economic impact on a substantial number of small entities. The restrictions associated with this regulation will only be enforced for short periods of time during heavy weather when vessel operations are already restricted primarily by environmental factors.

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 would 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 involves a safety zone that will require certain actions from vessel and facility operators, during period prior to, during, and following hurricanes, tropical storms, or other severe weather events. 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 § 165.849 to read as follows:

§ 165.849 Safety Zone; Hurricanes, Tropical Storms, and Severe Weather Events within the Sector Mobile Captain of the Port Zone.

(a) *Regulated Area.* All navigable waters within the Sector Mobile Captain of the Port (COTP) zone, as described in 33 CFR 3.40–10, or some portion of those waters, during specified port conditions. Port conditions and safety zone activation may vary for different portions of the regulated area at different times, based on storm conditions and the storm's projected track.

(b) *Definitions.* (1) *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 Mobile in the enforcement of the safety zone.

(2) *Port Condition WHISKEY* means a condition set by the COTP when weather advisories indicate sustained gale force winds or higher, greater than 39 mph or 47 knots, from a weather event are predicted to make landfall at the port within 72 hours.

(3) *Port Condition X–RAY* means a condition set by the COTP when weather advisories indicate sustained gale force winds or higher, greater than 39 mph or 47 knots, from a weather event are predicted to make landfall at the port within 48 hours.

(4) *Port Condition YANKEE* means a condition set by the COTP when weather advisories indicate that sustained gale force winds or higher, greater than 39 mph or 47 knots, from a weather event are predicted to make landfall at the port within 24 hours.

(5) *Port Condition ZULU* means a condition set by the COTP when weather advisories indicate that sustained gale force winds or higher, greater than 39 mph or 47 knots, from a weather event are predicted to make landfall at the port within 12 hours.

(6) *Port Condition RECOVERY* means the condition set by the COTP during the recovery phase when weather advisories indicate that sustained gale force winds from a weather event are no longer predicted for the regulated area. This port condition remains in effect until the regulated areas are safe and reopened to normal operations.

(c) *Regulations.* (1) *Port Conditions.* When the COTP sets a Port Condition described in paragraph (b) of this section, vessels and persons within a regulated area must comply with the following requirements for each respective Port Condition. The COTP may modify these requirements depending on weather forecasts or other local factors. Any modification to the requirements will be distributed to the public via broadcasts, marine safety bulletins, or other methods.

(i) *Port Condition WHISKEY.* (A) All vessels and port facilities in a regulated

area must exercise due diligence in preparation for potential storm impacts. Vessels, ports, and waterfront facilities must initiate vessel and facility severe weather plans. All commercial vessels with installed Automatic Identification Systems (AIS)—regardless of tonnage, length, or service—that remain or transit within port, will be required by the COTP to activate the AIS prior to when Port Condition X–RAY is set by the COTP. All AIS shall remain activated through Port Condition RECOVERY. Vessel operators must contact the COTP if, for any reason, the installed AIS is not activated.

(B) Oceangoing vessels 500 gross tons (GT) and above must report their intention to depart or remain in port to the COTP. Vessels electing to depart should make plans to depart no later than the setting of Port Condition YANKEE. Vessels wishing to remain in port are required to submit a Notice of Intent to Remain in Port to the COTP prior to setting Port Condition X–RAY.

(C) Vessels scheduled for arrival into port before Port Condition X–RAY is set by the COTP must make necessary berthing arrangements and submit a mooring plan to the COTP prior to requesting entrance into port unless expected to depart prior to setting Port Condition YANKEE.

(D) All oceangoing commercial vessels and Coast Guard regulated barges greater than 500 GT are prohibited from anchoring within territorial waters under the cognizance of the COTP during a severe weather event.

(ii) *Port Condition X–RAY.* (A) Oceangoing commercial vessels greater than 500 GT not approved to remain in port should start departing the port immediately, including ensuring cargo operations are secured to meet sail times. Vessels requiring tugs and pilots during their transit should arrange for these services immediately. Smaller vessels should seek shelter in preparation for possible port closure. AIS shall remain activated through Port Condition RECOVERY. Vessel operators must contact the COTP if for any reason the installed AIS is not activated.

(B) All waterfront facilities and vessels should prepare to terminate cargo operations in preparation for storm arrival. All port facilities in a regulated area must ensure that potential flying debris is removed or secured. Hazardous materials/pollution hazards must be secured in a safe manner and away from waterfront areas. Containers should be stacked no more than 4 high.

(iii) *Port Condition YANKEE.* (A) All oceangoing vessels over 500 GT must depart their respective ports for open ocean immediately, unless authorized by the COTP to remain in port. All oceangoing commercial vessels over 500 GT permitted to remain in port must implement their pre-approved mooring arrangement to be followed until entering Port Condition RECOVERY, have a navigation watch set and maintain a listening watch on Channel 16 VHF–FM. Vessels allowed to remain in port must have the decks clear of any missile hazards, potential pollution hazards, and flammable materials. Inland tows are to be securely moored and prepared for severe weather conditions. No vessels may enter the port without permission of the COTP.

(B) Terminal operators should terminate all cargo operations not associated with storm preparations. Cargo operations associated with storm preparations include moving cargo within or off the port for securing purposes, port/facility equipment preparations, and similar activities, but do not include moving cargo onto the port or vessel loading/discharging operations unless specifically authorized by the COTP. Bunkering and lightering operations will be suspended at the COTP's discretion with all bunkering, lightering, and/or cargo transfers suspended when winds reach 40 mph sustained. Transfer hoses and arms should be disconnected prior to sustained winds over 50 mph. All facilities must continue to operate in accordance with approved Facility Security Plans and comply with the requirements of the Maritime Transportation Security Act.

(iv) *Port Condition ZULU.* Regulated areas are closed to all vessel traffic except those specifically authorized by the COTP. Cargo operations are suspended, including bunkering and lightering. This provision does not apply to operations involving Cargo of Particular hazard or Certain Dangerous Cargoes, which in every case must be suspended. If a vessel is authorized by the COTP to remain in port, ensure the vessel is securely moored and prepared for severe weather conditions.

(v) *Port Condition RECOVERY.* Regulated areas are closed to all vessel movements until safe for passage. Based on assessments of channel conditions, navigability concerns, and hazards to navigation, the COTP may permit vessel movements with restrictions. Restrictions may include, but are not limited to, preventing vessel movements, imposing draft, speed, size, horsepower, daylight restrictions, or directing the use of specific routes. Vessels permitted to transit the regulated area shall comply with the lawful orders or directions given by the COTP or designated representative.

(2) *Regulated Area Notice.* The COTP will notify the maritime community of the designated ports and/or waterways within the COTP zone and the time periods during which these restrictions will be in effect via Broadcast Notice to Mariners, Marine Safety Information Bulletin or by on-scene designated representatives.

(3) *Exception.* This regulation does not apply to authorized law enforcement agencies operating within the regulated area(s).

(d) *Contact information.* The COTP may be contacted by email at *secmobcc@uscg.mil,* or by phone at 251–266–5888.

M.O. Vega,

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

[FR Doc. 2026–17627 Filed 8–27–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2026–1090]

Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone, Fireworks at Pier Wisconsin

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone on Milwaukee Harbor, including Lakeshore Inlet, in Milwaukee, WI, to provide for the safety of life on navigable waterways during a land-based fireworks display. Our regulation for annual marine events requiring safety zones within the Captain of the Port Lake Michigan zone identifies the boundaries of the safety zone. During the enforcement period, vessels may not enter, move within, or exit the safety zone unless granted permission by the Captain of the Port or designated representative.

DATES: The regulations in 33 CFR 165.929 will be enforced for the Fireworks at Pier Wisconsin safety zone identified in Event 1, Table 4, on September 5, 2026, from 10:15 p.m. to 11:00 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email 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: The Coast Guard will enforce the safety zone in Event 1, in Table 4 to § 165.929, on September 5, 2026, from 10:15 p.m. to 11 p.m. This action is being taken to provide for the safety of life on navigable waterways during this land-based fireworks display. Our regulation for annual marine events requiring safety zones within the Captain of the Port Lake Michigan zone specifies the location of the safety zone, which encompasses a portion of Milwaukee Harbor and Lakeshore Inlet. During the enforcement period, as reflected in § 165.929(a), vessels may not enter, move within, or exit the safety zone unless granted permission by the Captain of the Port or designated representative.

In addition to this notification in the **Federal Register**, the Coast Guard will provide notice of this enforcement period via Local Notice to Mariners and Broadcast Notice to Mariners.

Rhianna N. Macon,

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

[FR Doc. 2026–17588 Filed 8–27–26; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2025–0286; FRL–13571–01–OCSPP]

Alpha-d-Glucopyranoside, Beta-d-Fructofuranosyl, Mixed Palmitates and Stearates in Pesticide Formulations; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates (CAS Reg. No. 84066–95–5) when used as an inert ingredient (surfactant) on growing crops pre-harvest at no more than 12% of the final pesticide formulation. Elicit Plant S.A.S submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates, when used in accordance with the terms of this exemption.

DATES: This regulation is effective August 28, 2026. Objections and requests for hearings must be received on or before October 27, 2026 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of this document).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2025–0286, is available online at *https://www.regulations.gov.* Additional information about dockets generally, along with instructions for visiting the docket in-person, is available at *https://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. If you fail to file an objection to the final rule within the time period specified in the final rule, you will have waived the right to raise any issues resolved in the final rule. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify the docket ID number EPA–HQ–OPP–2025–0286 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before October 27, 2026.

EPA's Administrative Law Judges Division (ALJD), in which the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in other procedural rules governing those proceedings. *See* ''Order Urging Electronic Filing and Service,'' dated December 3, 2025, which can be found at *https://www.epa.gov/system/files/documents/2025-12/2025-12-03-order-urging-electronic-filing-and-service.pdf.*

Although EPA's regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the ALJD electronically, a person should utilize the e-filing system at *https://yosemite.epa.gov/oa/eab/eab-alj_upload.nsf.*

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

II. Petition for Exemption

In the **Federal Register** of July 3, 2025 (90 FR 29515) (FRL–12474–05–OCSPP), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–11962) by TSG Consulting on behalf of Elicit Plant S.A.S, 1 Passage de la Croix, Lieu-dit le chataignier, 16220 Moulins-sur-tardoire, France. The petition requested that 40 CFR 180.920 be amended by establishing an exemption from the requirement of a tolerance for residues of alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates (CAS Reg. No. 84066–95–5) when used as an inert ingredient (surfactant) in pesticide formulations applied to growing crops pre-harvest. That document referenced a summary of the petition prepared by Elicit Plant S.A.S, which is available in the docket. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition and in accordance with its authority under FFDCA section 408(d)(4)(A)(i), EPA is establishing an exemption limiting the concentration of alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates to no more than 12% of the final pesticide formulation to decrease any potential for surfactant effects on the respiratory system.

III. Inert Ingredient Definition

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

IV. Final Tolerance Actions

A. Aggregate Risk Assessment and Determination of Safety

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

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates, including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates follows.

B. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies are discussed in this unit.

The toxicological database of alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates is supported by data regarding several other mixtures of sucrose esters of fatty acids which have similar compositions and are manufactured by inter-esterification of sucrose with fatty acids derived from edible vegetable oils and fats (stearic acid and palmitic acid). These include fatty acids, C16–18 (even numbered), mono diesters with sucrose; Ryoto Sugar Ester S–570; and Ryoto Sugar Ester S–1170. EPA has determined that it is appropriate to bridge data from these three compounds to assess alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates due to similarities in the manufacturing processes and composition.

Based on the available toxicity studies, alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates is anticipated to have low overall toxicity. Physico-chemical properties suggest low potential for dermal toxicity. Studies with surrogate chemicals showed low acute toxicity via the oral route, and low potential for skin irritation or sensitization. Alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates may be irritating to the eye.

There is a general concern regarding the disruption of natural surfactants in the lungs from inhalation of chemicals with surfactant properties. EPA lacks acute inhalation toxicity data for alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates to determine whether it may cause such effects. However, the chemical's physico-chemical properties

suggest low potential for inhalation toxicity. Moreover, EPA is establishing a tolerance exemption with a 12% concentration limitation to reduce exposure, which EPA believes will also reduce any potential for such effects.

Read-across information did not identify adverse effects in a subchronic study, a combined developmental/reproductive toxicity study, or a chronic/carcinogenicity study. There was also no evidence of mutagenicity. Therefore, concern for mutagenicity and carcinogenicity is low. Neurotoxicity and immunotoxicity studies are not available for review. However, no evidence of neurotoxicity or immunotoxicity was observed in the available studies.

C. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level, generally referred to as a population-adjusted dose or a reference dose, and a safe margin of exposure. For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/overview-risk-assessment-pesticide-program.*

The hazard profile of alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates is adequately defined. Overall, alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates is of low acute, subchronic, and developmental toxicity. No systemic toxicity is observed up to 1,000 mg/kg/day. Since signs of toxicity were not observed, no toxicological endpoints of concern or PODs were identified. Therefore, a qualitative risk assessment for alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates can be performed.

D. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates, EPA considered exposure under the proposed exemption from the requirement of a tolerance and existing uses. EPA assessed dietary exposures from alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates in food as follows:

Dietary exposure (food and drinking water) to alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates may occur following ingestion of foods with residues from their use in accordance with this exemption. Dietary exposure also may occur following ingestion of alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates when used as a food additive. Although alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates itself is not a food additive authorized by the U.S. Food and Drug Administration, similar sucrose esters of fatty acids, meeting the criteria outlined in 21 CFR 172.859 and 21 CFR 172.869, are authorized for use as emulsifiers, stabilizers, and texturizers in various food products (*e.g.,* chewing gum, coffee, beverages, sauces, meat, and seafood). However, a quantitative dietary exposure assessment was not conducted since a toxicological endpoint for risk assessment was not identified.

2. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

Alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates may be present in pesticide and non-pesticide products (*e.g.,* cosmetics) that may be used in and around the home. However, a quantitative residential exposure assessment was not conducted since a toxicological endpoint for risk assessment was not identified.

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

Based on the lack of toxicity in the available database, EPA has not found alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates to share a common mechanism of toxicity with any other substances, and alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance exemption, therefore, EPA has assumed that alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

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

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act safety factor. In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

Based on an assessment of alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates, EPA has concluded that there are no toxicological endpoints of concern for the U.S. population, including infants and children. Because there are no threshold effects associated with alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates, EPA conducted a qualitative assessment. As part of that assessment, the Agency did not use safety factors for assessing risk, and no additional safety factor is needed for assessing risk to infants and children.

F. Determination of Safety

Because no toxicological endpoints of concern were identified, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to residues of alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates.

G. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is not establishing a numerical tolerance for residues of alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates in or on any food commodities. EPA is establishing a limitation on the amount of alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates that may be used in pesticide formulations applied pre-harvest. This limitation will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (''FIFRA''), 7 U.S.C. 136 *et seq*. EPA will not register any pesticide formulation for food use that exceeds 12% alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates in the final pesticide formulation.

H. Conclusion

Therefore, an exemption from the requirement of a tolerance is established for residues of alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates (CAS Reg. No. 84066–95–5) when used as an inert ingredient (surfactant) in pesticide formulations applied to growing crops pre-harvest under 40 CFR 180.920 at no more than 12% of the final pesticide formulation.

V. Statutory and Executive Order Reviews

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

A. Executive Order 12866: Regulatory Planning and Review

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

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

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

C. Paperwork Reduction Act (PRA)

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

D. Regulatory Flexibility Act (RFA)

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

E. Unfunded Mandates Reform Act (UMRA)

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

F. Executive Order 13132: Federalism

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

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

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

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

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

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

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

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

J. National Technology Transfer Advancement Act (NTTAA)

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

K. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 180

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

Dated: August 25, 2026.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

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

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

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

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

■ 2. Amend § 180.920, by adding an entry for ''Alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates (CAS Reg. No. 84066–95–5)'' in alphabetical order to Table 1 to read as follows:

§ 180.920 Inert ingredients used pre-harvest; exemptions from the requirement of a tolerance.

* * * * *

TABLE 1—TO § 180.920

Inert ingredients	Limits	Uses
* * * * * * *		
Alpha-d-glucopyranoside, beta-d-fructofuranosyl, mixed palmitates and stearates (CAS Reg. No. 84066–95–5).	No more than 12% of the final pesticide formulation ..	Surfactant.
* * * * * * *		

[FR Doc. 2026–17579 Filed 8–27–26; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 298

[Docket Number MARAD–2026–1288]

RIN 2133–AC05

Vessel and Shipyard Financing, Regulatory Revision

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Interim final rule, request for comments.

SUMMARY: This interim final rule revises MARAD regulations implementing the Vessel and Shipyard Financing Program (Title XI Program or the Program) financial and programmatic requirements. Specifically, MARAD implements statutory changes, updates the vessel project and shipyard project financing requirements imposed on Title XI Program borrowers, aligns the Title XI Program with modern Federal credit best practices, corrects numerous legal citations, improves accessibility by modernizing text, and removes obsolete references. This rule also streamlines the MARAD Title XI regulations by removing 14 of 34 sections of the existing regulations.

DATES: This interim final rule is effective August 28, 2026. Comments must be submitted on or before October 27, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2026–1288 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Search using the DOT Docket Number provided above and follow the instructions for submitting comments.
- *Mail/Hand-Delivery/Courier:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590. If you would like to know that your comments reached the facility, please enclose a stamped, self-addressed postcard or envelope. The Docket Management Facility is open 9:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays.

Note: We recommend that you include your name, mailing address, or an email address, and telephone number in the body of your document so that we can contact you if we have questions regarding your submission. If you submit your inputs by mail or hand-delivery, they must be submitted in an unbound format, no larger than 8 1/2 by 11 inches, single-sided, suitable for copying and electronic filing. All submissions received should include the agency name and docket number or Regulation Identifier Number (RIN) for this rulemaking.

Instructions: All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: David M. Gilmore, Director, Office of Marine Financing, (202) 366–5737 or via email at *marinefinancing@dot.gov.* For those who use a telecommunications device (TDD), please call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during business hours. The FIRS is available twenty-four hours a day, seven days a week, to leave a message or question. You will receive a reply during normal business hours. You may send mail to Mr. Gilmore at Department of Transportation, Maritime Administration, Office of Marine Financing, 1200 New Jersey Avenue SE, Washington, DC 20590. If you have questions about viewing the Docket, call Docket Operations, telephone: (800) 647–5527.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This document and all comments may be viewed online through the Federal eRulemaking portal at *www.regulations.gov.* An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register's home page at: *www.federalregister.gov.*

Privacy Act: Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

Background

Regulatory Review

Improvement of regulations is a continuous focus for DOT and MARAD. For that reason, DOT and MARAD regularly and deliberately review their rules in accordance with Executive Order (E.O.) 12866, Regulatory Planning

and Review (Oct. 4, 1993), section 610 of the Regulatory Flexibility Act, 49 CFR part 5, and DOT Order 2100.6B, Policies and Procedures for Rulemakings. That process is summarized in Appendix D of DOT's semi-annual regulatory agenda. In addition, E.O. 14192, Unleashing Prosperity Through Deregulation (Feb. 6, 2025), and E.O. 14219, Ensuring Lawful Governance and Implementing the President's ''Department of Government Efficiency'' Deregulatory Initiative (Feb. 19, 2025), directed agencies to scrutinize their regulations to reduce unnecessary costs, clear barriers to emerging technology, and alleviate unnecessary regulatory burdens.

MARAD is evaluating the continued accuracy of its rules and determining whether they address current issues and provide the regulated public with sound guidance. Accordingly, MARAD has identified its Title XI Program regulations governing applications and administrative procedures for consideration.

Title XI Program

The Maritime Administrator is authorized to provide guarantees of debt (loan guarantees) to finance all types of U.S.-flagged vessel construction (except for fishing vessels) and shipyard modernization and improvement. The Title XI Program was established under Title XI of the Merchant Marine Act, 1936, Public Law 74–835, as amended, and codified at 46 U.S.C. ch. 537 (the Act). The Title XI Program provides for the full faith and credit guarantee of the United States, acting by and through the Maritime Administrator, for the payment of debt obligations to: (1) U.S. shipowners for the purpose of financing or refinancing U.S. flag vessels constructed, reconstructed, repaired, or reconditioned in U.S. shipyards; and (2) U.S. shipyards for the purpose of financing advanced shipbuilding technology and modern shipbuilding technology of a privately-owned shipyard facility located in the U.S. Because the Title XI Program guarantees full payment of the obligation's unpaid principal and interest in the event of a default by the borrower, both the statute and regulations contain several criteria and requirements intended to reduce the risk of a loan default.

This interim final rule revises the Title XI regulations found at 46 CFR part 298. To assist owners and operators of United States flagged vessels and shipyard owners, MARAD is revising the entire regulation, which has remained substantially unchanged since 1978. The rule modernizes the regulations and is intended to provide clarity to improve administrative efficiencies and result in net cost savings to the public and the Federal Government. A summary of the changes includes the following:

Revisions to correct numerous citations in accordance with the codification of the Act into 46 U.S.C. ch. 537, improve accessibility by modernizing text, remove obsolete references, improve processing times for projects, and provide a mechanism to prioritize applications for expedited application approval.

Updates to the Title XI Program regulations are intended to simplify application requirements and provide applicants and participants with a better understanding of MARAD expectations for program participation. The interim final rule eliminates 14 of the current rule's 34 sections. Moreover, the current rule does not conform to modern credit standards or accurately reflect the current process for evaluating applications. At the time the Title XI Program regulations were first promulgated in 1978, Federal credit standards for agencies did not exist. This interim final rule incorporates modern Office of Management and Budget (OMB) credit program requirements [1] that mitigate the U.S. Government's risk associated with a credit default.

MARAD loan agreements provide for a variety of applicants and projects and include a number of component documents. Terms and conditions found in the regulations are being removed and instead provided for in MARAD's published loan agreement documents. The application forms (MA–163 and MA–163A), and the borrower loan agreement documents are found on MARAD's website at *https://www.maritime.dot.gov/grants-finances/title-xi/title-xi-applications*.

Fee reductions have been made to encourage greater program participation. The current regulation has a $5,000 application fee. MARAD believes that a reduced application fee of $1,000 will lower barriers to entry for certain participants with limited resources for capital investment. In addition, changes in the rule include the restructuring of the former investigation fee (renamed the commitment fee), which will benefit applicants by eliminating unnecessarily high initial costs for larger projects.

Lastly, MARAD is removing text that is no longer supported by statutory authority. For example, MARAD no longer performs financing of eligible export vessels. Thus, the related regulatory text is being removed.

Immediate Effective Date and Request for Comment

MARAD has analyzed this rule under 5 U.S.C. 553(b)(B) and (d)(3) and determined that it has good cause to waive the prior opportunity for notice and comment and delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA). MARAD nonetheless seeks comment on this interim final rule and will consider comments received in issuing any final rule.

Under the APA, 5 U.S.C. 553(b)(B), an agency may waive the requirements for notice and public procedure when it finds, for good cause, that such procedures are ''impracticable, unnecessary, or contrary to the public interest.'' MARAD finds that the notice and comment process is unnecessary in this instance. The revisions do not impose new, substantive requirements on the public; rather, they codify existing administrative processes, statutory updates, and established Federal fiscal practices. The changes largely involve:

- *Clarification and Modernization:* Relocating existing information to provide a more logical and accessible guide for program applicants.
- *Statutory Alignment:* Updating the rule to reflect legislative changes.
- *Fiscal Safeguards:* Incorporating standard OMB credit program requirements, which are necessary to mitigate the risk of default and protect the U.S. Government's interests. These standards represent universal best practices in Federal financing.

Because the rule merely conforms existing regulations to current statutory requirements and adopts standard Federal credit oversight practices, it does not represent a discretionary policy shift that would benefit from public input. These substantive policy choices, as the parameters of these updates, are driven by law and government-wide fiscal standards. Accordingly, MARAD finds that notice and comment are unnecessary and the application of the 5 U.S.C. 553(b)(B) ''good cause'' exception is warranted. For similar reasons, MARAD finds that good cause exists under 5 U.S.C. 553(d)(3) for this rule to take immediate effect.

Although this interim final rule is effective immediately, MARAD seeks comment in response to this interim final rule in determining how to proceed with any final rule. Any final rule may differ from today's rule in

[1] Office of Management and Budget, Circular No. A–129, Policies for Federal Credit Programs and Non-Tax Receivable (2025), available at: *https://www.whitehouse.gov/wp-content/uploads/2025/08/a129.pdf.*

response to comments received. Comments are solicited from interested members of the public on all aspects of the interim final rule. MARAD is interested in information concerning whether the rule will be comprehensive and effective at ensuring that all qualified vessel operators may overcome potential obstacles to admission.

Comments must be submitted on or before the date indicated in the **DATES** section at the beginning of this document. MARAD believes that the 60-day comment period will allow commenters sufficient time to address any issues raised by the interim final rule and still meet the national security demands contemplated. See ''Public Participation'' section below.

Public Participation

How long do I have to submit comments?

We are providing a 60-day comment period.

How do I prepare and submit comments?

To ensure that your comments are correctly filed in the docket, please include the docket number shown at the beginning of this document in your comments.

Comments may be submitted to the docket electronically by logging onto *http://www.regulations.gov.* Search using the docket number and follow the online instructions for submitting comments. Please submit your comments, including the attachments, following the instructions provided under the above-entitled heading **ADDRESSES**.

Please note that pursuant to the Data Quality Act, for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage commenters to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *https://www.federalregister.gov/documents/2002/02/22/R2-59/guidelines-for-ensuring-and-maximizing-the-quality-objectivity-utility-and-integrity-of-information.* DOT's guidelines may be accessed at *https://www.transportation.gov/sites/dot.gov/files/docs/regulations/513/dot-information-quality-guidelines-2019.pdf.*

How can I be sure that my comments were received?

If you wish for the Docket Management Office to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, the Docket Management Office will return the postcard by mail.

Will the agency consider late comments?

MARAD will consider all comments that the Docket Management Office receives before the close of business on the comment closing date indicated above under the **DATES** section of this rule. To the extent possible, MARAD will also consider comments received after that date. If the Docket Management Office receives a comment too late for MARAD to consider in developing this action, MARAD will consider that comment as an informal suggestion in future rulemaking actions.

How can I read the comments submitted by other people?

You may read the comments received by the Docket Management Office at the address given above under **ADDRESSES**. The hours of the Docket Management Office are indicated above in the same location. However, you may also see the comments posted on *http://www.regulations.gov.* Go to the website and follow the online instructions for accessing the dockets.

Please note that, even after the comment closing date, MARAD will continue to file relevant information in the docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the docket for new material.

Summary of Changes to the Rule

MARAD is redesignating the section numbers and making updates to incorporate statutory changes; apply current credit lending best practices; and modernize regulatory language intended for simplicity, clarity, and brevity.

The interim final rule revises 46 CFR part 298 into 20 consecutive sections and removes subpart headings. Where noted, the rule identifies sections to be eliminated as obsolete or burdensome, or where MARAD no longer administers relevant statutory authority. In addition, static and duplicative language found in the regulations is removed and instead provided for in MARAD's published forms of application or as terms within the borrower loan agreement documents. The applications and the borrower loan agreement documents are found on MARAD's website at *https://www.maritime.dot.gov/grants/title-xi/closing-documents.*

Section 298.1 Purpose.

Identifies the purpose of the regulation for clarity and improved accessibility.

Section 298.3 Definitions.

Groups all definitions into one section to improve overall readability.

Section 298.5 General Credit Standards and Requirements. (Formerly, Section 298.3 Applications)

Identifies the credit standards and eligibility requirements for loan guarantee applications and summarizes the credit standards and eligibility requirements into one section for clarity and improved accessibility.

Section 298.7 Qualifications.

Consolidates qualification requirements (*e.g.,* citizenship requirements) for loan applications into one section for clarity and improved accessibility. Also details the requirements for applying for a Title XI loan guarantee.

Section 298.9 Prioritization of application.

Explicitly defines the prioritized application process for clarity and improved accessibility. Defines objectives of the program to clarify the intention of the statutory provision.

Section 298.11 Initial due diligence and approval

Defines MARAD's due diligence approval process for clarity and improved accessibility.

Section 298.13 Closings.

Defines loan closing requirements; consolidates loan closing language into one section for clarity and improved accessibility.

Section 298.15 Vessel project requirements.

Consolidates vessel project language into one section for clarity and improved accessibility.

Section 298.17 Shipyard projects requirements.

Consolidates shipyard project language into one section for clarity and improved accessibility.

Section 298.19 Actual Cost. (Formerly, Section 298.110 Citizenship).

Defines actual cost for vessels and shipyards to improve clarity and accessibility.

Section 298.21 Foreign components. (Formerly, Section 298.11 Vessel Requirements).

Transfers the foreign component reporting and waiver requirements into a separate section for clarity and improved accessibility and inserts modern language for conformity to the statute. Also, to ensure that guarantee approvals are not delayed pending the review of waivers, the new regulation provides that a foreign component waiver may be granted post approval.

Section 298.23 Fees. (Formerly, Section 298.12 Applicant and operator's qualifications).

Consolidates all fees into one section. The commitment fee replaces the investigation fee. It also aligns the guarantee fee with the credit subsidy fee, both of which are calculated the same way.

Section 298.25 Dual-use CCF. (Formerly, Section 298.13 Financial requirements).

Sets forth the dual-use Capital Construction Fund (CCF) as a standalone section for clarity and improved accessibility.

Section 298.27 Refinancing. (Formerly, Section 298.14 Economic soundness).

Modernizes language for clarity and improved accessibility.

Section 298.29 Financing a vessel more than a year after delivery. (Formerly, Section 298.15 Investigation fee).

Modernizes language for clarity and improved accessibility.

Section 298.31 Advances. (Formerly, Section 298.16 Substitution of participants).

Makes minor and non-substantive revisions for clarity.

Section 298.33 Recourse against parties. (Formerly, Section 298.17 Evaluation of applications).

Incorporates language from the statute within one section for clarity and improved accessibility.

Section 298.35 Mortgage. (Formerly, Section 298.18 Financing Shipyard Projects).

Modernizes language for clarity and improved accessibility.

Section 298.37 Vessels of national interest. (Formerly, Section 298.19 Financing Eligible Export Vessels).

Defines vessels of national interest for conformity to the statute.

Section 298.39 Default and liquidation. (Formerly, Section 298.20 Term, redemptions, and interest rate).

Consolidates default and liquidation language into one section for clarity and improved accessibility.

Rationale for Eliminated Sections

Former Section 298.21 Limits.

Cost basis requirements were transferred to section 298.3 for ease of readability and accessibility.

Former Section 298.22 Amortization of obligations.

Certain requirements were transferred to section 298.3 for ease of readability and accessibility.

Former Section 298.23 Refinancing.

The rule moves refinancing language to section 298.14.

Former Section 298.24 Financing a vessel more than a year after delivery.

Section eliminated because language pertaining to financing a vessel more than one year after delivery was relocated to section 298.15.

Former Section 298.25 Excess interest or other consideration.

Text is obsolete, outdated, and does not conform to current Title XI Program general credit standards and Federal Financing Bank (FFB) lending requirements. Risk premium language has been added to the rule's definition of interest stated within section 298.2.

Former Section 298.26 Lease payments.

Lease payment language relocated to the borrower loan agreement.

Former Section 298.27 Advances.

Language pertaining to advances relocated to section 298.16.

Former Section 298.30 Nature and content of obligations.

Text is obsolete and unnecessary because lease payment language is in the borrower loan agreement. Additionally, the Title XI Program uses FFB as the preferred lender.

Former Section 298.31 Mortgage.

The rule transfers mortgage language to section 298.35.

Former Section 298.32 Required provisions in documentation.

Required provisions are found in the borrower loan agreement.

Former Section 298.33 Escrow fund.

Escrow fund language is in the borrower loan agreement.

Former Section 298.34 [Reserved].

Removes all sections titled ''Reserved'' throughout text for simplicity and brevity.

Former Section 298.35 Title XI Reserve Fund and Financial Agreement.

Title XI Reserve Fund and Financial Agreement language is found in the borrower loan agreement.

Former Section 298.36 Guarantee fee.

Removed obsolete language and redundancy. Within the rule, all Title XI Program fee language is consolidated into section 298.12 for clarity and improved accessibility. The fee language aligns the guarantee fee with the credit subsidy fee; both calculated using similar methodology.

Former Section 298.37 Examination and audit.

The examination and audit language is found in the Title XI Program loan agreement.

Former Section 298.38 Partnership agreements and limited liability company agreements.

Language pertaining to partnerships and limited liability companies has been partly relocated to section 298.7 and partly incorporated into the Title XI Program loan agreement.

Former Section 298.39 Exemptions.

Current text language is outdated and unnecessary.

Former Section 298.40 Defaults.

Loan default language is transferred to section 298.20.

Former Section 298.41 Remedies after default.

The ''remedies after default language'' is found in the borrower loan agreement.

Former Section 298.42 Reporting requirements-financial statements.

Reporting requirements pertaining to the financial statements are found in the borrower loan agreement.

Former Section 298.43 Applicability of the regulations.

Text was deleted as obsolete and unnecessary.

Rulemaking Analysis and Notices

Executive Order 12866

This interim final rule is a significant regulatory action under E.O. 12866, and therefore the rule was reviewed by the OMB. The rule is not considered a major rule for purposes of congressional review under the Congressional Review Act. This rule is limited to updating administrative criteria, conforming to statutory requirements, updating citations, addresses, and modernizing text.

Need for the Regulation

A complete revision of the regulations is necessary to address the effects of time for an implementing regulation that has remained substantially unchanged for 40 years. Through this proposed revision, MARAD also incorporates changes to reflect statutory changes from the National Defense Authorization Act for fiscal year 2020 (NDAA 2020). Specifically, the NDAA 2020 repealed 46 U.S.C. 53732, removing eligible export vessels from Title XI participation. The NDAA 2020 also added 46 U.S.C. 53719, which established the use of best practices. In addition, the NDAA 2020 updated 46 U.S.C. 53703(c)(1)(C) and (D) to require MARAD to recommend that certain financial covenants or financial ratios are met by applicants. These updates represent important changes that will better reflect how MARAD administers the program in the modern era.

Baseline

Under the no action baseline, applicants may overlook the Title XI program as a financing option because the existing regulations are out of step with typical Federal credit programs.

Costs

The revised rule does not impose any new or additional compliance

requirements or costs. The rule will not create new substantive requirements. Many of the revisions are intended to conform with statutory updates and some are simply incorporating best business practices. The revised rule will apply current credit lending best practices and use modern regulatory language intended for simplicity, clarity, and brevity. Improvements are expected to result in administrative efficiencies and welcomed parity with other Federal credit programs which together should build applicant confidence in the program.

Benefits

Improved administrative efficiency and modern best practices will make the rule and the program more accessible and attractive to industry. As a result, the Title XI program should garner better prepared program participants that can best use the program for the benefit of the maritime sector.

Transfers

This rule will reduce application fees from $5,000 to $1,000. These application fees are transfer payments and are not classified as benefits or costs.

Executive Order 14192

E.O. 14192 requires that for ''each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.'' Implementation guidance for E.O. 14192, issued by OMB (Memorandum M–25–20, March 26, 2025), defines an E.O. 14192 deregulatory action as ''an action that has been finalized and has total costs less than zero.'' This rule is a *de minimis* action and is therefore neither regulatory nor deregulatory under E.O. 14192.

Executive Order 13132

MARAD analyzed this rulemaking in accordance with the principles and criteria contained in E.O. 13132, *Federalism,* and has determined that it has no substantial effect on the States, on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Nothing in this document preempts any State law or regulation. Therefore, MARAD did not consult with State and local officials on this rulemaking and did not prepare a Federalism summary impact statement.

Executive Order 13175

This rulemaking, in which MARAD revises its regulations implementing the Title XI Program financial and programmatic requirements to implement statutory changes and update the existing financial requirements imposed on Title XI Program participants, will not significantly or uniquely affect the communities of Indian Tribal governments when analyzed under the principles and criteria contained in E.O. 13175, *Consultation and Coordination with Indian Tribal Governments.* Therefore, the funding and consultation requirements of E.O. 13175 do not apply.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* rules that are exempt from notice and comment under the APA are also exempt from the RFA analytical requirements, including conducting a regulatory flexibility analysis. See 5 U.S.C. 603(a). Because, as discussed above, this rule is exempt from the APA notice and comment requirements, MARAD is not required to conduct a regulatory flexibility analysis.

Privacy Impact Assessment

Section 522(a)(5) of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Pub. L. 108–447, div. H, 118 Stat. 2809 at 3268) requires DOT and certain other Federal agencies to conduct a privacy impact assessment of each rule that will affect the privacy of individuals. This rulemaking improves participation by incorporating modern credit best practices, defining Program participation fees, and reducing the application fee. It does not result in personally identifiable information (PII) being collected or maintained in a Government-run website or IT system. Therefore, MARAD did not conduct a Privacy Impact Assessment.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA) requires agencies to evaluate whether an agency action would result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $206 million or more (as adjusted for inflation in 2025) in any one year, and if so, to take steps to minimize these unfunded mandates. This action will not result in additional expenditures by State, local, or tribal governments or by any members of the private sector. Therefore, the Agency has not prepared an assessment pursuant to the Unfunded Mandates Reform Act.

Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) requires that DOT consider the impact of paperwork and other information collection burdens imposed on the public. The regulation provides Title XI Program applicants with a restructured regulation with modernized language for clarity to improve administrative efficiencies for both the applicant and Title XI Program staff, resulting in net cost savings to the public and the Government.

MARAD believes the interim final rule reduces an applicant's paperwork burden by: (1) eliminating obsolete application submission requirements; (2) providing updated language that organizes and clarifies the text of both the vessel and shipyard applications to mitigate the risk of an incomplete or erroneous application submission; and (3) including the expedited application approval process for applicants wishing to receive prioritization of an application. MARAD collects Title XI Program applicant data using a vessel application (MA–163) and shipyard application (MA–163A) when performing the OMB approved information collection. The applications were most recently approved in April 2025 (OMB Control Number 2133–0018 [Title XI Program Obligation Guarantees—46 CFR part 298]; expiration Apr. 30, 2028). During FY 2024, MARAD modernized the application language and modernized the data collection process by incorporating electronic submission capability. Information submitted by applicants to the Program will continue to be used to evaluate an applicant's project and capabilities, make the required determinations, and administer any agreements executed upon approval of loan guarantees. Therefore, the rulemaking relies on the existing information collected under OMB control number 2133–0018.

Notwithstanding any other provision of law, 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.

List of Subjects in 46 CFR Part 298

Loan guarantees, loan monitoring, vessel financing, shipyard financing, loan programs—transportation, maritime carriers, mortgages, reporting and recordkeeping requirements, vessels.

■ For the reasons described in the preamble, MARAD revises 46 CFR part 298 as set forth below:

PART 298–VESSEL AND SHIPYARD FINANCING

Sec.

298.1 Purpose.
298.3 Definitions.
298.5 General credit standards and requirements.
298.7 Qualifications.
298.9 Prioritization of applications.
298.11 Initial due diligence and approval.
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298.15 Vessel project requirements.
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298.19 Actual Cost.
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298.29 Financing a vessel more than a year after delivery.
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298.35 Mortgage.
298.37 Vessels of national interest.
298.39 Default and liquidation.

Authority: 46 U.S.C. ch. 537; 49 CFR 1.93.

§ 298.1 Purpose.

The Vessel and Shipyard Financing Program supports new vessel construction, vessel reconstruction, reconditioning, and repair, and shipyard modernization in the United States through financing guarantees.

§ 298.3 Definitions.

Act means ch. 537 of title 46 of the U.S. Code (46 U.S.C. 53701–53735), as amended from time to time.

Actual Cost of a Vessel Project or Shipyard Project means the sum of all amounts for a Vessel Project or Shipyard Project paid by the Borrower (or related Person), as well as all amounts that MARAD determines the Borrower will become obligated to pay under these regulations.

Applicant means the Person applying for financing with the Program (the prospective Borrower).

Application means the information contained in form MA–163 or MA–163A for use by Applicants to apply for financing with the Program.

Borrower means any Person primarily liable for payment of principal of and/or interest on any Note.

Capital Construction Fund (CCF) means the program authorized by ch. 535 of title 46 of the U.S. Code.

Citizen of the United States or U.S. Citizen means any Person who is a United States citizen, or any entity organized under the laws of any state that meets the requirements of 46 U.S.C. 50501.

Construction, Reconstruction, Reconditioning, or Repair means designing, engineering, constructing, inspecting, outfitting, and equipping processes performed during a Vessel Project.

Depository means the U.S. Department of Treasury, acting in its capacity under 46 U.S.C. 53716.

Escrow Fund means any monies held as security under section 53715 of the Act.

Federal Financing Bank (FFB) means the corporate body and instrumentality of the United States of America, authorized by the Federal Financing Bank Act of 1973, as amended (12 U.S.C. ch. 24), under the general supervision and direction of the Secretary of the Treasury.

Financing Documents means all documents related to the collateral securing repayment of any Note and all other assurances, undertakings, and contractual arrangements associated with financing through the Program.

Financing Documents Closing means the execution and release of the Financing Documents and other related documents.

Generally Accepted Accounting Principles (GAAP) means the body of conventions, rules, and procedures that define accepted accounting practices, as promulgated by the Financial Accounting Standards Board (FASB) and other authoritative sources recognized as setting standards for the accounting profession in the United States. GAAP includes not only broad guidelines of general application but also detailed practices and procedures that constitute standards by which financial presentations are evaluated.

Guarantee means a parent or affiliate guarantor's contractual promise to repay indebtedness if a Borrower fails to repay as agreed.

Guarantee Fee means the fee payable to MARAD as consideration for guaranteeing a Note. *MARAD* means the Maritime Administration, an agency and operating administration of the U.S. Department of Transportation.

MARAD Guarantee means the contractual commitment of the United States of America, represented by MARAD, to make payment to FFB, upon demand, of the unpaid principal and interest of such Note, including interest accruing between the date of default and the date of payment.

Mortgage means a Preferred Mortgage on any Vessel with respect to a Vessel Project or a mortgage with respect to a Shipyard Project.

Note means a promissory note from the Borrower to FFB, which is issued simultaneously with a MARAD guarantee of such promissory note to FFB.

Note Closing means the execution of a Note or other evidence of indebtedness and the related Note documents that are also either agreed upon or executed.

Paying Agent means any Person appointed by the Borrower to pay the principal or interest on a Note on behalf of the Borrower.

Person means any individual, estate, foundation, corporation, partnership, limited partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or other acceptable legal business entity, government, or any agency or political subdivision thereof.

Preferred Mortgage means a mortgage as defined at 46 U.S.C. 31322.

Program means the Vessel and Shipyard Financing Program authorized by the Act.

Project means a Vessel Project or Shipyard Project.

Refinancing means newer debt that either replaces older debt or reimburses an Applicant for previous expenditures.

Related Party means that term as defined by GAAP outlined in paragraph 24 of Statement of Financial Accounting Standards No. 57, Related Party Disclosures, as may be amended or its successor statement if repealed and replaced.

Shipyard Project means a project that consists of either Advanced Shipbuilding Technology or Modern Shipbuilding Technology, each as defined in the Act, or both unless otherwise specified.

Useful Life means the period during which project property will, as determined by MARAD, remain economically productive.

Vessel means a vessel as defined at 1 U.S.C. 3 and 46 U.S.C. 53701(14).

Vessel Project means a project that consists of the Construction, Reconstruction, Reconditioning, or Repair of one or more Vessels.

Vessels of National Interest means Vessels determined under § 298.37 of this part to be of importance for the support of U.S. shipyards and the U.S. Merchant Marine.

§ 298.5 General credit standards and requirements.

(a) *Principal.* Unless explicitly stated otherwise in these regulations or applicable statutes, the amount of any financing may not exceed the maximum percent of Actual Cost, as such term is described in § 298.19 of this part; provided that MARAD may approve an amount that is less than the maximum percent of Actual Cost, in accordance with its credit determination.

(b) *Term.* The maturity date of the Note must be satisfactory to MARAD and must not exceed the anticipated physical and economic life of the Project. In addition, the maturity date of the note may be less than but no more than:

(1) Twenty-five years from the date of delivery from the shipbuilder of a single new Vessel that is to be security for the MARAD Guarantee;

(2) Twenty-five years from the date of delivery from the shipyard of the last of multiple Vessels that are to be security for the MARAD Guarantee. The amount of the MARAD Guarantee will relate to the amount of the depreciated Actual Cost of the multiple Vessels as of the Financing Documents Closing;

(3) The earlier of twenty-five years from the date of original delivery of a Reconstructed, or Reconditioned Vessel that is to be security for the MARAD Guarantee, or the expiration of the remaining Useful Life of the Vessel, as determined in MARAD's sole discretion; or

(4) The earlier of five years from the date of original delivery of a Repaired Vessel that is to be security for the MARAD Guarantee, or at the expiration of the remaining Useful Life of the Vessel, as determined in MARAD's sole discretion;

(5) The earlier of five years from the date of delivery from the shipyard of the last of multiple Repaired Vessels that are to be security for the MARAD Guarantee, or at the expiration of the remaining Useful Life of the collective assets that comprise the Vessel Project, as determined in MARAD's sole discretion. The amount of the MARAD Guarantee will relate to the amount of the depreciated Actual Cost of the multiple Vessels as of the Financing Documents Closing;

(6) Twenty-five years from the date of completion of construction of the Shipyard Project that is to be security for the MARAD Guarantee or at the expiration of the estimated technological life of the property that is the Shipyard Project, as determined in MARAD's sole discretion.

(c) *Interest rate.* The interest rate for each financing will be at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity at the time of funds disbursement together with any risk premium that may be assessed by MARAD for the project. MARAD will determine the reasonableness of the interest rate of a Note, considering the range of interest rates prevailing in the private market for similar loans and their associated credit risks.

(d) *Ability and experience requirements.* An Applicant, through the majority of its principals or management, must demonstrate the ability, experience, resources, character, reputation, and other qualifications MARAD deems necessary for successfully operating the Project property and protecting MARAD's interest in the Project. For the purposes of this requirement, MARAD will consider the requirements of § 298.15 of this regulation for Vessel Projects and § 298.17 of this part for Shipyard Projects.

(e) *Lending restrictions.* Unless an Applicant can document that unique or extraordinary circumstances exist, MARAD will not provide financing:

(1) For antiquated, experimental, or scientifically unproven technology; or

(2) To an Applicant who cannot document successful commercial maritime industry ability and experience of a duration, degree, and nature that MARAD deems necessary to repay the requested financing successfully.

(f) *Income and expense projections.* The Applicant, using appropriate income and expense projections for the Project property's operation, must show that projected net earnings can service all debt, properly maintain the Project property, and protect MARAD's interest against risks of loss, including the industry's cyclical economics. MARAD will consider a totality of factors, such as charters, draft or pro forma charters, letters of intent, or other similar commercial arrangements to demonstrate projected income.

(g) *Working capital.* The Applicant must show that a Project has sufficient initial working capital to achieve net earnings projections, fund all foreseeable near-term contingencies, and protect MARAD's interest in the Project.

(h) Audited financial statements. MARAD will require audited financial statements in accordance with GAAP for any Borrower.

(i) *Professional services.* MARAD may require an Applicant to pay for expert third-party services to assist with assessment of a Project, including its legal, economic, technical, or financial feasibility. The costs of any expert fees paid by Applicant will be credited against the cost of the Commitment Fee as described in § 298.23 of this part.

(j) *Inspections.* MARAD requires adequate condition and valuation inspections of all property used as collateral as the basis for assessing the property's worth and suitability during the life of the financing.

(k) *Collateral.* Unless other collateral is determined to be satisfactory as part of its credit determination, MARAD will have a first lien on all primary Project property pledged as collateral. MARAD, at its discretion, may request additional collateral and will consider any additional collateral in its credit determinations.

(l) *No additional liens.* All primary Project property pledged as collateral, including any additional collateral, must be free of additional liens, unless MARAD, at the request of the Applicant, expressly waives this requirement in writing.

(m) *Program credit standards apply.* Unless explicitly stated otherwise in this part, all Program lending is subject to the above general credit standards and requirements found in this part. MARAD may adjust collateral, guarantee, and other requirements to reflect individual credit risks.

(n) *Adverse legal proceedings.* MARAD, at its sole discretion, may decline or hold in abeyance any financing approval or disbursement(s) to any Applicant found to have outstanding lawsuits, citations, hearings, liabilities, appeals, sanctions, or other pending actions whose negative outcome could materially impact, in the opinion of MARAD, the financial circumstances of the Applicant.

(o) *Required redemptions.* Where multiple Project assets are used as security for the MARAD Guarantee, MARAD may require payments of principal prior to maturity (redemptions) regarding all related Notes, as MARAD determines necessary to maintain adequate security for the MARAD Guarantee.

§ 298.7 Qualifications.

(a) The Applicant must provide the information contained in Form MA–163 or 163A, available on MARAD's website, submit a complete application, pay the application fee, and meet the following criteria:

(1) Be a U.S. Citizen and eligible to document a Vessel with the U.S. registry, if the Application is for a Vessel Project, or be an entity formed in

the U.S., if the Application is for a Shipyard Project;

(2) Be the legal title holder of Project property, or its parent company (or the lessee of an appropriate long-term lease); and

(3) Show that the majority of its principals or officers generally have the ability, experience, resources, character, reputation, and other qualifications necessary for successfully operating, utilizing, or carrying out the Project and protecting MARAD's interest.

(b) [Reserved]

§ 298.9 Prioritization of applications.

MARAD will prioritize processing Applications for Vessels determined by the Secretary of War as suitable for service as a United States naval or military auxiliary in time of war or national emergency and that meet a shortfall in sealift capacity or capability, followed by Vessels designated as Vessels of National Interest pursuant to § 298.37 of this part.

§ 298.11 Initial due diligence and approval.

(a) MARAD will undertake a due diligence investigation of every Application it receives to determine if, in MARAD's sole judgment, an Application is both:

(1) Qualified for financing because the Vessel Project or Shipyard Project is deemed an acceptable credit risk (the Applicant's ability to repay a Note will be the primary basis for MARAD's approval); and

(2) Eligible for financing because it meets applicable requirements, including statutory requirements for economic soundness, and in these regulations for Vessel Projects in § 298.15, and Shipyard Projects in § 298.17 of this part.

(b) MARAD will approve eligible and qualified Applicants by evaluating the information obtained during the Application and due diligence process.

(c) MARAD, at its sole discretion, may decline or delay approval of any financing or disbursement to any Applicant found to have pending legal actions or unresolved claims.

(d) MARAD may require any terms and conditions on approvals that MARAD, in its sole discretion, believes to be necessary and appropriate.

(e) *Credit decision and approval.* (1) MARAD will inform Applicants that it is willing to approve an application by issuing a summary of business terms or term sheet that describes the terms and conditions of the financing for a Project. Such terms and conditions are at MARAD's sole discretion and will be incorporated in the Financing Documents. Non-acceptance of any terms and conditions may result in denial of the Application.

(2) Any Application MARAD determines is ineligible will be denied.

(3) Upon acceptance of the term sheet by the Applicant, MARAD will issue a letter to the Applicant advising that the Project is approved subject to the availability of appropriations.

§ 298.13 Closings.

(a) *Financing Documents Closing.* All financings guaranteed by MARAD must utilize the Financing Documents and incorporate the terms and conditions set forth in the term sheet agreed to by the Applicant. Funding for a Project will not be obligated until the Financing Documents are executed.

(b) *Note Closing.* All funding for financing through the Program is provided through the issuance of a Note by the Applicant that is purchased by FFB and guaranteed by MARAD. The Note, the Note Purchase Agreement, and all associated documents are standard form templates required by FFB.

(c) *Delivery Closing.* Unless otherwise agreed to and alternate collateral that is satisfactory to MARAD is provided, MARAD will not guarantee any Note until MARAD receives satisfactory evidence that it holds a Mortgage on one or more Vessels in a Vessel Project or a Mortgage or other security interest in a Shipyard Project as required by § 298.35 of this part. During construction of any new Vessel or any Shipyard Project, a security interest may be perfected by a filing under the Uniform Commercial Code.

(d) *Closing schedules.* A closing for the execution of the Financing Documents, a Note Closing, and a Delivery Closing may occur simultaneously or separately. FFB requires at least twenty business days' notice for a Note Closing.

§ 298.15 Vessel project requirements.

For a Vessel Project to receive financing for Construction, Reconstruction, Reconditioning, or Repair the following criteria must be met:

(a) *Vessel construction requirements.* The Vessel must:

(1) Be assembled or repaired in a shipyard geographically located within the United States;

(2) Be U.S. flagged; and

(3) Meet all applicable United States Coast Guard requirements.

(b) *Class, condition, and operation.* The Vessel must be constructed, maintained, and operated to meet the highest classification, certification, rating, and inspection standards for Vessels of the same age and type imposed by:

(1) The American Bureau of Shipping (ABS) or another classification society that also meets the inspection standards of the United States Coast Guard with respect to the documentation of U.S.-flag Vessels; or

(2) If unclassed, built to ABS or other acceptable classification standards and subject to regular inspection and condition surveys conducted by marine surveyors acceptable to MARAD; and

(3) The Vessel must be in compliance with all applicable United States laws, rules, and regulations for operations in the intended trade.

(c) *Documentation.* The Vessel must be documented under the laws of the United States or the laws of any individual state.

(d) *Reconstruction or reconditioning.* Repairs necessary for the Vessel to meet the classification standards approved by MARAD or any regulatory body, or for previous inadequate maintenance and repair, will not constitute Reconstruction or Reconditioning within the meaning of this paragraph (d).

(e) *Condition survey.* If an Application involves a Reconstructed, Reconditioned, or Repaired Vessel, the Vessel must be available at a time and place acceptable to MARAD to conduct a condition survey. An Applicant must:

(1) Pay the cost of the condition survey;

(2) Ensure that the scope and extent of the condition survey will not be less effective than that required by the last classification society special survey completed (if the Vessel is classified), next due, or overdue, whichever date is nearest in accordance with the Vessel's age;

(3) Ensure that the Vessel meets the standard of the survey necessary for retention of class (if the Vessel is classified); and

(4) Ensure that the operating records of the Vessel reflect normal operation of the Vessel's main propulsion and other machinery and equipment, consistent with accepted commercial experience and practice.

(f) *Metric usage.* The preferred system of measurement and weights for Vessels is the metric system.

(g) *Operator's qualifications.* The bareboat charterer, or other person identified in the Application as the operator of the Vessel Project must possess the necessary experience, ability, and other qualifications to operate and maintain properly the Vessel(s) that serve as security for the financing. For newly formed entities, MARAD will evaluate the performance of affiliates and/or companies associated with the management or principals

(where the management or principals have a significant degree of control) in determining the Applicant's operating ability.

(h) Vessel horsepower. If minimum horsepower of the main engine is a requirement for determining the maximum eligible percentage of financing of the Actual Cost, the standard for the horsepower will be continuously rated horsepower.

§ 298.17 Shipyard projects requirements.

(a) For a Shipyard Project to receive financing, the Shipyard Project must result in a Shipyard modernization, or the financing must support increased productivity and meet the following requirements:

(1) The term for the financing will not exceed the reasonable economic useful life of the collective assets that comprise the Shipyard Project;

(2) There is sufficient collateral to secure the financing; and

(3) The persons identified within the Application including the shipyard owner, the operator of the shipyard, or other person identified in the application possess the necessary experience, ability, and other qualifications to operate properly the assets that comprise the Shipyard Project and will serve as security for the financing. For newly formed entities, MARAD will evaluate the performance of affiliates and/or companies associated with the management or principals (where the management or principals have a significant degree of control) in determining the Applicant's operating ability.

(b) [Reserved]

§ 298.19 Actual Cost.

(a) *Approval of Actual Cost required.* MARAD must approve the estimated Actual Cost for the Project as a condition for financing. The Applicant must submit this information in the format required in the Application. The estimated cost of the Project may include escalation for the anticipated construction period of the project.

(1) *Submission of certain cost information.* For a Vessel Project, MARAD may contact the shipyard directly and may require an Applicant to have the shipyard that has contracted to build the Vessel submit additional technical data, backup cost details, and any other evidence. For a Shipyard Project, MARAD may contact the general contractor or manufacturer of the equipment for technical data, backup cost details, and any other evidence.

(2) *Costs incurred by written contracts.* If any of the Project costs have been incurred by written contracts, such as a shipyard contract, management or operating agreement, the Applicant is required to forward signed copies as part of the Application.

(3) *Additional Project costs.* A detailed statement must be provided showing any other costs associated with the Project that were not included in paragraph (a)(2) of this section, such as:

(i) Legal and accounting fees;

(ii) Vessel insurance;

(iii) Fees to a Related Party; and

(vi) Other capitalizable fees.

(b) *Actual Cost basis.* The amount of the MARAD Guarantee may be less than but not more than whichever percentage is applicable under the Act with respect to the Actual Cost of the Vessel or Vessels or Shipyard Project asset(s). Where refinancing existing debt, the number of new Notes issued for the existing debt may not exceed the lesser of:

(1) The amount of outstanding debt being refinanced (whether or not receiving assistance under Title XI); or

(2) Whichever percentage is applicable under the Act with respect to the depreciated Actual Cost of the Vessel, Vessels, or Shipyard Project with respect to which the new Notes are being issued.

(c) *Actual Cost items.* Actual Cost is comprised essentially of those items that would customarily be capitalized as Project construction costs such as designing, engineering, constructing (including performance bond premiums that MARAD approves), inspecting, outfitting and equipping.

(1) Cost items include those items usually specified in Vessel or Shipyard Project construction contracts, *e.g.,* changes and extras, cost of owner furnished equipment, shoreside spare parts, and MARAD commitment fees and interest on the notes or other borrowings incurred during the construction period (excluding interest paid on subordinated debt considered to be equity), and less income realized from investment of escrow fund deposits during the construction period.

(2) Applicant may include Guarantee Fees determined in accordance with the provisions of section 53714 of the Act as an item of Actual Cost.

(3) In approving an item of Actual Cost, MARAD will consider all pertinent factors.

(d) *Items excludible from Actual Cost.* Actual Cost may not include the following:

(1) Legal and accounting fees or expenses;

(2) Bank commitment fees or interest other than those specifically allowed;

(3) Fees, commissions, or charges for granting or arranging for financing;

(4) Fees or charges for preparing and filing an Application for MARAD guaranteed financing and supporting documents, for services rendered to obtain approval of the Application, and for preparing and processing documents relating to the Application for MARAD guaranteed financing;

(5) Underwriting fees;

(6) Taxes, user fees, or other governmental charges;

(7) Predelivery Vessel operating expenses, Vessel insurance premiums, and other items that may not be properly capitalized by the owner as costs of the Vessel under GAAP;

(8) The cost of the condition survey required by § 298.15(e) and all work necessary to meet the standards set forth in § 298.15(e);

(9) The cost to the shipowner of a Vessel that is to be Reconstructed, or Reconditioned, *e.g.,* cost of acquisition;

(10) Generally, any amount payable to the shipyard for early delivery of the Vessel; generally, any amount payable to the manufacturer or contractor for early delivery of the equipment to or early completion of a Shipyard Project at a General Shipyard Facility;

(11) Predelivery Shipyard Project expenses that may not be properly capitalized by the General Shipyard Facility as costs of the Shipyard Project under GAAP; and

(12) The cost of major foreign components and other foreign components for which there is no waiver and their assembly when comprising any part of the hull and superstructure of a Vessel.

(e) *Substantiation of Actual Cost.* (1) Before MARAD will make a distribution from the escrow fund or authorize a draw on a Note, and prior to the final actual cost determination for each Project, a Borrower must submit documents substantiating all claimed costs eligible under paragraph (b) of this section or, alternatively, appropriate certification of such costs by an agent who has received MARAD's approval.

(2) These documents may include copies of invoices, change orders, subcontracts, and where MARAD requires, statements from independent certified or independent licensed public accountants that the costs for which a Borrower seeks payment or reimbursement were actually paid or are payable for the construction of a Vessel or Shipyard Project.

(3) The Borrower must summarize, index and arrange these documents according to cost categories by following the directions contained in the application forms.

(f) *Escalation as part of Actual Cost.* Escalation clauses in construction

contracts are subject to MARAD approval. After a review of the base contract price and the escalation clauses, MARAD may add to the approved base contract price the amount of estimated escalation. MARAD must subsequently approve the amount of escalation cost claimed as a component of Actual Cost.

(g) *Monies received with respect to construction.* (1) Borrower must give MARAD written notice each time an Applicant, or any person acting on an Applicant's behalf, receives monies due for construction of a Project (described in the Financing Documents) from the shipbuilder, guarantors, sureties, or other Persons.

(2) Unless a payment default has occurred, a Borrower or other recipient must promptly deposit these monies with MARAD to be held by the Depository in accordance with the Financing Documents.

(3) MARAD will determine the extent to which Actual Cost will be reduced by these monies.

(4) In no event may Actual Cost be reduced with respect to payments by the shipyard to a Vessel or Shipyard Project owner of liquidated damages for late delivery of the Vessel or Shipyard Project.

(5) If MARAD has paid the MARAD Guarantee, the Borrower or other recipient must promptly pay these monies, including any liquidated damages, to MARAD for deposit into the appropriate account.

(h) *Depreciated Actual Cost.* The applicable percentage of the depreciated Actual Cost of the Vessel Project will be determined after a Vessel has been delivered or redelivered.

§ 298.21 Foreign components.

(a) A foreign component waiver will not delay review and may even be granted post Project approval consistent with the following:

(1) *Costs excluded.* If an Application proposes using foreign components in the Actual Cost, the cost of the foreign components and services will be excluded from the Actual Cost of the Project, unless MARAD grants a waiver for each such component and service.

(i) MARAD will not grant a waiver for major foreign components in the hull and superstructure for a Vessel Project.

(ii) If an Application does not include foreign components in the Actual Cost, no waiver is required, and the Application will be processed accordingly.

(2) *Waiver requests.* An Applicant may request a waiver for inclusion of the cost of foreign components and services in the Actual Cost of a Project. The Applicant must submit this request in the format required for the Application. Any waiver request must include a certification for each foreign component or service, stating one or more of the following as a basis:

(i) The item or service is not available in the United States on a timely basis;

(ii) The item or service is not available in the United States on a price-competitive basis; or

(iii) The domestic item or service is not of sufficient quality.

(3) *Contingent Approvals.* MARAD will process and approve an Application during the pendency of a waiver request pursuant to paragraph (a)(2) of this section.

(i) If the waiver is approved, the cost of the foreign-sourced components will be included in the Actual Cost of the Project.

(ii) If the waiver is not approved, the cost of the foreign-sourced content will not be included in the Actual Cost of the Project, consistent with paragraph (a)(1) of this section.

(4) *Costs as owner-furnished equipment.* Although excluded from Actual Cost, foreign components of the hull and superstructure can be regarded as owner-furnished equipment that may be used in satisfying an Applicant's minimum equity requirements for a Vessel Project.

§ 298.23 Fees.

(a) *Application fee.* A non-refundable $1,000 filing fee is required to be submitted with an Application.

(b) *Commitment fee.* A non-refundable commitment fee is a fee due in advance of the execution of the Financing Documents. Before MARAD executes any Financing Documents, an Applicant must pay a commitment fee based on the amount of the Note to be guaranteed by MARAD calculated as follows:

(1) one-quarter (¼) of one percent of the amount of the Note approved for a MARAD Guarantee, or $250,000, whichever is less, minus -

(2) the cost of any professional services fees required to be paid by the Applicant as part of the due diligence process in § 298.11 of this part.

(c) *Guarantee Fee.* A Guarantee Fee will be due and payable at the Note Closing and will be based on the repayment provisions for the Note. The Guarantee Fee is fully payable when due and will not be refunded. The minimum and maximum range of rates for the Guarantee Fee are set forth in section 53714(b)(S) of the Act with the specific rate for the Applicant determined based on the credit risk at the time of the Nate Closing and calculated as follows:

(1) *Generally.* The Guarantee Fee rate will be based on the entity MARAD considers to be the primary source of creditworthiness (the Ultimate Credit) for a Project, including:

(i) A long-term time charter (where the charter hire represents the primary source of payment of interest and principal with respect to the Note),

(ii) A parent or affiliate guarantee of the Note,

(iii) The Borrower, or

(iv) The bareboat charterer.

(2) *Adjustments.* MARAD may make such adjustments to its computation of creditworthiness of the Ultimate Credit considered necessary to reflect more accurately the financial condition of the ultimate credit.

(3) *Rating determination.* MARAD will determine creditworthiness of the Ultimate Credit using information, forms, statements, and reports on file with MARAD prior to the date on which the Guarantee Fee is to be paid. Utilizing this data, MARAD will assign an internal designation for the credit risk of the Ultimate Credit, *e.g.,* higher risk, medium risk, or lower risk.

(4) *Calculation of the Guarantee Fee.* The Guarantee Fee is calculated using the average principal amount of the Note estimated to be outstanding for each fiscal year during the expected amortization period of the Note. In calculating the present value used in determining the amount of the Guarantee Fee to be paid, MARAD uses a discount rate contained in the President's most recently submitted budget that MARAD converts to a bond equivalent rate.

(5) *Proration of Guarantee Fee.* The Guarantee Fee will be prorated where a Project delivery is scheduled to occur during the annual period with respect to which payment of said Guarantee Fee is being made, as follows:

(i) *Undelivered project.* If the Guarantee Fee relates to an undelivered Project, the predelivery rate is applicable to the average outstanding principal amount of the Note for the period from the date of the Note Closing to the delivery date, and the delivered rate is applicable for the balance of the annual period in which the delivery occurs.

(ii) *Multiple Vessels.* If the Guarantee Fee relates to more than one Vessel, the amount of the outstanding Note will be allocated to each Vessel proportionately based on the Actual Cost of each Vessel with the amount for each Vessel determined by using the rate that is applicable under paragraph (c)(2) or (3) of this section. The Guarantee Fee will

be the aggregate of the amounts calculated for each Vessel.

(d) *Modification, assumption, or substitution fee.* A non-refundable fee is due and payable by the Borrower at the time of the request to MARAD to approve the modification or assumption of a financing or the substitution of a Borrower. The fee is one quarter (¼) of one percent of the outstanding principal balance of the Note at the time of the request. MARAD may waive all or some of the modification or assumption fee when the primary purpose of the modification or assumption will benefit the United States.

(e) *Monitoring Fee.* An annual monitoring fee may be charged by MARAD for Borrowers that requires additional monitoring for program compliance including regular review of more complex financing covenants.

§ 298.25 Dual-use CCF.

MARAD may require the pledge of a CCF account or annual deposits of some portion of the Project property's net income into a dual-use CCF. A dual-use CCF provides the normal CCF tax-deferral benefits, but also gives MARAD control of CCF withdrawals, recourse against CCF deposits, ensures an emergency refurbishing reserve (tax-deferred) for Project property, and provides additional collateral.

§ 298.27 Refinancing.

(a) MARAD may approve the issuance of a MARAD Guarantee of a Note to refinance existing program debt for a Vessel Project and existing non-program debt for a Vessel Project, so long as the existing debt has been previously issued for one of the purposes set forth in the Act and the issuance of the MARAD Guarantee would otherwise satisfy the requirements of the program and the regulations in this part.

(b) Any security lien on the Vessel(s) must be discharged immediately before MARAD places a mortgage or other security interest on any of the above assets. An Applicant must satisfy all necessary eligibility requirements as set forth in these regulations, including economic soundness.

(c) The amount of a new Note issued for the existing debt may not exceed the lesser of:

(1) The amount of outstanding debt being refinanced (whether or not financed through the Program); or

(2) Whichever percentage is applicable under the provisions of the Act with respect to the depreciated Actual Cost of the Vessel Project for which the new Note is being issued.

§ 298.29 Financing a vessel more than a year after delivery.

(a) MARAD may approve a MARAD Guarantee of a Note for a Vessel that has been delivered (or redelivered in the case of Reconstruction or Reconditioning of a Vessel) more than one year prior to the issuance of a MARAD Guarantee of a Note for one of the purposes set forth in the Act only if the purpose of the Note issuance for financing such existing Vessel is to facilitate financing of:

(1) The Construction, Reconstruction, or Reconditioning of a different Vessel within one year of that Vessel's delivery or redelivery; or

(2) Facilities or equipment pertaining to marine operations. Such facilities or equipment must be of a specialized nature, used principally for servicing Vessels and in handling waterborne cargo in the proximity of the berthing area, excluding over-the-road equipment (other than chassis and containers), permanent or semi-permanent structures and real estate, as well as new or less than one year old.

(b) At the Note Closing covered by this section, an Applicant must deposit any proceeds of the Note into an escrow fund established to pay for the cost unless such Applicant demonstrates to MARAD's satisfaction that all such costs have been paid.

§ 298.31 Advances.

(a) *In general.* MARAD has the discretion to make or commit to make an advance or payment of funds to, or on behalf of the owner, or operator or directly to any other person or entity for items, such as principal, interest, and Vessel-related expenses or fees.

(1) MARAD will make advances or payments only to protect, preserve or improve the collateral held as our security for program debt.

(2) When requesting an advance, a Borrower must demonstrate that:

(i) The issues are short term (less than two years) by using market and cash flow analysis and other projections;

(ii) An advance(s), would assist with temporary difficulties; and

(iii) There is adequate collateral for the advance.

(b) *Request requirements.* A Borrower must apply for an advance or other payment as early as is reasonably possible. Any requests for advances must be accompanied by supporting data regarding:

(1) Need for the advance;

(2) Financial assistance sought from other sources;

(3) Measures that have been taken to alleviate the situation;

(4) Financial projections;

(5) Proposed term of the repayment;

(6) Current and projected market conditions;

(7) Information on other available collateral;

(8) Liens and other creditor information; and

(9) Any other information MARAD may request.

§ 298.33 Recourse against parties.

(a) *Form.* Recourse against Borrowers or guarantors may be by a guarantee, irrevocable letter of credit, additional tangible or intangible collateral, or another form acceptable to MARAD.

(b) *Principal accountability.* The principal parties in interest, who ultimately stand most to benefit from a Project, will be held financially accountable for a Project's performance. MARAD may require recourse against:

(1) All major shareholders of a closely held corporate Borrower;

(2) The parent corporation of a subsidiary corporate Borrower;

(3) The related business entities of the Borrower if MARAD determines that the Borrower lacks substantial pledged assets other than the Project property or is otherwise lacking in any credit factor required to approve the Application;

(4) Any or all major limited partners; and

(5) Against any others interest it believes is necessary to protect.

(c) *Recourse against parties.* Should MARAD determine that a secondary means of repayment from other sources is necessary (including the net worth of parties other than the Borrower), MARAD may require secured or unsecured recourse against any such secondary repayment sources.

(d) *Recourse unavailable.* Where appropriate recourse is unavailable, the conservatively projected net liquidating value of the Borrower's assets (as such assets are pledged to MARAD) must, in MARAD's sole judgment, substantially exceed all projected exposure or other risks of loss to MARAD.

§ 298.35 Mortgage.

(a) *Ensuring validity of security interest.* The Borrower must obtain and provide legal opinions from independent, outside legal counsel, which must be satisfactory to MARAD and state, among other things, that the Mortgage or other security interest(s) are valid and enforceable.

(b) *Alternative forms of security.* In the case where a Mortgage or security interest on the financed assets may not be available, enforceable, or requested, MARAD will require alternative forms of security with satisfactory legal opinions opining as to the validity of such security interest.

(c) *Mortgage in MARAD's favor.* Upon delivery of a new Vessel or upon final completion of the Shipyard Project, or at the time a Note is guaranteed by MARAD with respect to an existing Vessel or Shipyard Project, a Mortgage on the Vessel and a Mortgage or other security interest on the Shipyard Project will be executed in MARAD's favor, unless MARAD determines that a Mortgage or a security interest is not available, enforceable, or required in accordance with paragraph (b) of this section.

(d) *Filing.* A Borrower must file a Mortgage, a security interest, or both with the proper authorities. After a Borrower has recorded the Mortgage, the recorded Mortgage or evidence of the filing of the security interest must be provided to MARAD.

(e) *Mortgage secured by multiple Vessels.* (1) When MARAD has a security interest in two or more Vessels, the Financing Documents may provide that one Mortgage relating to all the Vessels (Fleet Mortgage) be executed, perfected, and delivered to MARAD by the Borrower.

(2) If the Fleet Mortgage relates to undelivered Vessels, the Fleet Mortgage will be executed upon delivery of the first Vessel. At the time of each subsequent Vessel delivery, the Borrower must execute a supplement to the Fleet Mortgage that makes that Vessel subject to MARAD's mortgage lien.

(3) The Fleet Mortgage must provide that payment by the Borrower of the entire amount of the Note(s) guaranteed by MARAD will be required to discharge the Fleet Mortgage, regardless of the amount of the Note(s) issued and outstanding at the time of execution and delivery of the Fleet Mortgage or the number of Vessels covered by the Fleet Mortgage.

(4) The discharge date of the Fleet Mortgage will be the maturity date of the Note. MARAD may require, as authorized by the Act, such payments of principal prior to maturity (redemptions), regarding all related notes, as deemed necessary to maintain adequate security for the Note.

(5) Each Fleet Mortgage must provide that in the event of constructive total loss, requisition of title or sale of any Vessel covered by the Fleet Mortgage, indebtedness represented by the Note will be paid, unless MARAD otherwise determines that there remains adequate security for the Note, and the Vessel will be discharged from the mortgage lien.

(f) *Adequacy of collateral.* (1) A Mortgage on the Vessel(s) or Shipyard Project may be adequate security for the Note.

(2) If MARAD determines that the mortgage on the Vessel(s) or Shipyard Project is insufficient to provide adequate security or if MARAD finds that other security is adequate, as a condition to approving the Project, MARAD may require other or additional collateral, such as a mortgage(s) on other Vessels, security interests on other assets, special escrow funds, pledges of stock, charters, contracts, notes, letters of credit, accounts receivable assignments, and guarantees.

§ 298.37 Vessels of national interest.

MARAD may, in consultation with another agency, designate certain classes or types of Vessels to be eligible for priority processing and financing through the Program (Vessels of National Interest) as follows:

(a) When there is no specified funding for financing of Vessels designated as Vessels of National Interest, MARAD may give public notice of the designation, *e.g.* publication via the MARAD web page. Unless extended, earlier revoked, or an expiration is specified in the notice, such a designation will remain valid for four years from the date of publication.

(b) When funding is specified for Vessels designated as Vessels of National Interest, MARAD will publish notice of the designation in the **Federal Register**. The designation notice will include the amount of funding available for qualifying Vessels and other information necessary for interested parties to apply such as the timeline for applying and any expiration on funding.

§ 298.39 Default and liquidation.

Upon default under the terms of any Note, Financing Documents, Mortgage, Guarantee, or other security document, MARAD will take remedial actions including, but not limited to, where appropriate, seizure or arrest of collateral, foreclosure, restructuring, debarment, referral for debt collection, or liquidation to protect the interest of the United States.

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.

Secretary, Maritime Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[RTID 0648–XF970; Docket No. 260611–0141]

Pacific Halibut Fisheries of the West Coast; Inseason Action for the 2026 Area 2A Pacific Halibut Directed Commercial Fishery

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS announces an inseason action for the 2026 Pacific halibut non-Tribal directed commercial fishery in the International Pacific Halibut Commission's (IPHC) regulatory Area 2A. This action adds a fishing period, September 1 through September 3, 2026, with a fishing period catch limit of 5,000 pounds (lb) (2.27 metric tons (mt)) per vessel, dressed weight. This action is intended to provide additional opportunity for the fleet to achieve the 2026 non-Tribal directed commercial fishery allocation.

DATES: This rule is effective September 1, 2026 at 8 a.m. Pacific daylight time (PDT), through September 3, 2026 at 6 p.m. PDT.

FOR FURTHER INFORMATION CONTACT: Louis Forristall, West Coast Region, NMFS, (503) 230–5410, *louis.forristall@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On June 16, 2026, NMFS published a final rule implementing fishing periods (*i.e.,* season dates) and fishing period limits (*i.e.,* vessel catch limits) for the IPHC Area 2A Pacific halibut non-Tribal directed commercial fishery that operates south of Point Chehalis, WA, lat. 46°53.30′ N (91 FR 36094). The Area 2A non-Tribal directed commercial fishery allocation for 2026 is 261,211 lb (118 mt), net weight (*i.e.,* the weight of Pacific halibut that is without gills and entrails, head off, washed, and without ice and slime) (91 FR 14464, March 25, 2026).

The initial fishing periods for the 2026 fishery occurred June 23–25 and July 7–9, 2026, with fishing period limits ranging from 2,000 to 5,000 lb (0.907 to 2.268 mt), varying by vessel size class. Third and fourth fishing periods were added through inseason

actions on July 20, 2026 (91 FR 45224) and August 6, 2026 (91 FR 50726), respectively. The third fishing period occurred between July 21 and 23, 2026 and the fourth occurred between August 18 and August 20, 2026. Both periods had 5,000 lb (2.27 mt) fishing period limits for all vessels. Landings information to date indicates that sufficient allocation remains to warrant another additional fishing period without exceeding the allocation. Approximately 209,796 lb (71 mt), net weight, have been harvested of the 261,211 lb (118 mt) allocation (80 percent), through August 25, 2026, leaving 51,415 lb (47 mt) remaining (20 percent).

NMFS is implementing an additional fishing period via inseason in accordance with 50 CFR 300.63(e)(1)(iii). Consistent with 50 CFR 300.63(e)(1)(ii), and the final rule for the 2026 fishery, fishing period limits for any additional fishing period(s) implemented through inseason action will be equal across vessel size classes and developed based on the estimated remaining allocation to date, projected participation, and catch rates.

NMFS has determined that the following inseason action is necessary to meet the management objective of attaining the non-Tribal directed commercial fishery's 2026 allocation, not anticipated to risk exceeding the allocation, and consistent with the inseason management provisions at 50 CFR 300.63(e)(1)(iii).

Inseason Action

This inseason action implements an additional fishing period, beginning September 1, at 8 a.m. PDT and ending on September 3, at 6 p.m. PDT. This inseason action also implements a fishing period catch limit of 5,000 lb (2.27 mt) per vessel, dressed weight (head on, with ice and slime), for all vessel size classes, during this fishing period.

On August 25, 2026, notice of this inseason action was sent via email notification directly to the affected public.

Classification

NMFS issues this action pursuant to the Northern Pacific Halibut Act of 1982. This action is taken under the regulatory authority at 50 CFR 300.63(e)(1)(iii) and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. There is good cause to waive prior notice and an opportunity for public comment on this inseason action because the public had an opportunity to comment on the final rule implementing the 2026 non-Tribal directed commercial Pacific halibut fishery in Area 2A. The final rule specifically provided that additional fishing periods and fishing period limits may be set through inseason action during the 2026 fishing season, in accordance with 50 CFR 300.63(e)(1)(iii), if another fishing period(s) is deemed necessary to attain the 2026 allocation. The final rule further specified that NMFS would implement additional 58-hour fishing periods every 2 weeks, and that if a fishing period could not be scheduled in time it would take place on the next 2-week interval. The fifth fishing period would follow this pattern, beginning 2 weeks after the fourth fishing period on September 1, 2026, at 8 a.m. PDT and closing on September 3, 2026, at 6 p.m. PDT. The final rule for the 2026 non-Tribal directed commercial fishery was subject to notice and comment rulemaking. Therefore, the public had specific notice and an opportunity to comment on NMFS' intent to implement inseason action to open this fifth fishing period for the non-Tribal directed commercial fishery during that rulemaking process.

Additionally, the California, Oregon, and Washington Departments of Fish and Wildlife provide estimated harvest data to NMFS in season, tracking the estimated catch of Pacific halibut within the fishery to date. As of August 25, 2026, the Area 2A non-Tribal directed commercial fishery caught an estimated 80 percent of the fishery's 2026 allocation. NMFS uses current fishery harvest and participation estimates, and fishing period catches from prior years, to determine whether additional fishing periods are necessary to reach the fishery's annual allocation, and to set fishing period limits for any additional fishing periods set through inseason action. Given that harvest in the first four fishing periods for the 2026 fishery is estimated to be below the allocation, a fifth fishing period is considered necessary to maximize the opportunity and likelihood that the fishery will attain its 2026 allocation.

The final rule implementing the 2026 fishing season sets the regulated public's expectations for both the initial and additional fishing periods for the fishery by setting a prescribed schedule in the final rule (91 FR 36094, June 16, 2026). The regulated public needs sufficient time to plan for additional fishing periods and make business planning decisions for the 2026 season, accordingly. The annual directed commercial fishing season for Pacific halibut in Area 2A is relatively short and occurs primarily during the summer months. The landings information needed to determine if additional openers are warranted is not available until less than 2 weeks before the opener would begin. Conducting notice and comment rulemaking to implement these additional openers would result in them being implemented well after the summer months. As such, implementing this action through proposed and final rulemaking would limit the benefit this action would provide to fishery participants and there is good cause to waive notice and comment rulemaking under 5 U.S.C. 553(b)(B). Specifically, delaying this inseason action for notice and comment rulemaking would be impracticable and contrary to the public interest because it would limit the rule's ability to create meaningful opportunity for the fishery to achieve its 2026 allocation. Without implementation of an additional fishing period, the fishery allocation would not be reached. This would eliminate economic benefits for fishery participants and be inconsistent with the goals of the Catch Sharing Plan. Finally, no aspect of this action is controversial, and changes of this nature were anticipated in the process described in regulations at 50 CFR 300.63(e)(1)(iii) and in the final rule (91 FR 36094, June 16, 2026).

NMFS has also determined that the 30-day delay in the date of effectiveness required by 5 U.S.C. 553(d) does not apply to this inseason action because this action relieves a restriction on the fishery and there is good cause to waive the requirement pursuant to 5 U.S.C. 553(d)(1) and (d)(3), respectively.

The 30-day delay in effective date requirement pursuant to 5 U.S.C. 553(d)(1) does not apply to this inseason action because this inseason action relieves a restriction by allowing participants to fish on the additional fishing dates described above. Waiving the 30-day delay in effectiveness thus provides additional opportunity for commercial Pacific halibut fishermen to harvest Pacific halibut and increases the likelihood of full utilization of the 2026 allocations in Area 2A.

Additionally, there is good cause pursuant to 5 U.S.C. 553(d)(3) to establish an effective date less than 30 days after the date of publication, as a delay in effectiveness of this action would: (1) constrain fishing opportunity; (2) be inconsistent with the goals of the Catch Sharing Plan; and (3) potentially limit the economic opportunity intended by this rule to the associated fishing communities. NMFS

regulations allow for implementing additional fishing periods and setting period limits for the directed commercial fishery inseason to provide opportunity for the fishery to achieve its annual allocation, so long as this additional fishing will not result in exceeding the catch limit for the fishery. NMFS recently received landings data for the non-Tribal directed commercial fishery that indicates that an additional fishing period is necessary to ensure optimal harvest of the allocation. The non-Tribal directed commercial fishery's season is limited. Thus, timely action to implement additional fishing periods is necessary to achieve the allocation. It is therefore in the public interest that this action is not delayed, because a delay in the effectiveness of this additional fishing period could prevent the allocation objectives of the Area 2A Pacific halibut non-Tribal directed commercial fishery from being met.

Authority: 16 U.S.C. 773–773k.

Dated: August 26, 2026.

Kelly Denit,

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

[FR Doc. 2026–17645 Filed 8–27–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 260305–0066; RTID 0648–XF883]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amounts of Pacific cod from vessels using jig gear and catcher vessels greater than or equal to 60 feet (18.3 meters (m)) length overall (LOA) using hook-and-line gear to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear and is opening directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the 2026 total allowable catch (TAC) of Pacific cod to be harvested.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), September 1, 2026, through 2400 hours, A.l.t., December 31, 2026. Comments must be received at the following address no later than 4:30 p.m., A.l.t., September 14, 2026.

ADDRESSES: You may submit comments on this document, identified by docket number NOAA–NMFS–2025–1098, by any of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2025–1098 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Mail: Submit written comments to Gretchen Harrington, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Andrew Olson, 907–206–5813.

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

The 2026 Pacific cod TAC specified for vessels using jig gear in the BSAI is 721 mt as established by the final 2026 and 2027 harvest specifications for groundfish in the BSAI (91 FR 11750, March 10, 2026) and reallocation (91 FR 16583, April 2, 2026).

The 2026 Pacific cod TAC specified for catcher vessels greater than or equal to 60 feet (18.3 m) LOA using hook-and-line gear in the BSAI is 234 mt as established by the final 2026 and 2027 harvest specifications for groundfish in the BSAI (91 FR 11750, March 10, 2026).

The 2026 Pacific cod TAC specified for catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI is 3,272 mt as established by the final 2026 and 2027 harvest specifications for groundfish in the BSAI (91 FR 11750, March 10, 2026) and reallocation (91 FR 16583, April 2, 2026). NMFS closed directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI under § 679.20(d)(1)(iii) effective February 3, 2026 (91 FR 5244, February 5, 2026).

The Regional Administrator, Alaska Region, NMFS (Regional Administrator) has determined that jig vessels will not be able to harvest 711 mt of the 2026 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(*1*) and catcher vessels greater than or equal to 60 feet (18.3 m) LOA using hook-and-line gear will not be able to harvest 224 mt of the 2026 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(*3*).

Therefore, in accordance with § 679.20(a)(7)(iii)(A) and (a)(7)(iv)(C), NMFS reallocates 711 mt of Pacific cod from the jig vessels to the annual amount specified for catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear, and in accordance with § 679.20(a)(7)(iii)(A), NMFS reallocates 224 mt of Pacific cod from the catcher vessels greater than or equal to 60 feet (18.3 m) LOA using hook-and-line gear to the annual amount specified for catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

The harvest specifications for 2026 Pacific cod included in final 2026 and 2027 harvest specifications for groundfish in the BSAI (91 FR 11750, March 10, 2026) and reallocation (91 FR 16583, April 2, 2026) are revised as follows: 10 mt to vessels using jig gear, 10 mt to catcher vessels greater than or equal to 60 feet (18.3 m) LOA using hook-and-line gear, and 4,207 mt to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

As a result of the reallocation of Pacific cod to catcher vessel less than 60 feet (18.3 m) LOA using hook-and-line or pot gear, NMFS has determined that as of August 25, 2026, approximately 422 mt of Pacific cod remain in the 2026 Pacific cod allocation for catcher vessel less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI.

Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), NMFS is terminating the previous closure to prevent the underharvest of TAC and is opening directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI to allow for the full use of the available Pacific cod TAC in the BSAI. The Regional Administrator considered the following factors in reaching this decision: (1) the current catch of Pacific cod, including by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI; (2) the harvest capacity and stated intent on future harvesting patterns of vessels participating in this fishery; and (3) the remaining Pacific cod TAC available for harvest in the fishing year.

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data on Pacific cod catch in a timely fashion, would delay the opening of directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear, and would not allow for the full harvest of the Pacific cod TACs by the sector with harvesting capability in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data for Pacific cod catch by those sectors harvesting Pacific cod in the BSAI, as well as the potential capability to harvest reallocated Pacific cod this fall, only became available as of August 25, 2026.

There is good cause under 5 U.S.C. 553(d)(3) to establish an effective date less than 30 days after date of publication. This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: August 26, 2026.

Kelly Denit,

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

[FR Doc. 2026–17616 Filed 8–27–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 260305–0066, RTID 0648–XG019]

Fisheries of the Exclusive Economic Zone off Alaska; Pacific Ocean Perch in the Central Aleutian District of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian district (CAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access sector fishery. This action is necessary to prevent exceeding the 2026 total allowable catch (TAC) of Pacific ocean perch in the CAI allocated to vessels participating in the BSAI trawl limited access sector fishery.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), August 27, 2026, through 2400 hours, A.l.t., December 31, 2026.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

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

The 2026 TAC of Pacific ocean perch, in the CAI, allocated to vessels participating in the BSAI trawl limited access sector fishery was established as a directed fishing allowance of 480 metric tons by the final 2026 and 2027 harvest specifications for groundfish in the BSAI (91 FR 11750, March 10, 2026).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator, Alaska Region, NMFS, has determined that this directed fishing allowance has been or will be reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the CAI by vessels participating in the BSAI trawl limited access sector fishery to prevent exceeding this sector's allocation of Pacific ocean perch in the CAI. While this closure is effective, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the Pacific ocean perch directed fishing in the CAI for vessels participating in the BSAI trawl limited access sector fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data on Pacific ocean perch harvest in the CAI for vessels participating in the BSAI trawl limited access sector only became available as of August 25, 2026.

There is good cause under 5 U.S.C. 553(d)(3) to establish an effective date less than 30 days after date of publication. This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: August 26, 2026.

Kelly Denit,

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

[FR Doc. 2026–17650 Filed 8–26–26; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 91, No. 166
Friday, August 28, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303, 306, 309, 327, and 337

RIN 3064–AG30

Disclosure of Information; Extension of Comment Period

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The FDIC is extending the public comment period on the proposed rule ''Disclosure of Information,'' which was published in the **Federal Register** on June 30, 2026. FDIC is extending the public comment period from August 31, 2026, to October 5, 2026, to provide interested parties with additional time to analyze the proposal and prepare comments.

DATES: The comment period for the proposed rule that published at 91 FR 39726 (June 30, 2026) is extended. Comments must be received on or before October 5, 2026.

ADDRESSES: Comments should be directed to the FDIC, identified by RIN 3064–AG30, by any of the following methods:

- *Agency Website: https://www.fdic.gov/resources/regulations/federal-register-publications/.* Follow instructions for submitting comments on the FDIC website.
- *Mail:* Jennifer M. Jones, Deputy Executive Secretary, Attention: Comments—RIN 3064–AG30, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivered/Courier:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street NW) on business days between 7 a.m. and 5 p.m.
- *Email: comments@FDIC.gov.* Include RIN 3064–AG30 on the subject line of the message.
- *Public Inspection:* Comments received, including any personal information provided, may be posted without change to *https://www.fdic.gov/resources/regulations/federalregisterpublications/.* Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of this notice will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

The proposed rule, all public comments, and a summary of no more than 100 words (as required by the Providing Accountability Through Transparency Act of 2023, 5 U.S.C. 553(b)(4)) are available at *https://www.fdic.gov/federal-register-publications.*

FOR FURTHER INFORMATION CONTACT: Sonya L. Allen, Regional Counsel, (816) 234–8036, *soallen@fdic.gov,* Bruce W. Hickey, Senior Counsel, (202) 898–6748, *brhickey@fdic.gov,* Andrew A. Lubash, Senior Attorney, (703) 562–6209, *anlubash@fdic.gov,* Legal Division.

SUPPLEMENTARY INFORMATION: On June 30, 2026, the FDIC published in the **Federal Register** (91 FR 39726) a document proposing to update, clarify, and supplement the FDIC's regulations regarding the disclosure of confidential information by the FDIC and other parties, including by enhancing the ability of insured depository institutions to share confidential supervisory information with affiliates and certain other entities for appropriate business purposes, without seeking prior authorization from the FDIC. The proposal would also significantly simplify and clarify the requirements and restrictions applicable to the FDIC's discretionary disclosure of confidential information. Finally, the proposal would update and simplify the FDIC's rules regarding disclosures required under the Freedom of Information Act and would clarify how and when FDIC information may be disclosed in connection with legal proceedings and as a result of service of process made upon the FDIC and its directors, officers, and employees. The proposed rule stated that the comment period would close on August 31, 2026. The FDIC has received requests to extend the comment period. After reviewing the requests, the agency finds it appropriate to grant the requests and extend the comment period until October 5, 2026. An extension of the comment period will provide additional opportunity for the public to prepare comments to address the matters raised by the proposed rule. Therefore, the FDIC is extending the comment period for the proposed rule concerning disclosure of information from August 31, 2026, to October 5, 2026.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, August 26, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026–17649 Filed 8–27–26; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 27

[Docket No. FAA–2026–1585; Notice No. XX–XX–XX–SC]

Special Conditions: Skyryse, Robinson Helicopter Company Model R66 Helicopter; Control Margin Awareness

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

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

regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send comments on or before October 13, 2026.

ADDRESSES: Send comments identified by Docket No. FAA–2026–1585 using any of the following methods:

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

Mail: Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

Hand Delivery or Courier: Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Fax: Fax comments to Docket Operations at 202–493–2251.

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

FOR FURTHER INFORMATION CONTACT: Johannes vanHoudt, Product Policy Management, AIR–62B, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service, Federal Aviation Administration, 901 Locus St., Kansas City, MO 64106; telephone (819) 329–4144; email *john.g.van.houdt@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

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

The FAA will consider all comments received by the closing date for comments, and will consider comments filed late if it is possible to do so without incurring delay. The FAA may change these special conditions based on the comments received.

Privacy

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

Confidential Business Information

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

Background

On April 10, 2023, Skyryse applied for a supplemental type certificate (STC) for installing its SkyOS fly-by-wire (FBW) fight control system (FCS) in the Robinson Model R66 helicopter. The Robinson Model R66 helicopter, currently approved under Type Certificate No. R00015LA, is a single-engine, normal category rotorcraft with a maximum takeoff weight of 2,700 pounds and a maximum seating capacity of five passengers.

The current 14 CFR part 27 regulations do not contain adequate standards for FBW FCS with respect to control margin awareness. The airworthiness standards for controllability and maneuverability of the rotorcraft are contained in § 27.143. These controllability requirements are compatible with most FBW systems, while most of the maneuverability requirements are not affected by FBW systems, except for the control margins. One of the purposes of the rule is to ensure that control margins (at the rotor and the anti-torque system level) are sufficient in the defined flight envelope to avoid loss of control (that is, the rotorcraft has adequate control power for the pilot to exit potentially hazardous flight conditions). Implicit in this purpose is that the pilot is provided with sufficient awareness of proximity to control limits. Because § 27.143 was written to address hydro-mechanical flight control systems, through which pilot awareness of control margins is provided by cyclic and pedal position relative to cockpit control stops, the rule is inadequate for certification of a FBW FCS, where there is no mechanical link between the inceptor and the receptor. Without a constant correlation between cockpit control and main or tail rotor actuator positions, the FCS may not provide tactile control margin feedback to the pilot through cockpit control position relative to the control position physical stop or limit, for all flight conditions. The special conditions will require the minimum safety standard to ensure awareness of proximity to control limits at the main rotor and tail rotor is provided to pilots of the helicopter.

Type Certification Basis

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

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 27) do not contain adequate or appropriate safety standards for the Robinson Model R66 helicopter because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for an STC to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Robinson Model R66

helicopter must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

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

Novel or Unusual Design Features

The Robinson Model R66 helicopter will incorporate the following novel or unusual design feature:

A primary FCS that replaces the primary mechanical flight controls with a fully authority digital FBW system. The flight control inputs from this FBW system will replace the tactical feedback from pushrods with a position calculated by a computer.

Discussion

These special conditions require the minimum safety standard to ensure awareness of proximity to control limits at the main rotor and tail rotor is provided to pilots of the Robinson Model R66 helicopter. The system design must provide the pilot with sufficient awareness of proximity to control limits, traditionally achieved through conventional flight controls by the pilot's inherent awareness of cyclic stick and pedal position relative to control stops.

Applicability

As discussed above, these proposed special conditions are applicable to the model for which they are issued. Should the applicant apply for an STC to modify any other model included on the same type certificate to incorporate the same novel or unusual design features, these special conditions would apply to the other model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of helicopter. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the helicopter.

List of Subjects in 14 CFR Part 27

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Robinson Helicopter Company Model R66 helicopters, as modified by Skyryse.

In addition to the existing § 27.143 requirements, the following special condition applies: The system design must ensure that the flight crew is made suitably aware whenever the means of primary flight control approaches the limits of control authority. For the context of this special condition, the term ''suitable'' indicates an appropriate balance between nuisance and necessary operation.

Issued in Fort Worth, Texas, on August 26, 2026.

Jorge R. Castillo,

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

[FR Doc. 2026–17661 Filed 8–27–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–8791; Project Identifier MCAI–2026–00076–T]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Embraer S.A. Model EMB–545 and EMB–550 airplanes. This proposed AD was prompted by the possibility of the Ram Air Turbine (RAT) compartment door seal peeling off and becoming entangled with the RAT rotor. This proposed AD would require replacement of the RAT compartment door seal. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 13, 2026.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–8791; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Agência Nacional de Aviação Civil (ANAC) material identified in this proposed AD, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br.* You may find this material on the ANAC website at *sistemas.anac.gov.br/certificacao/DA/DAE.asp.* It is also available at *regulations.gov* under Docket No. FAA–2026–8791.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Cansu Uzay Karahan, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 404–735–3790; email: *Cansu.Uzay.Karahan@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–8791; Project Identifier MCAI–2026–00076–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Cansu Uzay Karahan, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 404–735–3790; email: *Cansu.Uzay.Karahan@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

ANAC, which is the aviation authority for Brazil, has issued ANAC AD 2021–12–01, effective December 15, 2021 (ANAC AD 2021–12–01) (also referred to as the MCAI), to correct an unsafe condition for certain Embraer S.A. Model EMB–545 and EMB–550 airplanes. The MCAI states that the manufacturer identified the possibility of the RAT compartment door seal peeling off and becoming entangled with the RAT rotor. This condition, if not addressed, could lead to the loss of RAT function, which, if associated with an electrical emergency event, can result in loss of airplane controllability.

The FAA is proposing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–8791.

Material Incorporated by Reference Under 1 CFR Part 51

ANAC AD 2021–12–01 specifies procedures for replacement of the RAT compartment door seal with a new RAT door seal having the same part number (P/N) 550–04725–901.

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

FAA's Determination

These products have been approved by the civil aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in ANAC AD 2021–12–01 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate ANAC AD 2021–12–01 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with ANAC AD 2021–12–01 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Material required by ANAC AD 2021–12–01 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–8791 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 55 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
4 work-hours × $85 per hour = $340	$1,221	$1,561	$85,855

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Embraer S.A.: Docket No. FAA–2026–8791; Project Identifier MCAI–2026–00076–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by October 13, 2026

(b) Affected ADs

None.

(c) Applicability

This AD applies to Embraer S.A. Model EMB–545 and EMB–550 airplanes, certificated in any category, as identified Agência Nacional de Aviação Civil (ANAC) AD 2021–12–01, effective December 15, 2021 (ANAC AD 2021–12–01).

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Unsafe Condition

This AD was prompted by the possibility of the Ram Air Turbine (RAT) compartment door seal peeling off and tangling up on the RAT rotor. The FAA is issuing this AD to address the loss of RAT function, which, if associated with an electrical emergency event, can result in loss of airplane controllability.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, ANAC AD 2021–12–01.

(h) Exceptions to ANAC AD 2021–12–01

(1) Where ANAC AD 2021–12–01 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt paragraph (d) of ANAC AD 2021–12–01.

(i) No Reporting Requirement

Although the material referenced in ANAC AD 2021–12–01 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or ANAC; or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(k) Additional Information

For more information about this AD, contact Cansu Uzay Karahan, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 404–735–3790; email: *Cansu.Uzay.Karahan@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Agência Nacional de Aviação Civil (ANAC) AD 2021–12–01, effective December 15, 2021.

(ii) [Reserved]

(3) For ANAC material identified in this AD, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br.* You may find this material on the ANAC website at *sistemas.anac.gov.br/certificacao/DA/DAE.asp.*

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

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

Issued on August 25, 2026.

Paul R. Bernado,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2026–17609 Filed 8–27–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 51

[Public Notice: 13104]

RIN 1400–AF97

Passports: Expanding Online Passport Renewal Overseas

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department proposes to amend 22 CFR 51.21 by consolidating requirements for persons applying by mail and online in the United States and overseas. This proposed change includes expanding online passport application availability to qualified applicants located in foreign countries. In addition, the Department is proposing to remove the requirement that an applicant's most recently issued passport must have a year or less of remaining validity to qualify to submit an online passport application. Finally, the Department is proposing technical corrections to 51.8(b) to change ''on-line'' to read ''online'' for consistency.

DATES: The Department of State will accept comments until October 27, 2026.

ADDRESSES: Interested parties may submit comments to the Department by any of the following methods:

- Visit the *Regulations.gov* website at: *http://www.regulations.gov* and search for the docket number DOS–2026–0925. As required by the Administrative Procedure Act at 5 U.S.C. 553(b)(4), you can also find a plain language summary of this rulemaking at that location.
- *Email: PassportOfficeof AdjudicationGeneral@state.gov.* You

must include RIN 1400–AF97 in the subject line of your message.

• All comments should include the commenter's name, the organization the commenter represents, if applicable, and the commenter's address. If the Department is unable to read a comment for any reason, and cannot contact the commentor for clarification, the Department may not be able to consider this comment. After the conclusion of the comment period, the Department will publish a Final rule (in which it will address relevant comments) as expeditiously as possible.

FOR FURTHER INFORMATION CONTACT: Jennifer Tinianow, Office of Adjudication, Passport Services, (202) 765–6517, or email *PassportOfficeofAdjudicationGeneral@state.gov.*

SUPPLEMENTARY INFORMATION: The Department of State first introduced online passport applications through its Online Passport Renewal (OPR) platform in 2022, following publication of the final rule Passports: Option for Passport Applicants Eligible to Apply by Mail for Renewal of Passports to Apply On-Line.[1] That rule contained certain requirements that restricted eligibility for applicants, including to those located within the United States whose most recent passport had one year or less of remaining validity.

The eligible applicant pool for OPR has not been expanded since the publication of that rule. At that time, the systems and technology for OPR were still largely in development, and its first release was intentionally limited. However, the Department has always intended to make OPR more widely available, including to eligible persons located abroad and individuals with more than a year of validity remaining on their most recent passport.

The online process allows the applicant to bypass the logistical hurdle of securing appointments, which has often been a challenge for citizens residing abroad. By enabling eligible persons overseas to submit applications, pay fees, and upload photos entirely online, the traditional requirement for two in-person visits to a consular post would be eliminated. Additionally, this digital transition removes the necessity of transferring physical applications to a domestic passport agency for adjudication, which will significantly accelerate processing times.

Expanding availability to customers worldwide will optimize the Department's global operation. OPR will be deployed overseas in phases, and as implementation progresses, the Department will maintain an updated list on its website, *travel.state.gov/renewonline,* that specifies the countries in which customers are eligible to use OPR. Additionally, due to system advances, it is no longer necessary to limit the applicant pool only to those applicants whose most recently issued passport has a year or less of remaining validity. The Department aims to gradually relax this requirement, and up-to-date requirements for the remaining validity on an applicant's previous passport will be listed on *travel.state.gov/renewonline.* These changes will enable the Department to expand online passport application services for all Americans in compliance with regulations.

Finally, the Department seeks to make two minor technical corrections to § 51.8(b) to change two uses of ''on-line'' to read ''online.'' The corrections ensure that the language and terminology within Department regulations remain consistent.

Preliminary Regulatory Impact Analysis

As noted below in the Regulatory Analyses, this rule, if finalized, is likely to be economically significant within the meaning of section 3(f)(1) of Executive Order 12866, since the beneficial impact is likely to exceed $100 million. The Department offers the following preliminary regulatory impact analysis (RIA) and invites comment on it.

1. The Need for the Regulatory Action

As noted above, the Department has been considering the gradual expansion of OPR since 2022. This rulemaking provides a more comprehensive codification of the OPR program and the modification to OMB Control No. 1405–0020 than what was in the previous rulemaking.

2. Horizon of Analysis

When choosing the appropriate time horizon for estimating benefits and costs, the Department considered how long this regulation is likely to have economic effects. The Department believes that 10 years is a reasonable time horizon. It is possible, if not probable, that the regulation proposed to be modified herein will be amended again within that time period, possibly as new technologies emerge.

3. Regulatory Alternatives and Consequences

The Department assesses two alternatives to this rulemaking: no action, and expanding the eligibility pool for online renewal applicants located in the United States. Neither are viable options.

a. No Action

Federal law (22 U.S.C. 211a *et seq.*) provides the authority for the Secretary of State to issue passports, ''under such rules as the President shall designate''. The President's authority was delegated to the Secretary of State by Executive Order 11295, of August 5, 1966 (31 FR 10603). The procedures for qualified individuals to obtain and renew passports are set out in such rules. OPR became a part of the Department's rules in 2022; however, the current § 51.21 provides that the program was only available for applicants in the United States and contained a requirement that the applicant's passport have one year or less of validity remaining. Those restrictions thus cannot be removed by any action other than rulemaking. ''No action'' is not a viable alternative if the goal is to increase the availability of this option to U.S. citizens renewing their passports.

b. Expanding Renewal Eligibilities

The Department has explored the option of including in the OPR eligibility those applicants with a current lost or stolen passport and those applicants with a passport that expired over 15 years ago. Expanding to applicants with a lost or stolen passport would require major changes to the passport application adjudication process, and with the current restriction of one year or less of remaining validity for OPR eligibility, Department data from FY 2025 showed that this expansion would result in only a 0.1% increase in applicants eligible for OPR (about 300,000 applicants annually).

According to Department data from FY 2025, expansion from a 15- to an 18-year issuance gap would result in an estimated 7% increase in the pool of applicants eligible to use OPR (about 495,000 additional applicants annually). However, the Department does not currently have sufficient technological capability to support expansion of renewal applications to applicants with a passport that was issued over 15 years ago. This change will also require a rulemaking, and the Department plans to pursue this expansion and associated rulemaking in the future when adequate technology is available.

Finally, neither of these changes would assist U.S. passport applicants located overseas who seek to renew a passport online, as these expansions would still only apply to individuals

[1] Public Notice 11609, 86 FR 72521 (Dec. 22, 2021).

located in the United States absent the current proposed rulemaking.

4. Quantify the Benefits, Cost Savings, and Costs

Department of State Form DS–82, which is a U.S. passport renewal application for eligible individuals, is used in online passport applications. The Department does not anticipate any revisions to this form will be required as part of this rulemaking. The time burden for online renewal applications was found to be virtually identical to the time burden for paper applications.

The Department estimates that approximately 60% of all DS–82 renewal applicants will be submitted through the OPR platform. The Department projects that the total annual number of form DS–82 renewal applicants for FY27 will be 10,509,576. The estimated total number of annual OPR applicants for FY27 is 6,279,511. The overseas applicant expansion could add up to 220,000 additional OPR applicants in FY27.[2]

The Department charges the same fee for a passport renewal application regardless of whether it is received by mail or online. Nevertheless, the Department expects that online renewal applicants will in the aggregate experience a reduced monetary burden as compared to applicants using the paper application.

OPR users are subject to a reduced monetary burden for photo services. According to a Department post-service survey of online applicants, only 34% (2,060,234 applicants) of respondents reported that their passport photo was obtained from a post office or other professional photo service that would require payment.[3] We estimate the current price for photo services to be $15.00.[4] The remaining 66% (3,999,277 applicants) reported that they obtained their photo in a means that did not cause a monetary burden.

Additionally, OPR users are not subject to a monetary burden for postage or travel to a mailing facility. The Department strongly encourages mail-in applicants to utilize trackablemail for their applications, and the current price for a flat rate Priority Mail envelope is $11.95.[5] The Department estimates that most respondents domestically submit their application to their local U.S. Post Office for processing, which is estimated to be an average distance of approximately three miles one way and six miles round trip. This distance is estimated to take an amount of five minutes each way for a total of 10 minutes round trip. The Department has no way to calculate the average distance overseas applicants may need to travel to submit the form. Assuming that a large share of U.S. citizens live in densely populated urban areas, factors such as traffic congestion and distance can significantly increase travel time. This does not account for additional delays, including limited parking at embassies and consulates or the time required to pass through security screening. At a minimum, an applicant would likely need to take a half day off work to complete this process. A half day is estimated at 4 hours. Using the OECD's reported average annual wage for Americans overseas ($44,439 in 2024), the estimated hourly wage is $21.36.[6] Therefore, the total estimated lost wages per applicant would be $85.44.

To determine the travel cost to the applicant, the Department is factoring in the General Services Administration (GSA) reimbursement rate of $0.725 per mile for privately owned vehicles (POV).[7] Government efficiencies are acknowledged by reducing the workload on locally employed staff, including greeters and intake personnel, as well as decreasing the time required for package preparation prior to officer review. By shifting document collection and preparation to the applicant as a one-time responsibility, posts could reduce the need for intake-specific staffing. Currently, locally employed staff are responsible for gathering paperwork, verifying that all required documents are complete and accurate, scanning applications, and providing instructions regarding passport pickup or delivery options. Under OPR, these responsibilities would be largely eliminated or significantly reduced. Furthermore, locally employed staff currently spend approximately $0.98 per applicant for overseas passport intake process (FY2023–2026 Cost of Service Model). When multiplied by the total number of expected overseas passport applications, this would result in a total cost savings of $215,600 for intake.

Pursuant to the above analysis, the estimated annual savings for OPR users for FY27 on average are as follows:

Passport Photo Cost Savings	2,060,234 applicants × $15.00	=	$30,903,506
Postage Cost Savings	6,059,511 applicants × $11.95	=	72,411,156
Average Travel Cost Savings	6,059,511 applicants × 6 miles × $0.725 per mile	=	26,358,873
Lost Wages (Opportunity Costs) Avoided	220,000 applicants × $21.36 average hourly rate × 4 hours.	=	18,796,800
Government Efficiencies on Staffing	220,000 applicants × $0.98 Locally employed staff time allocation in dollars.	=	215,600
Total Estimated Annual Cost Savings	$148,685,935		

[2] There were 220,802 DS–82 applications from OPDP and the Repatriation Program. We estimate that there will be approximately 220,000 overseas applications eligible for OPR in FY 2027.

[3] This may be because these applicants were not able to meet the requirements for passport photos using only the OPR platform.

[4] Source: USPS, ''USPS Retail Customer Appointment Scheduler,'' *https://faq.usps.com/s/article/USPS-Retail-Customer-Appointment-Scheduler* (last visited Apr. 3, 2026).

[5] Source: USPS, ''Priority Mail,'' *https://www.usps.com/ship/priority-mail.htm* (last visited Apr. 3, 2026).

[6] Source: OECD (2025), ''*Pensions at a Glance 2025: OECD and G20 Indicators,*'' *https://www.oecd.org/en/publications/pensions-at-a-glance-2025_e40274c1-en.html* (last visited Aug. 5, 2026).

[7] Source: General Services Administration, ''Privately Owned Vehicles (POV) Mileage Reimbursement Rates,'' *https://www.gsa.gov/travel/plan-book/transportation-airfare-rates-pov-rates/privately-owned-vehicle-pov-mileage-reimbursement-rates* (last visited Apr. 3, 2026).

5. Discount Future Benefits

Value	Year
3% Discount	
148,685,935	Present
144,225,357	2
139,898,596	3
135,701,638	4
131,630,589	5
127,681,672	6
123,851,221	7
120,135,685	8
116,531,614	9
113,035,666	10
7% Discount	
148,685,935	Present
138,277,920	2
128,598,465	3
119,596,573	4
111,224,812	5
103,439,075	6
96,198,340	7
89,464,456	8
83,201,944	9
77,377,808	10

6. Non-quantified Benefits and Costs

The primary qualitative benefit is the ease of submission, which is related to the quantified savings in section 4, above. With respect to non-quantified cost, members of the public commenting on the 2022 rulemaking [8] were concerned about possible identity theft and insisted on the use of the latest technology to protect applicants. The Department reiterates that it processes passport applications, whether mailed or submitted online, on controlled workstations accessed by authorized employees only. The data is encrypted.

Passport records are legally protected from unauthorized access, use, or disclosure under the Privacy Act of 1974 (5 U.S.C. 552a). More information can be found in System of Records Notices STATE–26, Passport Records, and STATE–05, Overseas Citizens Services Records and Other Overseas Records. All Federal employees and contractors with access to passport and U.S. citizen consular records are required to safeguard the privacy of U.S. citizens and non-citizen U.S. nationals and their records.

7. Uncertainty

The Department's primary uncertainty regarding the estimates in this rulemaking relates to the uncertainty of predicting future passport application activity. However, since the demand for passports has generally been stable (other than in surge years, such as the implementation of the Western Hemisphere Travel Initiative), the Department is confident in these figures. In addition, forecast numbers contained in the Department's renewals under the Paperwork Reduction Act have been accurate.

[8] *See* Passports: Proposed Rule Allowing Passport Applicants Eligible to Apply by Mail for Renewal of Passports the Additional Option to Apply On-Line, *REGULATIONS.GOV, https://www.regulations.gov/document/DOS-2021-0016-0002/comment* (last visited Aug. 5, 2026).

Regulatory Findings

Administrative Procedure Act

The Department is soliciting comments during a 60-day comment period, to which it will respond in a final rule, should the Department choose to finalize all or part of this proposal.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates 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 year and it 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.

Executive Order 12866—Regulatory Planning and Review

The Office of Information and Regulatory Affairs (OIRA) had designated this rule as an economically significant action under Executive Order 12866, dated September 30, 1993. For a discussion of the regulatory impact of this proposed rule (should it be finalized), see the Regulatory Impact Analysis section, above.

As OPR becomes more widely available overseas, the Department also expects a shift in passport-related work from overseas posts to the United States. The number of DS–82 paper renewal applications that overseas posts must accept, process, and/or bundle and mail to the United States is expected to decrease with more renewal applications being accepted and processed online, which will free up overseas consular staff to focus on matters more aligned with their expertise, such as complex citizenship cases and special citizens services.

With respect to costs for the federal government, the costs of expanding this program are expected to be covered through the existing application fees and will save applicants ancillary costs (such as postage) as described in the RIA section, above.

Executive Order 14192—Unleashing Prosperity Through Deregulation

This rule is a deregulatory action within the meaning of Executive Order 14192.

Executive Order 13563—Improving Regulation and Regulatory Review

The Department of State has considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

Executive Orders 12372 and 13132—Federalism

This regulation 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 section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

National Environmental Policy Act

The Department has analyzed this regulation for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that it will not have any effect on the quality of the environment.

Executive Order 13175—Effect on Tribes

This rulemaking will not have an effect on tribes and no actions are needed under Section 5 of the Executive Order.

Paperwork Reduction Act

The information collection contained in this rule is pursuant to the Paperwork Reduction Act, 44 U.S.C. Chapter 35, and relates to OMB Control Number 1405–0020.

Department of State Form DS–82, which is a U.S. passport renewal application for eligible individuals, is used in online passport applications. The Department does not anticipate any revisions to the DS–82 form will be required as part of this rulemaking. The time burden for individuals using the

online renewal option, but needing to obtain passport photographs from a commercial source, was slightly less than the burden for applicants who applied using the DS–82. Applicants who were able to submit their photographs without using a commercial service enjoyed a significant decrease in cost burden. As noted in the RIA section above, there is and will be a benefit to increased use of OPR.

The Department requests public comment on time burdens encountered during the application process, both in the use of OPR and in the use of the DS–82 form.

List of Subjects in 22 CFR Part 51

Passports.

Accordingly, for the reasons set forth in the preamble, 22 CFR part 51 is proposed to be amended as follows:

PART 51—PASSPORTS

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 8 U.S.C. 1104; 8 U.S.C. 1185; 8 U.S.C. 1185n (text of Pub. L. 108–458, 118 Stat. 3638, 3823 (Dec. 17, 2004)); 8 U.S.C. 1504; 8 U.S.C. 1714; 22 U.S.C. 211a, 212, 212a, 212b, 213, 213n (Pub. L. 106–113 Div. B, Sec. 1000(a)(7) [Div. A, Title II, Sec. 236], 113 Stat. 1536, 1501A–430); 214, 214a, 217a, 218, 2651a, 2671(d)(3), 2705, 2714, 2714a, 2721, and 3926; 26 U.S.C. 6039E; 26 CFR 301.6039E–1; 31 U.S.C. 9701; 34 U.S.C. 21501–21510; 42 U.S.C. 652(k) ; E.O. 11295, Aug. 5, 1966, 31 FR 10603, 3 CFR, 1966–1970 Comp., p. 570; Pub. L. 114–119, 130 Stat. 15.

§ 51.21 [Amended]

■ 2. Section 51.21 is amended to read as follows:

(a) * * *

(b) *Application by mail or online*

(1) A person in the United States, or in a foreign country where the Department has authorized a post to receive passport applications by mail, who previously has been issued a passport valid for 10 years in his or her own name may apply for a new passport by filling out, signing, and mailing an application on the form prescribed by the Department if:

(i) The applicant's most recently issued passport was issued when the applicant was 16 years of age or older;

(ii) The application is made not more than 15 years following the issue date of the previous passport, except as provided in paragraph (d) of this section; and

(iii) The most recently issued passport of the same type is submitted with the new application.

(2) A person in the United States, or in a foreign country in which the Department has authorized applicants to apply online and listed on its website at *travel.state.gov/renewonline,* who previously has been issued a passport valid for 10 years in his or her own name may apply for a new passport by filling out, signing, and submitting an online application via the Department's official website if:

(i) The applicant's most recently issued passport was issued when the applicant was 16 years of age or older, and remains valid for a period prescribed on the Department's website at *travel.state.gov/renewonline;*

(ii) The application is made not more than 15 years following the issue date of the most recently issued passport of the same type; and

(iii) The most recently issued passport of the same type is available for verification via the online process.

(3) The applicant must also provide photographs as prescribed by the Department and pay the applicable fees prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1).

(c) Nothing in this part shall prohibit or limit the Department from authorizing an overseas post to accept a passport application or applications from persons outside the country or outside the person's country of residence in circumstances which prevent provision of these services to the person where they are located or in other unusual circumstances as determined by the Department.

(d) A senior passport authorizing officer may authorize acceptance of an application by mail where the application is made more than 15 years following the issue date of the previous passport as appropriate and in accordance with guidance issued by the Department.

§ 51.8 [Amended]

■ 3. Section 51.8 is amended to read as follows:

(a) * * *

(b) When applying for a new passport online, an applicant must have the currently valid passport of the same type available for cancellation via the online process.

(c) * * *

(d) * * *

John L. Armstrong,

Principal Deputy Assistant Secretary, Bureau of Consular Affairs, U.S. Department of State.

[FR Doc. 2026–17655 Filed 8–27–26; 8:45 am]

BILLING CODE 4710–06–P

Notices

Federal Register
Vol. 91, No. 166
Friday, August 28, 2026

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and 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 28, 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: Movement of Plants and Plant Products from Hawaii and the Territories.

OMB Control Number: 0579–0346.

Summary of Collection: Under the Plant Protection Act (7 U.S.C 7701), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of fruits, vegetables, plants, and plant pests to prevent the introduction of pests or diseases into the United States, or dissemination of pests and diseases within the United States. The Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine (PPQ), is responsible for implementing this Act and does so through the enforcement of its Hawaiian and territorial quarantine regulations contained in Part 318 of Title 7, Code of Federal Regulations.

Need and Use of the Information: APHIS will use the following forms and activities to collect information: PPQ 530, PPQ 586, PPQ 519, PPQ 540, Labeling of Boxes for Pest Free Areas, Inspection and Certification, Trapping and Surveillance, Contingency Plans approved by APHIS, Updated Mapping Identifying Places Where Horticultural or Other Crops are Grown, Written Request for Treatment Facility Approval—and Recertification, Recordkeeping, Decertification of Pest Free Areas—and Reinstatement, Notification of Emergency Conveyance, Aircraft/Ship Inspections of Departure, Production Site Registration, Packing House Registration; Labeling From Pest Free Areas, Labeling of Boxes for Pest Free Areas; Packing, Markings and Identify. If APHIS did not collect this information or if APHIS collected this information less frequently, the spread of dangerous plant diseases and pests could cause millions of dollars in damage to U.S. agriculture.

Description of Respondents: Business or other for-profits; State, Local or Tribal Government.

Number of Respondents: 72.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 962.

Rachelle Ragland-Greene,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026–17643 Filed 8–27–26; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0030]

State University of New York College of Environmental Science and Forestry: Determination of Nonregulated Status for Blight-Tolerant Darling 54 American Chestnut (Castanea dentata)

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that Darling 54 American Chestnut (*Castanea dentata*), which was developed using genetic engineering for tolerance to the fungal pathogen, *Cryphonectria parasitica,* is no longer considered regulated. Our determination is based on our evaluation of information and data submitted by the State University of New York College of Environmental Science and Forestry in its petition for a determination of nonregulated status, available scientific data, a plant pest risk assessment, and public comments received in response to previous notices announcing the availability of the petition for nonregulated status and a draft plant pest risk assessment. This notice announces the availability of our written determination and supporting documents.

DATES: This change in regulatory status is recognized as of August 28, 2026.

ADDRESSES: You may read the petition, our determination referenced in this notice, and supporting documents by any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2020–0030 in the Search field.
- Our reading room, located in 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Pearson, Biotechnology Regulatory Services, APHIS, USDA, 5601 Sunnyside Ave., AP100, Beltsville, MD

20705; (301) 851–3944; email: *alan.pearson@usda.gov.*

SUPPLEMENTARY INFORMATION: Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701–7772, 7781–7786) and the regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' APHIS regulates, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340.

On January 21, 2020, APHIS received a petition (APHIS Petition Number 19–309–01p) from the State University of New York College of Environmental Science and Forestry (ESF) seeking a determination of nonregulated status for Darling 58, which was developed using genetic engineering to be tolerant to the fungal pathogen, *Cryphonectria parasitica.* The petition provided information in support of petitioners' position that Darling 58 is unlikely to pose a plant pest risk and therefore should not be regulated under APHIS' regulations in 7 CFR part 340.

As part of our decision-making process regarding the organism's regulatory status, APHIS prepared a draft plant pest risk assessment (PPRA) to assess the plant pest risk of the organism.

On August 19, 2020, APHIS published the ESF petition in the **Federal Register** seeking public comment for a period of 60 days (85 FR 51008–51009; Docket No. APHIS–2020–0030). APHIS received 4,337 total comments on the petition, of which 4,321 were posted to the docket.[1] APHIS received comments from the academic sector, farmers, non-governmental organizations, nonprofit organizations, industry, Tribes, and unaffiliated individuals. Of the 4,321 comments posted to the docket, the majority were in favor of deregulation of blight tolerant American chestnut, many were in opposition to deregulation, and several were out of scope.

On August 6, 2021, APHIS published a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) in the **Federal Register** seeking public comment for a period of 30 days (86 FR 43160–43162; Docket No. APHIS–2020–0030). APHIS received 3,968 total comments on the NOI, of which 3,964 were posted to the docket. APHIS received comments from the academic sector, farmers, non-governmental organizations, nonprofit organizations, industry, Tribes, and unaffiliated individuals. Of the 3,964 comments posted to the docket, a large majority were opposed to the deregulation of blight tolerant American chestnut, many were in favor of the deregulation, and one was out of scope.

On November 10, 2022, APHIS published the draft PPRA and draft EIS in the **Federal Register** (87 FR 67861–67862; Docket No. APHIS–2020–0030) and accepted public comments for a period of 45 days. APHIS extended the comment period for an additional 30 days (87 FR 79273; Docket No. APHIS–2020–0030). APHIS received 30,455 total comments on the draft PPRA and draft EIS, of which 9,289 were posted to the docket. APHIS received comments from the academic sector, farmers, non-governmental organizations, nonprofit organizations, industry, and unaffiliated individuals. Of the 9,289 comments posted to the docket, the majority were in favor of deregulation of blight tolerant American chestnut, many were in opposition to deregulation, some were out of scope, one was an extension request, and three were submitted by EPA stating that ''EPA did not identify significant environmental concerns to be addressed in the Final EIS.''

Subsequently, in August 2024, ESF submitted a revised petition (APHIS Petition Number 19–309–01p–amended) to provide additional clarifications and corrections about the chestnut event. ESF's original January 2020 petition referred to Darling 58 instead of Darling 54. These two lines were produced at the same time, using the same transgenes in the same genetic background, so they express the same protein products. Multiple analyses in 2023 revealed that essentially all the offspring from the initial crosses were derived from Darling 54, due to a labeling error in 2016. Because nearly all of the phenotypic information in the original petition was generated from Darling 54 offspring, ESF submitted a revised petition to correct the line name and provide updates on Darling 54 chestnuts based on data collected since the original submission. As a result of the revised petition, APHIS evaluated the new information provided on Darling 54 and revised the draft EIS and draft PPRA.

On June 6, 2025, APHIS published a revised draft EIS and draft PPRA in the **Federal Register**, along with the revised petition, seeking public comment for a period of 45 days (90 FR 24090–24091; Docket No. APHIS–2020–0030). APHIS received 174,116 total comments on the revised petition, revised draft EIS, and revised draft PPRA, of which 4,115 were posted to the docket. APHIS received comments from the academic sector, farmers, non-governmental organizations, nonprofit organizations, industry, and unaffiliated individuals. Of the 4,115 comments posted to the docket, the large majority were in opposition to the deregulation of Darling 54 American Chestnut, many supported deregulation, and several were out of scope.

However, on August 18, 2025, APHIS published a withdrawal of the NOI (90 FR 40050; Docket No. APHIS–2025–0029). Therefore, consistent with this August 18, 2025 **Federal Register** notice, APHIS terminated work on the EIS.

Based on APHIS' evaluation in the PPRA, of information and data submitted by ESF in its revised petition, available scientific data, and public comments received in response to the original and revised petitions and draft PPRAs, APHIS has determined that Darling 54 is unlikely to pose a greater plant pest risk than the nonmodified comparator and therefore is no longer subject to our regulations in 7 CFR part 340 governing the introduction of certain organisms developed using genetic engineering.

Copies of the signed determination, PPRA, and response to comments, as well as the previously published petitions (original and revised) and supporting documents, are available as indicated in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 24th day of August 2026.

Sarah Helming,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2026–17596 Filed 8–27–26; 8:45 am]

BILLING CODE 3410–34–P

[1] Each comment posted on *Regulations.gov* is assigned a comment ID. Users have the option to indicate whether their comment includes multiple comment submissions. If the user answers in the affirmative, the uploaded comment is given one comment ID but will count as multiple comments under *Regulations.gov*'s tally of ''Comments Received''. Therefore, *Regulations.gov* tracks both the number of comments posted and the total number of ''Comments Received''.

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Rescission Notice; St. Johns Watershed Project in Mississippi, New Madrid, and Scott Counties, Missouri

AGENCY: Natural Resources Conservation Service (NRCS), United States Department of Agriculture (USDA).

ACTION: Notice; rescission.

SUMMARY: The NRCS Missouri State Office, in coordination with the St. Johns Levee and Drainage District of Southeast Missouri, is rescinding the Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the St. Johns Watershed Project in Mississippi, New Madrid, and Scott Counties, Missouri, which was published in the **Federal Register** on August 13, 2025. NRCS has determined that the NOI was issued prior to confirming the need for an EIS.

DATES: Effective upon publication, this notice rescinds the NOI to prepare an EIS (90 FR 38944), which was published in the **Federal Register** on August 13, 2025.

FOR FURTHER INFORMATION CONTACT: Andrew Rackers, Missouri State Conservation Engineer; telephone: (573) 876–9376; email: *andrew.rackers@usda.gov.* Individuals who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice and text telephone (TTY)) or dial 711 for Telecommunications Relay Service (both voice and text telephone users can initiate this call from any telephone).

SUPPLEMENTARY INFORMATION: The NRCS Missouri State Office, in coordination with the St. Johns Levee and Drainage District of Southeast Missouri and consistent with the requirements of 7 CFR 1b.7, is issuing this notice to advise Federal, State, and local government agencies and the public that NRCS will continue the planning process to determine whether an EIS is needed for the St. Johns Watershed Project. This notice rescinds the NOI to prepare an EIS (90 FR 38944), published on August 13, 2025. The project area includes the St. Johns Bayou and St. James Ditches and adjacent lands on the west landward side of the setback levee to the watershed outlet at the Mississippi River floodgates near New Madrid, Missouri. Closure of the floodgates prevents Mississippi River flood damage; however, when closed, the floodgates block the watershed outlet and cause flooding from impounded interior runoff.

During the watershed planning process, NRCS determined that the NOI (90 FR 38944) was issued prematurely, before identifying all reasonable alternatives and assessing whether an EIS was needed. If the planning process indicates that an EIS is appropriate, NRCS will publish a new NOI. The watershed planning process is continuing and will comply with the National Environmental Policy Act (NEPA). Any public comment received from the original NOI and scoping period will be considered during Watershed Plan development. Watershed planning is authorized by the Watershed Protection and Flood Prevention Act of 1954 (Pub. L. 83–566), as amended, and the Flood Control Act of 1944 (Pub. L. 78–534).

Nathan Goodrich,

Missouri State Conservationist, Natural Resources Conservation Service.

[FR Doc. 2026–17595 Filed 8–27–26; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Rescission Notice; Black River Watershed Project in Butler County, Missouri

AGENCY: Natural Resources Conservation Service (NRCS), United States Department of Agriculture (USDA).

ACTION: Notice; rescission.

SUMMARY: The NRCS Missouri State Office, in coordination with the North Inter-River Drainage District, Reorganized Butler County Drainage District 7, and the Ring Levee District, is rescinding the Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the Black River Watershed Project in Butler County, Missouri, which was published in the **Federal Register** on August 13, 2025. NRCS has determined that the NOI was issued prior to confirming the need for an EIS.

DATES: Effective upon publication, this notice rescinds the NOI to prepare an EIS (90 FR 38946), which was published in the **Federal Register** on August 13, 2025.

FOR FURTHER INFORMATION CONTACT: Andrew Rackers, Missouri State Conservation Engineer; telephone: (573) 876–9376; email: *andrew.rackers@usda.gov.* Individuals who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice and text telephone (TTY)) or dial 711 for Telecommunications Relay Service (both voice and text telephone users can initiate this call from any telephone).

SUPPLEMENTARY INFORMATION: The NRCS Missouri State Office, in coordination with the North Inter-River Drainage District, Reorganized Butler County Drainage District 7, and the Ring Levee District, and consistent with the requirements of 7 CFR 1b.7, is issuing this notice to advise Federal, State, and local government agencies and the public that NRCS will continue the planning process to determine whether an EIS is needed for the Black River Watershed Project. This notice rescinds the NOI to prepare an EIS (90 FR 38946), published on August 13, 2025. The project area is located along the Black River in southeast Missouri, extending from the city of Poplar Bluff south to the Missouri-Arkansas state line.

During the watershed planning process, NRCS determined that the NOI (90 FR 38946) was issued prematurely, before identifying all reasonable alternatives and assessing whether an EIS was needed. If the planning process indicates that an EIS is appropriate, NRCS will publish a new NOI. The watershed planning process is continuing and will comply with the National Environmental Policy Act (NEPA). Any public comment received from the original NOI and scoping period will be considered during Watershed Plan development. Watershed planning is authorized by the Watershed Protection and Flood Prevention Act of 1954 (Pub. L. 83–566), as amended, and the Flood Control Act of 1944 (Pub. L. 78–534).

Nathan Goodrich,

Missouri State Conservationist, Natural Resources Conservation Service.

[FR Doc. 2026–17597 Filed 8–27–26; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Office of Secretary

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

AGENCY: Office of Security, Insider Risk and Continuity, Commerce.

ACTION: Notice of information collection, request for comment.

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

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before October 27, 2026.

ADDRESSES: Interested persons are invited to submit written comments by mail to Mackenzie McGuire, Plans, Programs & Compliance Division, Office of Security, Department of Commerce, 1401 Constitution Ave. NW, Washington, DC 20230, email: *mmcguire1@doc.gov* or telephone: 202–615–6702 or *PRAcomments@doc.gov*) Please reference the title of this collection in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Mackenzie McGuire, Plans, Programs & Compliance Division, Office of Security, Department of Commerce, 1401 Constitution Ave. NW, Washington, DC 20230, email: *mmcguire1@doc.gov* or telephone: 202–615–6702.

SUPPLEMENTARY INFORMATION:

I. Abstract

The purpose of this electronic form is to collect, maintain, and use information necessary to manage and control visitor access to Department of Commerce controlled facilities. The information supports identity verification, security screening, access authorization, and recordkeeping functions to ensure the safety and security of personnel, property, and information. Data collected in the system assists in validating the identity of visitors, determining their eligibility for entry, documenting visit activity, and enabling agencies to meet applicable physical security, risk management, and reporting requirements.

II. Method of Collection

This information is collected electronically.

III. Data

OMB Control Number: 0690–TBD.

Form Number(s): None.

Type of Review: Regular submission. This is a new information collection.

Affected Public: Individuals.

Estimated Number of Respondents: 25,000.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 2,083.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Mandatory.

Legal Authority: 5 U.S.C. 301, ''Departmental regulations''; Executive Order 12977, ''Interagency Security Committee,'' as amended by Executive Order 13286, ''Amendment of Executive Orders, and Other Actions, in Connection With the Transfer of Certain Functions to the Secretary of Homeland Security''; 41 CFR Chapter 101, ''Federal Property Management Regulations''; Presidential Decision Directive 12, ''Security Awareness and Reporting of Foreign Contacts''; Homeland Security Presidential Directive (HSPD)-7, ''Critical Infrastructure Identification, Prioritization and Protection''; Homeland Security Presidential Directive (HSPD)-12, ''Policy for a Common Identification Standard for Federal Employees and Contractors''; FIPS PUB 201–3, ''Personal Identity Verification (PIV) of Federal Employees and Contractors''; The Risk Management Process for Federal Facilities: An Interagency Security Committee Standard, 2024; 6 CFR part 139 ''Conduct on Federal Property''.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

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

[FR Doc. 2026–17607 Filed 8–27–26; 8:45 am]

BILLING CODE 3510–17–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–874]

Certain Hot-Rolled Steel Flat Products From Japan: Notice of Court Decision Not in Harmony With the Results of Antidumping Administrative Review; Notice of Amended Final Results

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

SUMMARY: On April 8, 2026, the U.S. Court of International Trade (CIT) issued its final judgment in *Nippon Steel Corporation* vs *the United States*, Consol. Court no. 21–00533, sustaining the U.S. Department of Commerce (Commerce)'s second remand results pertaining to the administrative review of the antidumping duty (AD) order on certain hot-rolled steel flat products from Japan covering the period October 1, 2018, through September 30, 2019. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margin assigned to Nippon Steel Corporation (Nippon Steel).

DATES: Applicable April 18, 2026.

FOR FURTHER INFORMATION CONTACT: David Duffeck, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3524.

SUPPLEMENTARY INFORMATION:

Background

On Augst 26, 2021, Commerce published its *Final Results* in the 2018–2019 AD administrative review of

certain hot-rolled steel flat products from Japan. Commerce calculated a weighted-average dumping margin of 11.70 percent.[1]

Nippon Steel challenged Commerce's *Final Results,* regarding Commerce's application of partial adverse inference to Nippon Steel's home market affiliates' unreported downstream sales and Commerce's decision to deduct section 232 of the Trade Expansion Act of 1962 duty payments from the U.S. price of subject merchandise. On August 1, 2022, Commerce completed a partial voluntary remand, granted by the CIT, to add certain separately-reported service-related revenue to the U.S. price and revised Nippon Steel's rate of dumping for the POR to 10.12 percent.[2]

On October 10, 2024, the CIT affirmed, in part, and remanded, in part, Commerce's *Final Results* as amended by the *First Remand Redetermination*.[3] The CIT remanded Commerce to reconsider or further explain Commerce's decision to apply facts available with an adverse inference to certain Nippon Steel home market affiliates' unreported downstream sales.[4] On October 10, 2024, Commerce issued its *Second Remand Redetermination,* in which Commerce further explained its decision to continue to apply an adverse inference to Nippon Steel's home market affiliates' unreported downstream sales and the CIT sustained Commerce's second redetermination.[5] On April 8, 2026, the CIT issued its final judgement sustaining Commerce's *Final Results,* as amended by the *First Remand Redetermination* and *Second Remand Redetermination*.[6]

[1] *See Certain Hot-Rolled Steel Flat Products from Japan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019,* 86 FR 47615 (August 26, 2021) (*Final Results*).

[2] *See Final Results of Remand Redetermination Pursuant to Court Remand, Nippon Steel Corporation* v. *United States,* Consol. Court No. 21–00533, dated August 1, 2022 (*First Remand Redetermination*).

[3] *See Nippon Steel Corporation* v. *United States,* 732 F.Supp.3d 1353 (CIT 2024).

[4] *Id.*

[5] *See Final Results of Remand Redetermination Pursuant to Court Remand, Nippon Steel Corporation* v. *United States,* Consol. Court No. 21–00533, Slip Op. 24–112 (CIT October 10, 2024), dated January 8, 2025 (*Second Remand Redetermination*).

[6] *See Nippon Steel Corporation* v. *United States,* 829 F.Supp.3d 1274 (CIT 2026).

Timken Notice

In its decision in *Timken,*[7] as clarified by *Diamond Sawblades,*[8] the U.S. Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's April 8, 2026, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results.* Thus, this notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Nippon Steel as follows:

Company	Weighted-average dumping margin (percent)
Nippon Steel Corporation/Nippon Steel Nisshin Co., Ltd./Nippon Steel Trading Corporation	10.12

Cash Deposit Requirements

Because Nippon Steel has a superseding cash deposit rate, *i.e.,* there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate for Nippon Steel. For all exporters/producers that do not have a superseding cash deposit rate, Commerce will issue revised cash deposit instructions to CBP.

Liquidation of Suspended Entries

As no parties have appealed the CIT's ruling and the appeals period is now lapsed, the Court's decision is final and conclusive. Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise produced and/or exported by Nippon Steel in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis.* Where an import-specific *ad valorem* assessment rate is zero or *de minimis,*[9] we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

[7] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[8] *See Diamond Sawblades Manufacturers Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: August 26, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–17619 Filed 8–27–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–227, A–580–922, A–583–882, A–552–855]

Polytetramethylene Ether Glycol From the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations

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

DATES: Applicable August 28, 2026.

FOR FURTHER INFORMATION CONTACT: Laura Delgado at (202) 482–1468 (the People's Republic of China (China)); Matthew Palmer at (202) 482–1678 (the Republic of Korea (Korea)), Javeria Ali at (202) 482–0462 (Taiwan), and Rebecca Janz at (202) 482–2972 (the Socialist Republic of Vietnam (Vietnam)), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On April 28, 2026, the U.S. Department of Commerce (Commerce) initiated less-than-fair-value (LTFV) investigations of imports of polytetramethylene ether glycol (PTMEG) from China, Korea, Taiwan, and Vietnam.[1] Currently, the

[9] *See* 19 CFR 351.106(c)(2).

[1] *See Polytetramethylene Ether Glycol from the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Initiation of Less-than-Fair-Value Investigations,* 91 FR 24162 (May 5, 2026) (*Initiation Notice*).

preliminary determinations are due no later than September 15, 2026.

Postponement of Preliminary Determinations

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in a LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1)(A)(b)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) the petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On August 20, 2026, the petitioner [2] submitted a timely request that Commerce postpone the preliminary determinations in these LTFV investigations.[3] The petitioner stated that it requests postponement ''so that Commerce can evaluate fully the initial questionnaire responses submitted by the mandatory respondents and solicit supplemental information as necessary.'' [4]

For the reasons stated above and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations by 50 days (*i.e.,* 190 days after the date on which these investigations were initiated). As a result, Commerce will issue its preliminary determinations no later than November 4, 2026. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations, unless postponed at a later date.

[2] The petitioner is BASF Corporation.

[3] *See* Petitioner's Letter, ''Petitioner's Request For Postponement of the Preliminary Determinations,'' dated August, 20, 2026.

[4] *Id.* at 1.

Notification to Interested Parties

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: August 25, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2026–17638 Filed 8–27–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–051, C–570–052]

Certain Hardwood Plywood Products From the People's Republic of China: Final Determinations of No Shipments in the Antidumping and Countervailing Duty Administrative Reviews; 2024, 2020–2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that there were no shipments of certain hardwood plywood products (hardwood plywood) from the People's Republic of China (China) during the period of review (POR) covering the period June 17, 2020, through September 25, 2021, and January 1, 2024, through December 31, 2024, for one producer of hardwood plywood subject to the antidumping duty (AD) and countervailing duty (CVD) reviews.

DATES: Applicable August 28, 2026.

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2593.

SUPPLEMENTARY INFORMATION

Background

Commerce is conducting administrative reviews of the AD and CVD *Orders* on hardwood plywood from China in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).[1] On April 24, 2026, Commerce published the *Preliminary Results* of these administrative reviews [2] and invited interested parties to comment. On May 15, 2026, Taraca Pacific Inc. (Taraca Pacific), an importer of hardwood plywood, submitted a case brief.[3] No other interested party submitted case or rebuttal briefs.

The deadline for these final results is August 24, 2026. A complete summary of the events that occurred since publication of the *Preliminary Results* can be found in the Issues and Decision Memorandum.[4] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at *http://access.trade.gov*. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices*.

Scope of the Orders

The product covered by the *Orders* is hardwood plywood from China. For a full description of the scope of the *Orders, see* the Issues and Decision Memorandum.

Analysis of Comment Received

The issue raised in the case brief is addressed in the Issues and Decision Memorandum. A list of the topics addressed in the Issues and Decision Memorandum is attached to this notice in the appendix.

Changes Since the Preliminary Results

Based on a review of the record and sole comment received from interested parties, we revised the draft customs instructions for Hai Hien Bamboo Wood Joint Stock Company (Hai Hien) issued with the *Preliminary Results*.[5]

[1] *See Certain Hardwood Plywood Products from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 83 FR 504 (January 4, 2018); and *Certain Hardwood Plywood Products from the People's Republic of China: Countervailing Duty Order,* 83 FR 513 (January 4, 2018) (collectively, *Orders*).

[2] *See Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Determinations of No Shipments and Rescission, In Part; 2024, 2020–2021,* 91 FR 22126 (April 24, 2026) (*Preliminary Results*).

[3] *See* Taraca Pacific's Letter, ''Case Brief,'' dated May 15, 2026, resubmitted at Commerce's request on August 13, 2026, with revised bracketing of business proprietary information; *see also* Taraca Pacific's Letter, ''Case Brief,'' dated August 13, 2026; and Memorandum, ''Request to Revise Bracketing in Brief,'' dated August 12, 2026.

[4] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Reviews of the Antidumping and Countervailing Duty Orders on Certain Hardwood Plywood Products from the People's Republic of China; 2024, 2020–2021,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[5] *See* Memorandum, ''Draft U.S. Customs and Border Protection Liquidation Instructions,'' dated April 20, 2026, at Attachments I and II.

Final Determination of No Shipments

Hai Hien certified in this review that it had shipments only of non-subject plywood to the United States during the POR,[6] and Commerce preliminarily made a no shipments finding with respect to those entries.[7] No party challenged this finding. In these final results, we continue to find that Hai Hien made no shipments of subject merchandise to the United States during the POR.

Assessment Rates—AD and CVD

Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping and countervailing duties on all appropriate entries covered by these reviews.[8] For all entries of merchandise exported by Hai Hien, we intend to instruct CBP to liquidate the entries without regard to antidumping and countervailing duties.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements—AD

The following cash deposit requirements will be effective upon publication of the final results of the AD administrative review for shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of the administrative review, as provided by section 751(a)(2)(C) of the Act: (1) for previously investigated or reviewed exporters that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding in which Commerce assigned a rate to that company; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity; (3) for all non-Chinese exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter, where available, or the rate for the China-wide entity, if no alternate rate is available. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Cash Deposit Requirements—CVD

CBP will continue to collect cash deposits of estimated countervailing duties at the all-others rate or the most recent company-specific rate applicable to the company, as appropriate. These cash deposit instructions, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 315.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Administrative Protective Order (APO)

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

Notification to Interested Parties

These final results are issued and published in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.212(b)(5).

Dated: August 24, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Orders*
IV. Changes from the *Preliminary Results*
V. Discussion of the Issue
Comment: Whether to Revise the Liquidation Instructions
VI. Recommendation

[FR Doc. 2026–17620 Filed 8–27–26; 8:45 am]

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[6] *See* Hai Hien's Letter, ''Response to Request for Certifications,'' dated March 9, 2026.

[7] *See Preliminary Results,* 91 FR at 22128–29.

[8] *See* 19 CFR 351.212(b)(1).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–891]

Carbon and Alloy Steel Wire Rod From the Republic of Korea: Notice of Reopening of, and Intent To Reconsider the Final Results of, Antidumping Duty Administrative Review; 2023–2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) published its final results of the 2023–2024 antidumping duty administrative review in the **Federal Register** on April 7, 2026, in which Commerce calculated a weighted-average dumping margin of 0.00 percent for the sole mandatory respondent, POSCO/POSCO International Corporation. Commerce is reopening the 2023–2024 antidumping duty administrative review, reopening the record, and reconsidering those final results in light of new evidence of possible fraud that potentially affects the integrity of those final results.

DATES: Applicable August 28, 2026.

FOR FURTHER INFORMATION CONTACT: Aleksandras Nakutis, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3147.

SUPPLEMENTARY INFORMATION: On April 07, 2026, Commerce published in the **Federal Register** the final results of the 2023–2024 administrative review of carbon and alloy steel wire rod (steel wire rod) from the Republic of Korea (Korea).[1] In the subsequent review, covering the 2024–2025 period of review and in which POSCO/POSCO International Corporation was again the sole mandatory respondent, Commerce received and placed on the record a submission of evidence indicating potential false statements made in the ongoing 2024–2025, and previously completed 2023–2024, administrative reviews of steel wire rod from Korea.[2]

[1] *See Carbon and Alloy Steel Wire Rod from the Republic of Korea: Final Results of Antidumping Duty Administrative Review,* 91 FR 17630 (April 7, 2026) (*Final Results*).

[2] *See* Memorandum, ''Carbon and Alloy Steel Wire Rod from the Republic of Korea: Fraud Allegation,'' dated August 10, 2026.

The Federal Circuit has held that ''Commerce possesses an inherent authority to protect the integrity of its yearly administrative review decisions, and to reconsider such decisions on proper notice and within a reasonable time after learning of information indicating that the decision may have been tainted by fraud.'' [3] Accordingly, Commerce is reopening the 2023–2024 antidumping duty administrative review, reopening the record, and reconsidering those final results in light of new evidence of possible fraud potentially affecting the integrity of those final results. At this time, Commerce is not soliciting information or comments from interested parties. Commerce intends to issue a memorandum informing parties of the procedural steps for this reconsideration, including time periods to provide information or comments, as Commerce determines necessary.

Commerce intends to notify U.S. Customs and Border Protection (CBP) to suspend liquidation of entries covered by the 2023–2024 administrative review during its reconsideration. At the conclusion of its reconsideration, Commerce intends to issue new assessment instructions, if appropriate, no earlier than 35 days after the date of publication of the reconsideration of review in the **Federal Register**. Furthermore, if the cash deposit rate is revised as a result of this reconsideration and it has not yet been superseded by a subsequent review, Commerce intends to update the cash deposit rate.

Notification to Interested Parties

This notice is issued and published consistent with the Federal Circuit's holding in *TKS,* 529 F.3d at 1361–62.

Dated: August 25, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2026–17617 Filed 8–27–26; 8:45 am]

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[3] *See Tokyo Kikai Seisakusho, Ltd.* v. *United States,* 529 F.3d 1352, 1361–62 (Fed. Cir. 2008) (*TKS*).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–433–814, A–583–881, A–520–812]

Oil Country Tubular Goods From Austria, Taiwan, and the United Arab Emirates: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations

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

DATES: Applicable August 28, 2026.

FOR FURTHER INFORMATION CONTACT: Jose Rivera at (202) 482–0842 (Austria); Monica Gillis at (202) 482–6384 (Taiwan); Paul Kebker at (202) 482–2254 (the United Arab Emirates (UAE)), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 2026, the U.S. Department of Commerce (Commerce) initiated less-than-fair-value (LTFV) investigations of imports of oil country tubular goods (OCTG) from Austria, Taiwan, and the UAE.[1] Currently, the preliminary determinations in these LTFV investigations are due no later than September 9, 2026.

Postponement of Preliminary Determinations

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in an LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1)(A)(b)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) the petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On August 6, 2026, the petitioners [2] submitted a timely request that Commerce postpone the preliminary determinations in these LTFV investigations.[3] The petitioners stated that they request postponement due to the size and complexity of these investigations, the number of participating respondents, and the numerous extensions received by respondents. Postponement allows the petitioners adequate time to analyze and comment on questionnaire responses.

For the reasons stated above and because there are no compelling reasons to deny the request, Commerce is postponing the deadline for the preliminary determinations by 50 days (*i.e.,* 190 days after the date on which these investigations were initiated) in accordance with section 733(c)(1)(A) of the Act. As a result, Commerce will issue its preliminary determinations no later than October 29, 2026. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations, unless postponed at a later date.

Notification to Interested Parties

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: August 25, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2026–17618 Filed 8–27–26; 8:45 am]

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[1] *See Certain Oil Country Tubular Goods from Austria, Taiwan, and the United Arab Emirates: Initiation of Less-Than-Fair-Value Investigations,* 91 FR 22806 (April 28, 2026) (*Initiation Notice*).

[2] The petitioners are the U.S. OCTG Manufacturers Association, United States Steel Corporation, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC.

[3] *See* Petitioners' Letter, ''Petitioners' Request to Postpone Preliminary Determination,'' dated August 6, 2026.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–814]

Certain Carbon Steel Butt-Weld Pipe Fittings From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Covered Merchandise Determination and Notice of Amended Covered Merchandise Determination Pursuant to Court Decision

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

SUMMARY: On July 29, 2026, the U.S. Court of International Trade (CIT) issued its final judgment in *Tube Forgings of America, Inc. and Mills Iron Works, Inc.* v. *United States,* Consol. Court No. 23–00231, sustaining the U.S. Department of Commerce (Commerce)'s second remand redetermination pertaining to the covered merchandise inquiry (CMI) for the antidumping duty (AD) order on certain carbon steel butt-weld pipe fittings (butt-weld pipe fittings) from the People's Republic of China (China). Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's CMI determination, and that Commerce is amending the CMI determination to find that products cut to length and formed into the rough shape of a butt-weld pipe fitting in China represent ''unfinished'' fittings, which are covered by the scope of the *Order,* and that when such products are further processed in the Socialist Republic of Vietnam (Vietnam), they remain subject to the AD order on butt-weld pipe fittings from China.

DATES: Applicable August 8, 2026.

FOR FURTHER INFORMATION CONTACT: Miranda Bourdeau, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2021.

SUPPLEMENTARY INFORMATION:

Background

On October 20, 2023, Commerce found that products formed in the rough shape of a butt-weld pipe fitting in China, and then further processed in Vietnam into either an unfinished butt-weld pipe fitting (*i.e.,* referred to as the ''second stage'' of production) or a finished butt-weld pipe fitting (*i.e.,* referred to as the ''third stage'' of production), to be excluded from the scope of the *Order* because such products are not yet considered ''unfinished'' fittings, as contemplated by the *Order*.[1] In the same determination, Commerce also found that rough shapes from China that undergo the second stage of production in China and that then undergo the third and final stage of production in Vietnam are subject to the scope *Order*.[2]

Tube Forgings of America, Inc. and Mills Iron Works, Inc. appealed Commerce's *Final Determination* with respect to the exclusion of rough shapes transformed into unfinished and/or finished butt-weld pipe fittings in Vietnam. On January 2, 2025, the CIT remanded the *Final Determination* to Commerce, finding that Commerce's *Final Determination* was not supported by substantial evidence and that Commerce deviated from its prior practice of considering products in the rough shape of a fitting, which were not heated or formed, to be in-scope butt-weld pipe fittings.[3]

In its first remand redetermination, issued in May 2025, Commerce continued to find rough shapes formed in China and then further processed in Vietnam into unfinished or finished butt-weld pipe fittings to be excluded from the scope of the *Order,* based on an analysis under 19 CFR 351.225(k)(1).[4]

In April 2026, the CIT remanded Commerce's determination for a second time, finding that the sources enumerated in 19 CFR 351.225(k)(1) were non-dispositive and directing Commerce to perform an analysis of the factors in 19 CFR 351.225(k)(2).[5] In its second remand redetermination, Commerce found, based on an analysis of the factors in 19 CFR 351.225(k)(2), rough shapes formed in China and then further processed in Vietnam to be included in the scope of the *Order*.[6] The CIT sustained Commerce's final redetermination.[7]

Timken Notice

In its decision in *Timken,*[8] as clarified by *Diamond Sawblades,*[9] the U.S. Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's July 29, 2026, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Determination.* Thus, this notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Determination

In accordance with the CIT's July 26, 2026, final judgment, Commerce is amending its *Final Determination* and finds that the scope of the *Order* covers rough shapes of butt-weld pipe fittings that were formed in China and which constitute unfinished butt-weld pipe fittings within the meaning of the scope of the *Order.* We also find that these unfinished butt-weld pipe fittings which were further processed in Vietnam are within the scope of the *Order.*

Liquidation of Suspended Entries

Commerce will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of finished and unfinished butt-weld pipe fittings which were: (1) formed in China from rough shapes of butt-weld pipe fittings; and (2) further processed in Vietnam and to require cash deposits at the appropriate rate.[10] In the event that the CIT's ruling is not appealed or is upheld on appeal, Commerce will instruct CBP to liquidate entries of unfinished butt-weld pipe fittings formed in China that were further processed in Vietnam appropriately.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

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[1] *See Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Final Determination of Covered Merchandise Inquiry,* 88 FR 69909 (October 10, 2023) (*Final Determination*); *see also Antidumping Duty Order and Amendment to the Final Determination of Sales at Less Than Fair Value; Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China,* 57 FR 29702 (July 6, 1992) (*Order*). We hereinafter refer to these products as ''rough shapes.''

[2] *See Final Determination,* 91 FR at 69909.

[3] *See Tube Forgings of America, Inc. and Mills Iron Works, Inc.* v. *United States,* 750 F.Supp.3d 1364, 1383 (CIT 2025).

[4] *See Final Results of Redetermination Pursuant to Court Remand in Tube Forgings of America, Inc. and Mills Iron Works, Inc.* v. *United States,* Court No. 23–00231, Slip Op. 25–1 (CIT January 2, 2025), dated May 2, 2025.

[5] *See Tube Forgings of America, Inc. and Mills Iron Works, Inc.* v. *United States,* 813 F.Supp.3d 1304, 1318 (CIT 2025).

[6] *See Final Results of Redetermination Pursuant to Court Remand in Tube Forgings of America, Inc. and Mills Iron Works, Inc.* v. *United States,* Court No. 23–00231, Slip Op. 25–156 (CIT December 16, 2025), dated April 16, 2026.

[7] *See Tube Forgings of America, Inc. and Mills Iron Works, Inc.* v. *United States,* Court No. 23–00231, Slip Op. 26–83 (CIT July 29, 2026).

[8] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[9] See *Diamond Sawblades Manufacturers Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[10] *See Order,* 57 FR at 29703.

Dated: August 26, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–17621 Filed 8–27–26; 8:45 am]

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DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; NIST MEP Client Impact Survey

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice of Information Collection, request for comment.

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

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before October 27, 2026.

ADDRESSES: Interested persons are invited to submit written comments by mail to Maureen O'Reilly, Management Analyst, NIST, 100 Bureau Drive, MS 1710, Gaithersburg, MD 20899 or by email to *PRANIST@nist.gov.* Please reference OMB Control Number 0693–0021 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Melissa Davis, NIST MEP, by phone at 301.975.5039, or by email at *melissa.davis@nist.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Sponsored by NIST, the Manufacturing Extension Partnership (MEP) is a national network of state-designated manufacturing extension centers working with small and medium-sized manufacturers (SMMs) to assist them in developing new products and customers, expanding and diversifying markets, adopting new technologies, developing workforce strategies and solutions, and enhancing value within supply chains, ultimately improving SMM productivity and competitiveness. The information collected will provide the MEP Program with information and intelligence regarding outcomes associated with MEP Center technical assistance provided to U.S. based manufacturers. The collected information will assist in determining the performance of the MEP Centers at both local and national levels, provide information critical to monitoring and reporting on MEP programmatic performance, support a greater understanding of the effect of MEP Center technical assistance on U.S. SMMs, provide local insights on manufacturing trends, and assist management in policy decisions. Responses to the collection of information are voluntary. The information collected will include MEP client inputs regarding their sales, costs, investments, and employment, as well as inputs on client competitiveness challenges. MEP clients will take the survey online. Customers will only be surveyed once per year under this collection. Data collected in this survey is confidential.

II. Method of Collection

Information will be collected electronically.

III. Data

OMB Control Number: 0693–0021.

Form Number(s): None.

Type of Review: Extension of a current information collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 14,500.

Estimated Time per Response: 12 minutes.

Estimated Total Annual Burden Hours: 2,900.

Estimated Total Annual Cost to Public: 0.

Respondent's Obligation: Voluntary.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

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

[FR Doc. 2026–17569 Filed 8–27–26; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF994]

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 11 will be held from 9 a.m. until 12 p.m. EDT on October 2, 2026.

ADDRESSES:

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

Meeting address: The SEDAR 90 Assessment Webinar 11 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 11 are as follows:

Participants will review recommendations made on Assessment Webinar 10 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 25, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–17544 Filed 8–27–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XG005]

South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice; meeting of the South Atlantic Fishery Management Council.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of the Habitat and Ecosystem Committee; the Southeast Data, Assessment and Review Catch Advice and Data Committee; and the Snapper Grouper Committee. The meeting week will also include a formal public comment session and closed and open meetings of the Full Council.

DATES: The Council meeting will be held from 8:30 a.m. on Monday, September 14, 2026, until 12 p.m. on Friday, September 18, 2026.

ADDRESSES: *Meeting address:* The meeting will be held at the Drury Plaza Hotel North Charleston, 2934 West Montague, North Charleston, SC 29418; phone (843) 938–1503. The meeting will also be available via webinar. See **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Myra Brouwer, Deputy Director for Management, SAFMC; phone (843) 302–8436 or toll free (866) SAFMC–10; FAX (843) 769–4520; email: *myra.brouwer@safmc.net.*

SUPPLEMENTARY INFORMATION: Meeting information, including agendas, overviews, and briefing book materials will be posted on the Council's website at: *https://safmc.net/council-meetings/.* Webinar registration links for the meeting will also be available from the Council's website.

Public comment: Public comment on agenda items may be submitted through the Council's online comment form available from the Council's website. Written comments will be accepted from August 28, 2026, until September 18, 2026. These comments are accessible to the public, part of the Administrative Record of the meeting, and immediately available for Council consideration. A formal public comment session will also be held during the Council meeting.

The items of discussion in the individual meeting agendas are as follows:

Council Session I, Monday, September 14, 2026, 8:30 a.m. Until 12 p.m. (Closed Session)

The Council will meet in closed session to receive a litigation brief, if needed, review proposed changes to the advisory panel policy to clarify term limits, consider establishing chair and vice chair positions for the Citizen Science Operations Advisory Panel (AP), hold a discussion related to membership in the Executive Committee, review the Award of Excellence criteria, and make appointments to APs and Southeast Data, Assessment, and Review (SEDAR) workshop observers.

Council Session I, Monday, September 14, 2026, 1:30 p.m. Until 5 p.m.

Newly appointed Council members will be sworn in and the 2025 Law Enforcement Officer of the Year Award will be presented. The Council will receive the following reports: a litigation brief, state agencies, Council liaisons, and the Shrimp Workgroup. The Council will also receive an update on Executive Order 14276. The National Marine Fisheries Service (NMFS) Southeast Regional Office (SERO) and Southeast Fisheries Science Center (SEFSC) will provide updates to the Council, including a presentation on discards in South Atlantic fisheries and the Observer Program. The Council will also receive a presentation on landings of unmanaged species and an update on the Resilient Fisheries projects. A presentation to review information on the scoping process for potential Atlantic Large Whale Take Reduction Plan modifications will also be delivered. Lastly, the Council will receive updates on managed species outside its jurisdiction.

Habitat and Ecosystem Committee, Tuesday, September 15, 2026, 8:30 a.m. Until 10:30 a.m.

The Committee will receive a presentation on the Ecosystem Information Review project and a report from the Habitat and Ecosystem AP. The Committee will consider recommending approval of the revised Food Webs and Connectivity Policy and the Alterations to Riverine, Estuarine and Nearshore Flows Policy. The Committee will also review topics for a future meeting of the Habitat and Ecosystem Advisory Panel.

SEDAR Catch Advice and Data Committee, Tuesday, September 15, 2026, 10:45 a.m. Until 3:30 p.m.

The Committee will receive a report from the SEDAR Steering Committee, review assessment updates and the SEDAR schedule, and conduct the stock risk rating for hogfish, black grouper, and gag. The Committee will review terms of reference for red grouper, snowy grouper, and vermilion snapper. The Committee will review and approve an outline and timeline for the Standardized Bycatch Reduction Methodology review and receive an update on the Southeast Reef Fish Survey and the Southeast Area Monitoring and Assessment Program.

Snapper Grouper Committee, Tuesday, September 15, 2026, 3:45 p.m. Until 5 p.m., Wednesday, September 16, 2026, 8:30 a.m. Until 3:45 p.m., and Thursday, September 17, 2026, 8:30 a.m. Until 2:30 p.m.

The Committee will receive updates from the NMFS on amendments undergoing rulemaking and Exempted Fishing Permit applications. The Committee will continue discussion of Amendment 61 to the Snapper Grouper Fishery Management Plan to evaluate the composition of the Snapper Grouper Fishery Management Unit.

The Committee will discuss Amendment 44 to the Snapper Grouper Fishery Management Plan addressing jurisdictional and sector allocations of yellowtail snapper and mutton snapper, and Regulatory Amendment 39 to the Snapper Grouper Fishery Management Plan addressing sunsetting of Spawning Special Management Zones. The Committee will consider approving these two amendments for public hearings. The Committee will continue discussing Amendment 60 to the Snapper Grouper Fishery Management Plan addressing commercial management measures and receive a presentation on Vessel Monitoring Systems (VMS) and notification requirements. The Committee will review comments from public hearings held over the summer and approve all actions in the amendment. A public hearing on Amendment 60 will also be held, and comment will be accepted during the public comment period.

Wednesday, September 16, 2026, 4 p.m.—Public comment will be accepted from individuals attending the meeting in person and via webinar on all items on the Council's meeting agenda. The Council Chair will determine the amount of time provided to each commenter based on the number of individuals wishing to comment.

The Committee will continue discussing Regulatory Amendment 38 to the Snapper Grouper Fishery Management Plan, which addresses vessel limits for headboats, and will receive an update on the Snapper Grouper Management Strategy Evaluation (MSE) and the Wreckfish MSE. The Committee will provide comments and draft conclusions and recommendations for the Wreckfish Individual Transferable Quota Program Review. Lastly, the Committee will receive a report from the Blueline Tilefish Joint Sub-Committee and review and approve topics for the fall meeting of the Snapper Grouper AP.

Council Session II, Thursday, September 17, 2:45 p.m. Until 5 p.m.

The Council will hold elections for Chair and Vice Chair. The Council will then discuss a comprehensive amendment to address commercial trip limit sale and revise the abbreviated framework process. The Council will discuss potential modifications to the requirements for sea turtle release gear, management of cownose rays, and review and approve topics for the fall meeting of the Mackerel Cobia AP.

Council Session II, Friday, September 18, 8;30 a.m. Until 12 p.m.

The Council will review its workplan, reports from the committees that met during the week and the June 2026 report from the Executive Committee, review upcoming meetings, and discuss any other business as needed.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

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 Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: August 25, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–17542 Filed 8–27–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF907]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Year 1 of the Bremerton Waterfront Infrastructure Improvements Project in Puget Sound, Washington

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from the United States Navy (Navy) for authorization to take marine mammals incidental to Year 1 of the Bremerton Waterfront Infrastructure Improvements Project in Puget Sound, Washington. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to take marine mammals incidental to the specified activities. NMFS is also requesting comments on a possible one-time, 1-year renewal that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization.

DATES: Comments and information must be received no later than September 28, 2026.

ADDRESSES: Comments should be addressed to Permits and Conservation Division, Office of Protected Resources (OPR), National Marine Fisheries Service and should be submitted via email to *ITP.fleming@noaa.gov.* Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In case of problems accessing these documents, please call the contact listed below.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Kate Fleming, OPR, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

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.*) 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 if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

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 the 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 as ''mitigation''); and requirements pertaining to the monitoring and reporting of the takings. The definitions of all applicable MMPA statutory terms used above are included in the relevant sections below (see also 16 U.S.C. 1362; 50 CFR 216.3, 216.103).

National Environmental Policy Act

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 review our proposed action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (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 preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

Summary of Request

On July 8, 2026, NMFS received a request from the Navy for an IHA to take marine mammals incidental to Year 1 of the Bremerton Waterfront Infrastructure Improvements Project in Puget Sound, Washington. Following NMFS' review of the application and subsequent discussions between NMFS and the Navy, the application was deemed adequate and complete on July 16, 2026. The Navy's request is for take of seven species of marine mammals, by Level B harassment and, for California sea lions (*Zalophus californianus*) and harbor seals (*Phoca vitulina*), Level A harassment. Neither the Navy nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS notes that the Navy provided information relevant to activities planned for the 2027 to 2028 work window (Year 1) in an application initially submitted with the intention of requesting promulgation of incidental take regulations and an associated Letter of Authorization for the first 5 years of a larger 15-year project. While the information and analysis associated with the Year 1 activities have been deemed adequate and complete for the purposes of this IHA, the Navy is in the process of substantially revising the planned activities and analysis for 2028 through 2032 (years 2 through 5). NMFS and the Navy anticipate that construction activities in years 2 through 5 would be analyzed under a future rule.

NMFS previously issued several incidental take authorizations (ITAs) to the Navy for similar work (90 FR 17419, April 25, 2025; 89 FR 47539, June 3, 2024; 84 FR 15963, April 17, 2019). The Navy complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous ITAs, and information regarding their monitoring results may be found in the Potential Effects of the Specified Activity on Marine Mammals and their Habitat section.

This proposed IHA would cover 1 year of a larger 15-year project. The Navy is in the process of revising its application to request incidental take authorization to cover the next 4 years of the project. The larger 15-year project involves construction of a new multi-mission dry dock (M2D2), and years 6 through 15 will be analyzed under future ITAs.

Description of Proposed Activity

Overview

The Navy has plans to construct a multi-mission dry dock at Puget Sound Naval Shipyard and Intermediate Maintenance Facility located at Naval Base (NAVBASE) Kitsap Bremerton over 15 construction seasons. During Year 1 of this project, the Navy proposes to install barge mooring anchors to support upcoming construction. Additionally, to ensure adequate pier capacity to accomplish mission requirements, the Navy proposes to begin construction of a new pier 2 to replace existing pier 4.

Dates and Duration

The proposed IHA would be valid for the statutory maximum of 1 year from the date of effectiveness. It will become effective upon written notification from the applicant to NMFS, but not beginning later than 1 year from the date of issuance or extending beyond 2 years from the date of issuance. In-water work would occur between July 16, 2027 and February 15, 2028, which reflects the implementation of a work window designed to protect fish species listed under the U.S. Endangered Species Act (ESA).

Construction is planned for approximately 11 days, up to 7 days per

week, during daylight hours only. However, project delays may occur due to a number of factors, including project funding, permitting requirements, availability of equipment and/or materials, weather-related delays, equipment maintenance and/or repair, and other contingencies.

Specific Geographic Region

The project is planned in Sinclair Inlet, located on the east side of the Kitsap Peninsula in Puget Sound, Washington (figure 1).

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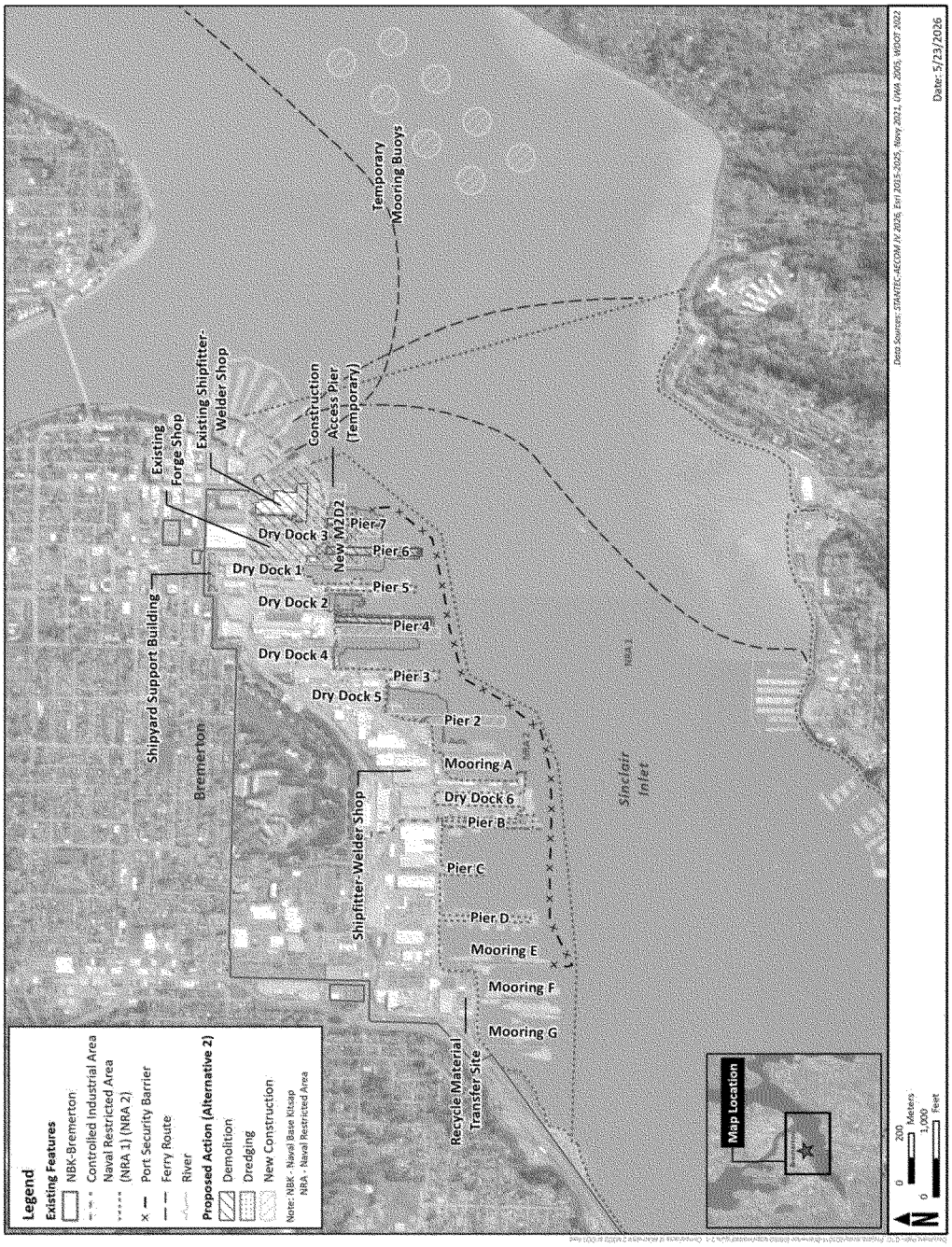

Figure 1. Locations of Year 1 Bremerton Waterfront Infrastructure Improvements Project activities. Pile driving is planned at pier 2 at NAVBASE Kitsap-Bremerton and Temporary Mooring Buoys in Sinclair Inlet</PHOTO>

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The inlet is connected to the main Puget Sound basin through Port Orchard Narrows and Rich Passage. Another relatively narrow waterway, Port Washington Narrows, connects Sinclair Inlet to Dyes Inlet. Pier 2 construction would be located at NAVBASE Kitsap-Bremerton, which occupies approximately 3 miles (5 kilometers (km)) along the northwestern shoreline of Sinclair Inlet. The temporary mooring anchors would be located in Sinclair Inlet, to the southeast of NAVBASE Kitsap-Bremerton and south of the mouth of Port Washington Narrows.

NAVBASE Kitsap-Bremerton contains multiple dry docks, piers, and wharves. In-water structures, shoreline fill, and erosion protection at NAVBASE Kitsap-Bremerton have resulted in a shoreline geometry and character that is quite different from undisturbed shorelines in Puget Sound. Bathymetry near existing piers and in turning basins immediately offshore has been altered by significant dredging to accommodate aircraft carriers and other Navy vessels. Water depths range from 40 to 45 feet (ft) (12 to 14 meters (m)), increasing from 45 to 50 ft (14 to 16 m) in dredged berthing areas. West of the project sites, further into the inlet, depths gradually decrease to less than 30 ft (9 m). For more details about the geographic setting of this project area, see section 2.2 (Geographic Region and Physical Settings of Activities) of the application.

Detailed Description of the Specified Activity

The Navy plans to construct portions of pier 2 and install temporary barge anchor mooring piles to support future construction. At pier 2, construction includes vibratory installing 36 36-inch (in) (91-centimeters (cm)) temporary steel pipe piles, 44 pairs of 24-in (61-cm) permanent steel sheet piles, and impact installing 14 24-in permanent concrete piles. Simultaneous pile driving of the same pile types is planned at this site (table 1). Construction of the temporary barge anchor mooring piles involves vibratory installation of eight 24-in temporary steel pipe piles. Only one pile would be installed at a time at this site. Although some project activities involve the installation of temporary piles, no pile removal is planned during the Year 1 Bremerton Waterfront Infrastructure Improvements Project.

Construction activities associated with the Year 1 Bremerton Waterfront Infrastructure Improvements Project that are not expected to produce noise that would exceed baseline levels at NAVBASE Kitsap-Bremerton include dredging for adequate draft pier-side berthing basins, backfilling behind the new sheet pile wall, installation of a cathodic protection system, and installation of new storm drain features. Additionally, a Hammerhead Crane would be demolished on a pier deck (above water level), and construction of a Radio Hill Complex Expansion and Forge Shop would occur inland at NBK Bangor. These activities are not expected to have the potential to result in incidental take of marine mammals. Therefore, only impact and vibratory pile driving are carried forward for further analysis.

Table 1 provides a summary of pile types, sizes, and numbers of piles to be installed over the 1-year period from July 16, 2027, through July 15, 2028.

TABLE 1—PILE DRIVING SUMMARY FOR YEAR 1 BREMERTON WATERFRONT INFRASTRUCTURE IMPROVEMENT PROJECT, INCLUDING PILE TYPES AND DRIVING DURATIONS

Component	Method	Size/type	Number of piles	Duration per pile (minutes or strikes)	Piles per rig	Rigs per day	Construction days
M2D2 Temporary Barge Anchor Mooring Piles	Vibratory	24-in steel pipe	8	50	4	1	2
Pier 2 Construction Bulkhead Temporary Piles	Vibratory	36-in steel pipe	36	50	5	2	4
Pier 2 Construction Bulkhead	Vibratory	24-in steel sheet	[1] 88	21	12	2	4
Pier 2 Construction Indicator Piles	Impact	24-in concrete	14	825	8	2	1

[1] Note that these 88 sheet piles are driven as pairs. Thus there will be 88 individual sheet piles installed as 44 interlocked pairs.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (Proposed Mitigation and Proposed Monitoring and Reporting section).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs) (*https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*https://www.fisheries.noaa.gov/find-species*).

Table 2 lists all species or stocks for which take is likely and proposed to be authorized for this activity and summarizes information related to the population or stock, including regulatory status under the MMPA and 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' SARs). While no serious injury or mortality is anticipated or proposed to be authorized here, PBR and annual mortality and serious injury (M/SI) from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Alaska and Pacific SARs. All values presented in table 2 are the most recent available at the time of publication (including from the 2024 SARs) and are available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.*

TABLE 2—SPECIES, STOCKS, AND THE STATUS OF MARINE MAMMALS [1] WITH ESTIMATED TAKE FROM THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [2]	Stock abundance (CV, N_{min}, most recent abundance survey) [3]	PBR	Annual M/SI [4]
Order Artiodactyla—Cetacea—Mysticeti (baleen whales)						
Family Eschrichtiidae:						
Gray Whale	*Eschrichtius robustus*	Eastern North Pacific	-, -, N	26,960 (0.05, 25,849, 2016)	801	131
Odontoceti (toothed whales, dolphins, and porpoises)						
Family Phocoenidae (porpoises):						
Dall's Porpoise	*Phocoenoides dalli*	CA-OR-WA	-, -, N	16,498 (0.61, 10,286, 2018)	99	≥0.66
Harbor Porpoise	*Phocoena phocoena*	Washington Inland Waters	-, -, N	11,233 (0.37, 8,308, 2015)	66	≥7.2
Order Carnivora—Pinnipedia						
Family Otariidae (eared seals and sea lions):						
California Sea Lion	*Zalophus californianus*	United States	-, -, N	257,606 (N/A, 233,515, 2014)	14,011	>321
Steller Sea Lion	*Eumetopias jubatus*	Eastern	-, -, N	36,308 (N/A,[5] 36,308, 2022)	2,178	93.2
Family Phocidae (earless seals):						
Harbor Seal	*Phoca vitulina*	Washington Inland Southern Puget Sound.	-, -, N	UNK (UNK,[6] UNK, 1999)	UND	3.4
Northern Elephant Seal	*Mirounga angustirostris*	California Breeding	-, -, N	194,907 (N/A, 88,794, 2023)	5,328	11.2

[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 (*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 stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports.* 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. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

[5] Nest is best estimate of counts, which have not been corrected for animals at sea during abundance surveys. Estimates provided are for the United States only.

[6] Abundance estimates are greater than 8 years old, so stock abundance is considered unknown. Pearson *et al.,* (2024) estimates the population abundance of the Washington Inland Southern Puget Sound stock of harbor seal to be 2,529.

As indicated above, all seven species (with seven managed stocks) in table 2 temporally and spatially co-occur with the specified activity to the degree that take is likely to occur. All species that could potentially occur in the proposed project area are included in table 3–1 of the IHA application. While humpback whales (Central America/Southern Mexico—CA/OR/WA; Mainland Mexico—CA/OR/WA; Hawai'i stocks), minke whales, and killer whales (southern resident and transient stocks) have been documented in the area, no take of these species is proposed for authorization.

Occurrence of these species within the project area is expected to be rare. In February 2026, the Navy provided the NMFS OPR with marine mammal observation data collected by The Whale Museum from locations in the project area (Sinclair Inlet) and nearby (Port Orchard, and Blake Island) between August 2022 and July 2024. In Sinclair Inlet, a minke whale was reported on 1 day in May 2024 (outside the project period) and one to two humpback whales were reported on 2 days in December 2022 and April 2024 (the latter date is also outside the project period). Southern Resident killer whales have only been observed in Sinclair inlet twice in the last 30 years (1997 and 2015). The data provided by the Navy show that transient killer whales more frequently visit Sinclair Inlet; however, the majority of reports occur outside the in-water work months (*i.e.,* July through February), with sightings reported on just 3 days during months when the project activities are planned (all in October). These species were not documented by PSOs monitoring for marine mammals during construction projects occurring within or near Sinclair Inlet (table 3). Given the rarity of these species in Sinclar Inlet and the short duration of activities proposed for Year 1, the Navy would avoid take of humpback, minke, and killer whales by implementing the measures described in the Proposed Mitigation and Proposed Monitoring and Reporting sections.

Marine mammal monitoring data collected by Protected Species Observers (PSOs) employed to monitor during construction projects (table 3), and local research groups contribute to our understanding of local occurrence of marine mammals near NAVBASE Kitsap-Bremerton and Sinclair Inlet (tables 4 and 5).

TABLE 3—MARINE MAMMAL MONITORING DURING CONSTRUCTION PROJECTS NEAR NAVBASE KITSTAP-BREMERTON AND SINCLAIR INLET, WASHINGTON

Project name	Location	Monitoring period	Monitoring days	Reference
Navy P454 Multi-Mission Drydock Test Pile Program.	NAVBASE Kitsap-Bremerton	August 22, 2023–November 1, 2023	22	Department of Navy (DoN) 2024.
Kitsap Transit Annapolis Passenger Ferry Dock Project.	Southern shoreline of Sinclair Inlet across from NAVBASE Kitsap-Bremerton.	December 12, 2019–January 22, 2020	8	Hamer Environmental, 2020.

TABLE 3—MARINE MAMMAL MONITORING DURING CONSTRUCTION PROJECTS NEAR NAVBASE KITSTAP-BREMERTON AND SINCLAIR INLET, WASHINGTON—Continued

Project name	Location	Monitoring period	Monitoring days	Reference
Washington State Department of Transportation Manette Bridge Replacement Project (2012).	Port Washington Narrows	July 2012–November 2012	52	Rand, 2012.
Washington State Department of Transportation Manette Bridge Replacement Project (2011).	Port Washington Narrows	August 2010–February 2011	52	Rand, 2011.

The Navy has conducted weekly shore-based pinniped surveys at NBK-Kitsap Bremerton since 2010 (Navy, 2025). Surveys were initially conducted once per month by boat, which allowed for counts along NBK Bremerton's Port Security Barrier (PSB) floats. Starting in 2014, the survey effort was expanded to include shore-based surveys and the number of surveys each month increased. During the last 6 survey periods (beginning in 2019–2020), the annual number of surveys conducted have been less variable than previous survey periods, ranging from 32 to 48 surveys annually rather than 10 to 52 surveys annually. As such, summary data from the last 6 survey periods are provided and used in consideration of take estimates. For each survey period, the Navy provides the average and maximum count by month. Tables 4 and 5 provide a summary of these metrics.

TABLE 4—MEAN OF THE MONTHLY MEAN COUNT FOR PINNIPED SURVEY PERIODS BETWEEN JANUARY 2019 TO FEBRUARY 2025

Species	2019–2020 (Jul–Feb)	2021–2022 (Jul–Feb)	2022–2023 (Jul–Feb)	2023–2024 (Jul–Feb)	2024–2025 (Jul–Feb)	All years (Jul 2019–Feb 2025, annually)
California Sea Lion	101	118	101	111	[1] 100	105
Steller sea lion [2]	.....	.....	.....	.....	2	2
Harbor seal	0.13	0	0.25	0.63	0	0.3

[1] The mean count for surveys conducted in February 2025 was not provided for California sea lions.
[2] Navy first began recording observations of Steller sea lions at Bremerton during their weekly pinniped monitoring surveys in 2024.

TABLE 5—MEAN OF THE MONTHLY MAXIMUM COUNT FOR PINNIPED SURVEY PERIODS BETWEEN JANUARY 2019 TO FEBRUARY 2025

Species	2019–2020 (Jul–Feb)	2021–2022 (Jul–Feb)	2022–2023 (Jul–Feb)	2023–2024 (Jul–Feb)	2024–2025 (Jul–Feb)	All years (Jul 2019–Feb 2025, annually)
California Sea Lion	120	155	128	145	111	132
Steller sea lion [1]	.....	.....	.....	.....	4	4
Harbor seal	0.25	0	0.63	0.75	0.25	1.6

[1] Navy first began recording observations of Steller sea lions at Bremerton during their weekly pinniped monitoring surveys in 2024.

Gray Whale

During migration from Mexico to the Arctic, a subpopulation of the Eastern North Pacific stock of gray whales, commonly referred to as the Pacific Coast Feeding Group (PCFG), stops and feeds along the coasts of Oregon and Washington including the Northern Puget Sound (Calambokidis *et al.,* 2024). A subgroup of the PCFG that feed in the Puget Sound, recently termed as ''Sounders'' gray whales occurs in highest concentrations on the southern ends of Whidbey and Camano Islands in the North Puget Sound, and is an area that corresponds to a Biologically Important Area (BIA) for feeding gray whales (Calambokidis *et al.,* 2024). This is well outside the project area, but gray whales occasionally occur within the central and south Puget Sound.

No gray whales were observed during any PSO monitoring conducted during construction projects located near NAVBASE Kitstap-Bremerton and Sinclair Inlet, Washington (table 3). However, according to marine mammal observation data collected by The Whale Museum and provided by the Navy, single gray whales were reported on 5 days between October 2022 and April 2024 in Sinclair Inlet.

Between 2019 and 2023, there was an Unusual Mortality Event (UME) for gray whales along the West Coast from Mexico through Alaska. While most of the strandings associated with this UME were documented along Washington's Pacific coast, 14 gray whale strandings were reported in inland waters between the months of February and July, 1 of which was near Bainbridge Island (May 2020), 1 in Sinclair Inlet (March 2021), and 1 near Seattle (April 2019).

Although no gray whale UMEs are currently active, Cascadia Research Collective is actively monitoring high numbers of stranded gray whales along the Washington Coast and in Puget Sound this year (2026). As of July 24, 2026, 30 stranded gray whales have been reported in these waters, with malnutrition commonly documented. At least 10 whales also had blunt force trauma consistent with vessel collision and 1 had recent evidence of entanglement (Cascadia Research Collective, *https://cascadiaresearch.org/working-list-of-gray-whale-strandings-in-2026/,* retrieved July 24, 2026).

Dall's Porpoise

Within the inland waters of Washington and British Columbia, this species is most abundant in the Strait of Juan de Fuca east to the San Juan Islands (Nyswander *et al.,* 2005). Dall's porpoises may be most abundant in Puget Sound during the winter (Nysewander *et al.,* 2005; Washington Department of Fish and Wildlife

(WDFW) 2007). While sightings have decreased in more recent decades (Evenson *et al.,* 2016), Dall's porpoises may occur in all areas of inland Washington at all times of year, but with different distributions throughout Puget Sound from winter to summer.

Dall's porpoises were not observed during monitoring efforts associated with projects occurring in or near Sinclair Inlet (DoN, 2024; Hamer Environmental, 2020; Rand, 2011, 2012).

Harbor Porpoise

Harbor porpoises are known to occur year-round in the inland trans-boundary waters of Washington and British Columbia, Canada and along the Oregon/Washington coast (Barlow *et al.,* 1988). There was a significant decline in harbor porpoise sightings within southern Puget Sound between the 1940s and 1990s but sightings have increased seasonally more recently (Carretta *et al.,* 2019). Annual winter aerial surveys conducted by the WDFW from 1995 to 2015 revealed an increasing trend in harbor porpoise in Washington inland waters, including the return of harbor porpoises to Puget Sound. The data suggest that harbor porpoises were already present in Juan de Fuca, Georgia Straits, and the San Juan Islands from the mid-1990s to mid-2000s, and then expanded into Puget Sound and Hood Canal from the mid-2000s to 2015, areas they had used historically but abandoned (Evenson *et al.,* 2016).

PSOs associated with the Navy's P454 Multi-Mission Drydock Test Pile Program at NAVBASE Kitsap-Bremerton observed one group of two harbor porpoises (DoN, 2024). Harbor porpoises were not reported by PSOs monitoring for marine mammals during other construction projects conducted in Sinclair Inlet (Hamer Environmental, 2021) and the mouth of Port Washington Narrows (Rand, 2011, 2012).

California Sea Lion

Only male California sea lions migrate into Pacific Northwest waters, with females remaining in waters near their breeding rookeries off the coast of California and Mexico. They use haulout sites along the outer coast, Strait of Juan de Fuca, and in Puget Sound. Haulout sites are located on jetties, offshore rocks and islands, log booms, marina docks and floats, and navigation buoys. This species also may be frequently seen resting in the water, rafted together in groups in Puget Sound.

In Washington inland waters, California sea lions are typically present most of the year though occurrence is low in mid-June through August, as most California sea lions would be returning to rookeries in California waters (Navy, 2025). As described below, surveys at the naval installations indicate that a few individuals remain year-round (Navy, 2025).

California sea lions have been documented in shore-based and boat-based surveys at NAVBASE Kitsap-Bremerton since 2010 (Navy, 2025). The maximum number of California sea lions documented on PSB floats at one time was 412 individuals (October 2019) (Navy, 2025). Using data from the most recent 6 survey periods completed during project months (July–February), the average of the monthly maximum count of California sea lions hauled out on the PSBs is 132 animals, and the average of the monthly mean count is 105 animals.

Additionally, California sea lions were consistently observed by PSOs during construction projects in Sinclair Inlet and the mouth of Port Washington Narrows: 332 groups of California sea lions with an average group size of 13 reported during the Navy's P454 Multi-mission Drydock Test Pile Program (DoN, 2024); 4 groups of 1 individual (for a total of 4 California sea lions) reported during Kitsap Transit's Annapolis Passenger Ferry Dock Project (Hamer Environmental, 2020); 256 individuals reported during WSDOT's Manette Bridge Replacement project in 2012 (Rand, 2012); and 72 individuals reported during WSDOT's Manette Bridge Replacement Project in 2011 (Rand, 2011).

Steller Sea Lion

Steller sea lions use haulout locations in Puget Sound and may occur at the same haulouts as California sea lions. The Navy indicates that between 2010 and 2023, only one Steller sea lion was detected (September 2022; see section 4.8.3 of the application), though NMFS notes the Navy first began recording observations of Steller sea lions at Bremerton during their weekly pinniped monitoring surveys in 2024 (Navy, 2025). Between July 2024 and February 2025, the mean of the monthly maximum count of Steller sea lions was four and the average of the monthly mean count was two.

Steller sea lions were rarely observed by PSOs during monitoring for construction projects conducted within or near the project area: 8 individuals were reported during 52 days of monitoring at the mouth of Port Washington Narrows between July and November 2012 (Rand, 2012). Steller sea lions were not observed by PSOs during any other monitoring conducted during construction projects in Sinclair Inlet (DoN, 2024; Hamer Environmental, 2020) and the mouth of Port Washington Narrows (Rand, 2011).

Harbor Seal

Harbor seals are the most common pinniped in the inland marine waters of Washington year-round (Calambokidis and Baird, 1994a). Harbor seals haul out on rocks, reefs and beaches, and feed in marine, estuarine and occasionally fresh waters. Harbor seals in the Puget Sound region are known to exhibit site fidelity and generally remain close to their primary haulout location; those that move further from their primary haulout tend to stay at a new location for several weeks (Peterson *et al.,* 2012).

No haulout sites have been identified at NAVBASE Kitsap-Bremerton, but there is a haulout across Sinclair Inlet, approximately 0.7 mile (1.1 km) away. According to the Navy's pinniped haulout monitoring program, harbor seals are observed inconsistently and in small numbers at Bremerton between July and February (Navy, 2025). In its application, the Navy indicates that harbor seals were primarily observed swimming in the water near piers and other structures but were occasionally documented hauled out on floats and rarely seen hauled out on docked submarines. Most observations of harbor seals were of individuals, but on some occasions, multiple seals were seen in the same vicinity during surveys. Between the 2019–2020 survey period and the 2024–2025 survey period (for a total of 6 survey periods, July through February only), the mean of the monthly maximum count of harbor seals was one, while the mean of the monthly mean count during this time was 0.3 (Navy, 2025). Harbor seal pupping has not been documented at NAVBASE Kitsap-Bremerton.

In its application (see section 4.11.3), the Navy describes that dead harbor seals are occasionally located during these surveys or reported by shipyard personnel, with causes of death, if evident, including net entanglement, prematurely born pups, gunshot wounds, and predation wounds. The Navy indicates that in 2022, nine harbor seal carcasses were recorded at NAVBASE Kitsap-Bremerton. Many of the carcasses were too decomposed to determine cause of death.

Harbor seals are more consistently observed by PSOs during construction projects in Sinclair Inlet and the mouth of Port Washington Narrows: 207 sightings of single harbor seals were reported during the Navy's P454 Multi-Mission Drydock Test Pile Program, for

an average of 9 harbor seals per day; 40 individuals (an average of 5 per day) were observed across Sinclair Inlet during Kitsap Transit's Annapolis Passenger Ferry Dock Project (Hamer Environmental, 2020); 586 harbor seals were observed during WSDOT's Manette Bridge Replacement project in 2012 (Rand, 2012), and 194 harbor seals were observed in 2011 (Rand, 2011), which resulted an average group sizes of 11 and 4 harbor seals, respectively. However, the Rand (2012) report does not appear to have accounted for re-sightings and likely overestimates the number of harbor seals present during monitoring.

Northern Elephant Seal

The occurrence of elephant seals in Puget Sound is unpredictable. No regular haulouts exist in Puget Sound; individual elephant seals occasionally haul out for 2 to 4 weeks to molt, usually during the spring and summer and typically on sandy beaches (Calambokidis and Baird, 1994). These animals are usually yearlings or subadults and their haulout locations are unpredictable. A female elephant seal has been reported hauled out in Mutiny Bay on Whidbey Island, more than 30 km to the north of NAVBASE Kitsap-Bremerton, periodically since 2010. She was observed alone for her first three visits to the area, but in March 2015, she was seen with a pup. Since then, she has produced three more pups between 2018 and 2021 (Orca Network, 2025). Northern elephant seals generally give birth in January, but this individual has repeatedly given birth in March. She typically returns to Mutiny Bay in April and May to molt. Her pups have also repeatedly returned to haul out on nearby beaches, and one has also had a pup (Orca Network, 2025). Northern elephant seals are rarely reported near Bainbridge Island, which is much closer to the project site, at just under 5 km from NAVBASE Kitsap-Bremerton (Wakayama, 2025).

Northern elephant seals have not been detected at NAVBASE Kitsap-Bremerton, Sinclair Inlet (DoN, 2024; Hamer Environmental, 2020) or Port Washington Narrows (Rand, 2011, 2012) during PSO monitoring for construction projects occurring in these areas nor have they been reported during the Navy's pinniped monitoring program (Navy, 2025).

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, *etc.*). Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from composite audiograms, previous analyses in NMFS (2018), and/or data from Southall *et al.* (2007, 2019). We note that the names of two hearing groups and the generalized hearing ranges of all marine mammal hearing groups have been recently updated (NMFS, 2024) as reflected below in table 6.

TABLE 6—MARINE MAMMAL HEARING GROUPS

[NMFS, 2024]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 36 kHz.
High-frequency (HF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
Very High-frequency (VHF) cetaceans (true porpoises, *Kogia,* river dolphins, Cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	200 Hz to 165 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	40 Hz to 90 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 68 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges may not be as broad. Generalized hearing range chosen based on approximately 65 dB threshold from composite audiogram, previous analysis in NMFS (2018), and/or data from Southall *et al.* (2007, 2019). Additionally, animals are able to detect very loud sounds above and below that ''generalized'' hearing range.

For more details concerning these groups and associated frequency ranges, please see NMFS (2024) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section discusses how components of the specified activity may impact marine mammals and their habitat. The Estimated Take of Marine Mammals section includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take of Marine Mammals section, and the Proposed Mitigation section to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and whether those impacts are reasonably expected to, or reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Acoustic effects on marine mammals during the specified activities could occur from vibratory and impact pile installation. The effects of underwater noise from the Navy's proposed activities have the potential to result in Level B harassment of marine mammals in the project area and, for some species as a result of impact pile driving, Level A harassment.

The Navy's proposed activities include the installation of approximately 146 steel or concrete piles with diameters of 24-in (including sheet piles) and 36-in. There are a variety of types and degrees of effects on marine mammals and their habitat (including prey) that could occur as a result of the specified activities. Below we provide a brief description of the types of sound generated by specified activities, the general impacts on marine mammals and their habitat from these types of activities, and a related project-specific analysis with consideration of the proposed mitigation measures.

Description of Sound Sources for Specified Activities

Activities associated with the project that have the potential to incidentally take marine mammals through exposure to sound would include vibratory and impact pile driving.

Impact hammers typically operate by repeatedly dropping and/or pushing a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is impulsive, characterized by rapid rise times and high peak sound pressure levels, a potentially injurious combination (Hastings and Popper, 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the substrate, and extract piles by using vibration to break the sediment friction and allow a crane to pull the piles out. Vibratory hammers typically produce less sound (*i.e.,* lower sound pressure levels) than impact hammers. Peak sound pressure levels (SPLs) may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.,* 2009; California Department of Transportation (CALTRANS), 2015, 2020). Sounds produced by vibratory hammers are non-impulsive; compared to sounds produced by impact hammers, they have a slower rise time, reducing the probability and severity of injury, and the sound energy is distributed over a greater amount of time (Nedwell and Edwards, 2002; Carlson *et al.,* 2005).

The likely or possible impacts of the Navy's proposed activities on marine mammals could involve both non-acoustic and acoustic stressors. Potential non-acoustic stressors could result from the physical presence of the equipment and personnel; should any animals occur near the project site(s) close enough to be harassed due to the presence of equipment or personnel, we expect they would have already traveled through the Level B and/or Level A harassment zones for the specified in-water activities and, thus, would already be considered taken by acoustic impacts. Therefore, any impacts to marine mammals are expected to be primarily acoustic in nature.

Potential Effects of Underwater Sound on Marine Mammals

The introduction of anthropogenic noise into the aquatic environment from pile driving is the primary means by which marine mammals may be harassed from the Navy's specified activity. Anthropogenic sounds span a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life from none or minor to potentially severe responses depending on received levels, duration of exposure, behavioral context, and various other factors. Broadly, underwater sound from active acoustic sources, such as those in the Project, can potentially result in one or more of the following: temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2003; Nowacek *et al.,* 2007; Southall *et al.,* 2007; Götz *et al.,* 2009).

We describe the more severe effects of certain non-auditory physical or physiological effects only briefly as we do not expect that use of impact and vibratory pile driving are reasonably likely to result in such effects (see below for further discussion). Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.,* 1973). Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (*e.g.,* change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007; Zimmer and Tyack, 2007; Tal *et al.,* 2015). The project activities considered here do not involve the use of devices such as explosives or mid-frequency tactical sonar that are associated with these types of effects.

The degree of effect of an acoustic exposure on marine mammals is dependent on several factors, including, but not limited to, sound type (*e.g.,* impulsive vs. non-impulsive), signal characteristics, the species, age, and sex class (*e.g.,* adult male vs. mom with calf), duration of exposure, the distance between the noise source and the animal, received levels, behavioral state at time of exposure, and previous history with exposure (Wartzok *et al.,* 2004; Southall *et al.,* 2007). In general, sudden, high-intensity sounds can cause hearing loss as can longer exposures to lower-intensity sounds. Moreover, any temporary or permanent loss of hearing, if it occurs at all, will occur almost exclusively for noise within an animal's hearing range. We describe below the specific manifestations of acoustic effects that may occur based on the activities proposed by the Navy.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur in relation to distance from a source and assuming that the signal is within an animal's hearing range. First (at the greatest distance) is the area within which the acoustic signal would be audible (potentially perceived) to the animal but not strong enough to elicit any overt behavioral or physiological response. The next zone (closer to the receiving animal) corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological responsiveness. The third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to a certain extent is the area within which masking (*i.e.,* when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur; the masking zone may be highly variable in size.

Below, we provide additional details regarding potential impacts on marine mammals and their habitat from noise in general, starting with hearing impairment, as well as from the specific activities the Navy plans to conduct, to the degree it is available.

Hearing Threshold Shifts. NMFS defines a noise-induced threshold shift (TS) as a change, usually an increase, in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2018, 2024). The amount of TS is customarily expressed in dB. A TS can be permanent or temporary. As described in NMFS (2018, 2024) there are numerous factors to consider when examining the consequence of TS, including, but not limited to, the signal temporal pattern (*e.g.,* impulsive or non-impulsive), likelihood an individual would be exposed for a long enough duration or to a high enough level to induce a TS, the magnitude of the TS, time to recovery (seconds to minutes or hours to days), the frequency range of the exposure (*i.e.,* spectral content), the hearing frequency range of the exposed species relative to the signal's frequency spectrum (*i.e.,* how animal uses sound within the frequency band of the signal; *e.g.,* Kastelein *et al.,* 2014), and the overlap between the animal and the source (*e.g.,* spatial, temporal, and spectral).

Auditory Injury (AUD INJ). NMFS (2024) defines AUD INJ as damage to the inner ear that can result in destruction of tissue, such as the loss of cochlear neuron synapses or auditory neuropathy (Houser, 2021). AUD INJ may or may not result in a permanent TS (PTS). PTS is subsequently defined as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2024). PTS does not generally affect more than a limited frequency range, and an animal that has incurred PTS has some level of hearing loss at the relevant frequencies; typically, animals with PTS or other AUD INJ are not functionally deaf (Au and Hastings, 2008; Finneran, 2016). Available data from humans and other terrestrial mammals indicate that a 40-dB TS approximates AUD INJ onset (Ward *et al.,* 1958, 1959; Ward, 1960; Kryter *et al.,* 1966; Miller, 1974; Ahroon *et al.,* 1996; Henderson *et al.,* 2008). AUD INJ levels for marine mammals are estimates, as with the exception of a single study unintentionally inducing PTS in a harbor seal (*Phoca vitulina*) (Kastak *et al.,* 2008), there are no empirical data measuring AUD INJ in marine mammals largely due to the fact that, for various ethical reasons, experiments involving anthropogenic noise exposure at levels inducing AUD INJ are not typically pursued or authorized (NMFS, 2024).

Temporary TS (TTS). TTS is a temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2024), and is not considered an AUD INJ. Based on data from marine mammal TTS measurements (Southall *et al.,* 2007, 2019), a TTS of 6 dB is considered the minimum TS clearly larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (Finneran *et al.,* 2000, 2002; Schlundt *et al.,* 2000). As described in Finneran (2015), marine mammal studies have shown the amount of TTS increases with the 24-hour cumulative sound exposure level (SEL_{24}) in an accelerating fashion: at low exposures with lower SEL_{24}, the amount of TTS is typically small and the growth curves have shallow slopes. At exposures with higher SEL_{24}, the growth curves become steeper and approach linear relationships with the sound exposure level (SEL).

Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to more impactful (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time when the animal is traveling through the open ocean, where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more severe impacts. We note that reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so we can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

Many studies have examined noise-induced hearing loss in marine mammals (see Finneran (2015) and Southall *et al.* (2019) for summaries). TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 2013). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS) (Finneran, 2015). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. For cetaceans, published data on the onset of TTS are limited to captive bottlenose dolphin (*Tursiops truncatus*), beluga whale (*Delphinapterus leucas*), harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiaeorientalis*) (Southall *et al.,* 2019). For pinnipeds in water, measurements of TTS are limited to harbor seals, northern elephant seals, bearded seals (*Erignathus barbatus*) and California sea lions (Kastak *et al.,* 1999, 2007; Kastelein *et al.,* 2019b, 2019c, 2021, 2022a, 2022b; Reichmuth *et al.,* 2019; Sills *et al.,* 2020). TTS was not observed in spotted (*Phoca largha*) and ringed (*Pusa hispida*) seals exposed to single airgun impulse sounds at levels matching previous predictions of TTS onset (Reichmuth *et al.,* 2016). These studies examine hearing thresholds measured in marine mammals before and after exposure to intense or long-duration sound exposures. The difference between the pre-exposure and post-exposure thresholds can be used to determine the amount of TS at various post-exposure times.

The amount and onset of TTS depends on the exposure frequency. Sounds below the region of best sensitivity for a species or hearing group are less hazardous than those near the region of best sensitivity (Finneran and Schlundt, 2013). At low frequencies, onset-TTS exposure levels are higher compared to those in the region of best sensitivity (*i.e.,* a low frequency noise would need to be louder to cause TTS onset when TTS exposure level is higher), as shown for harbor porpoises and harbor seals (Kastelein *et al.,* 2019a, 2019c). Note that in general, harbor seals and harbor porpoises have a lower TTS onset than other measured pinniped or cetacean species (Finneran, 2015). In addition, TTS can accumulate across multiple exposures, but the resulting TTS will be less than the TTS from a single, continuous exposure with the same SEL (Mooney *et al.,* 2009; Finneran *et al.,* 2010; Kastelein *et al.,* 2014, 2015). This means that TTS predictions based on the total SEL_{24} will overestimate the amount of TTS from intermittent exposures, such as sonars and impulsive sources. Nachtigall *et al.* (2018) describe measurements of hearing sensitivity of multiple odontocete species (bottlenose dolphin, harbor porpoise, beluga, and false killer whale (*Pseudorca crassidens*)) when a relatively loud sound was preceded by a warning sound. These captive animals were shown to reduce hearing sensitivity when warned of an impending intense sound. Based on these experimental observations of captive animals, the authors suggest that wild animals may dampen their hearing during prolonged exposures or if conditioned to anticipate intense sounds. Another study showed that echolocating animals (including odontocetes) might have anatomical specializations that might allow for conditioned hearing reduction and filtering of low-frequency ambient noise, including increased stiffness and control of middle-ear structures and placement of inner-ear structures (Ketten *et al.,* 2021). Data available on noise-induced hearing loss for mysticetes are currently lacking (NMFS, 2024). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species.

Relationships between TTS and AUD INJ thresholds have not been studied in marine mammals, and there are no measured PTS data for cetaceans, but such relationships are assumed to be similar to those in humans and other terrestrial mammals. AUD INJ typically occurs at exposure levels at least several dB above that inducing mild TTS (*e.g.,* a 40-dB TS approximates AUD INJ onset

(Kryter *et al.,* 1966; Miller, 1974), while a 6-dB TS approximates TTS onset (Southall *et al.,* 2007, 2019). Based on data from terrestrial mammals, a precautionary assumption is that the AUD INJ thresholds for impulsive sounds (such as impact pile driving pulses as received close to the source) are at least 6 dB higher than the TTS threshold on a peak-pressure basis and AUD INJ cumulative sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative sound exposure level thresholds (Southall *et al.,* 2007, 2019). Given the higher level of sound or longer exposure duration necessary to cause AUD INJ as compared with TTS, it is considerably less likely that AUD INJ could occur.

Behavioral Effects. Exposure to noise also has the potential to behaviorally disturb marine mammals to a level that rises to the definition of harassment under the MMPA. Generally speaking, NMFS considers a behavioral disturbance that rises to the level of harassment under the MMPA a non-minor response—in other words, not every response qualifies as behavioral disturbance, and for responses that do, those of a higher level, or accrued across a longer duration, have the potential to affect foraging, reproduction, or survival. Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses may include changing durations of surfacing and dives, changing direction and/or speed; reducing/increasing vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); eliciting a visible startle response or aggressive behavior (such as tail/fin slapping or jaw clapping); and avoidance of areas where sound sources are located. In addition, pinnipeds may increase their haulout time, possibly to avoid in-water disturbance (Thorson and Reyff, 2006).

Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.,* Richardson *et al.,* 1995; Wartzok *et al.,* 2004; Southall *et al.,* 2007, 2019; Weilgart, 2007; Archer *et al.,* 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.,* 2012), and can vary depending on characteristics associated with the sound source (*e.g.,* whether it is moving or stationary, number of sources, distance from the source). In general, pinnipeds seem more tolerant of, or at least habituate more quickly to, potentially disturbing underwater sound than do cetaceans, and generally seem to be less responsive to exposure to industrial sound than most cetaceans. Please see appendices B and C of Southall *et al.* (2007) and Gomez *et al.* (2016) for reviews of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2004). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered a ''progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,'' rather than a general moderation in response to human disturbance (Bejder *et al.,* 2009). The opposite process is sensitization, when an unpleasant experience leads an animal to subsequently respond, at a lower level of exposure, often in the form of avoidance.

As noted above, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; Wartzok *et al.,* 2004; National Research Council (NRC), 2005). Controlled experiments with captive marine mammals have shown pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (*e.g.,* seismic airguns) have been varied but often consist of avoidance behavior or other behavioral changes (Richardson *et al.,* 1995; Morton and Symonds, 2002; Nowacek *et al.,* 2007).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal (*e.g.,* Erbe *et al.,* 2019). If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. If a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007; NRC, 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

Avoidance and displacement. Changes in dive behavior can vary widely and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.,* Frankel and Clark, 2000; Costa *et al.,* 2003; Ng and Leung, 2003; Nowacek *et al.,* 2004; Goldbogen *et al.,* 2013a, 2013b; Blair *et al.,* 2016). Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.,* foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.,* bubble nets or sediment plumes), or changes in dive behavior. Acoustic and movement bio-logging tools also have been used in some cases to infer responses to anthropogenic noise. For example, Blair *et al.* (2015) reported significant effects on humpback whale foraging behavior in Stellwagen Bank in response to ship noise including slower descent rates, and fewer side-rolling events per dive with increasing ship nose. In addition, Wisniewska *et al.* (2018) reported that tagged harbor porpoises demonstrated fewer prey capture attempts when encountering occasional high-noise levels resulting from vessel noise as well as more vigorous fluking, interrupted foraging, and cessation of echolocation signals observed in response to some high-noise vessel passes. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.,* Croll *et al.,* 2001; Nowacek *et al.,* 2004; Madsen *et al.,* 2006; Yazvenko *et al.,* 2007). A

determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Respiration rates vary naturally with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.,* Kastelein *et al.,* 2001, 2005, 2006; Gailey *et al.,* 2007). For example, harbor porpoise respiration rates increased in response to pile driving sounds at and above a received broadband SPL of 136 dB (zero-peak SPL: 151 dB re 1 µPa; SEL of a single strike (SEL_{ss}): 127 dB re 1 μPa^2-s) (Kastelein *et al.,* 2013).

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.,* 1995). For example, gray whales are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.,* 1984). Harbor porpoises, Atlantic white-sided dolphins (*Lagenorhynchus actusus*), and minke whales have demonstrated avoidance in response to vessels during line transect surveys (Palka and Hammond, 2001). In addition, beluga whales in the St. Lawrence Estuary in Canada have been reported to increase levels of avoidance with increased boat presence by way of increased dive durations and swim speeds, decreased surfacing intervals, and by bunching together into groups (Blane and Jaakson, 1994). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.,* Bowles *et al.,* 1994; Goold, 1996; Stone *et al.,* 2000; Morton and Symonds, 2002; Gailey *et al.,* 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.,* Blackwell *et al.,* 2004; Bejder *et al.,* 2006; Teilmann *et al.,* 2006).

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.,* directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996; Bowers *et al.,* 2018). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (England *et al.,* 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.,* when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fishes and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.,* Beauchamp and Livoreil, 1997; Fritz *et al.,* 2002; Purser and Radford, 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.,* decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.,* Harrington and Veitch, 1992; Daan *et al.,* 1996; Bradshaw *et al.,* 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a 5-day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than 1 day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). Note that there is a difference between multi-day substantive (*i.e.,* meaningful) behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

During PSO monitoring for the Navy's test pile project at NAVBASE Kitsap-Bremerton, harbor seals were most commonly observed milling and slow traveling when the sound source was not in operation. During pile driving, PSOs noticed slightly more looking around behavior as well as fast travel, resting (hauled out) and feeding. California sea lions were most commonly observed slow traveling when no pile driving was occurring. Observed changes in behavior during pile driving included porpoising, flushing, leaping, and swimming away from the pile, hauling out, barking, and fast travel. Two harbor porpoises were observed slow traveling when no pile driving was occurring.

Physiological stress responses. An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.,* Selye, 1950; Moberg, 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.,* Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.,* 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and ''distress'' is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.,* Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005; Ayres *et al.,* 2012; Yang *et al.,* 2022). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker, 2000; Romano *et al.,* 2002b) and, more rarely, studied in wild populations (*e.g.,* Romano *et al.,* 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. In addition, Lemos *et al.* (2022) observed a correlation between higher levels of fecal glucocorticoid metabolite concentrations (indicative of a stress response) and vessel traffic in gray whales. Yang *et al.* (2022) studied behavioral and physiological responses in captive bottlenose dolphins exposed to playbacks of ''pile-driving-like'' impulsive sounds, finding significant changes in cortisol and other physiological indicators but only minor behavioral changes. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as ''distress.'' In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2005), however distress is an unlikely result of this project based on observations of marine mammals during previous, similar construction projects.

Vocalizations and Auditory Masking. Since many marine mammals rely on sound to find prey, moderate social interactions, and facilitate mating (Tyack, 2008), noise from anthropogenic sound sources can interfere with these functions, but only if the noise spectrum overlaps with the hearing sensitivity of the receiving marine mammal (Southall *et al.,* 2007; Clark *et al.,* 2009; Hatch *et al.,* 2012). Chronic exposure to excessive, though not high-intensity, noise could cause masking at particular frequencies for marine mammals that utilize sound for vital biological functions (Clark *et al.,* 2009). Acoustic masking is when other noises such as from human sources interfere with an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995; Erbe *et al.,* 2016). Therefore, under certain circumstances, marine mammals whose acoustical sensors or environment are being severely masked could also be impaired from maximizing their performance fitness in survival and reproduction. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions (Hotchkin and Parks, 2013).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.,* 2000; Fristrup *et al.,* 2003) or vocalizations (Foote *et al.,* 2004), respectively, while North Atlantic right whales (*Eubalaena glacialis*) have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 2007). Fin whales (*Balaenoptera physalus*) have also been documented lowering the bandwidth, peak frequency, and center frequency of their vocalizations under increased levels of background noise from large vessels (Castellote *et al.,* 2012). Other alterations to communication signals have also been observed. For example, gray whales, in response to playback experiments exposing them to vessel noise, have been observed increasing their vocalization rate and producing louder signals at times of increased outboard engine noise (Dahlheim and Castellote, 2016). Alternatively, in some cases, animals may cease sound production during production of aversive signals (Bowles *et al.,* 1994; Wisniewska *et al.,* 2018).

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is human made, it may be considered harassment when disrupting or altering critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect (though not necessarily one that would be associated with harassment).

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.,* 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.,* 2000; Foote *et al.,* 2004; Parks *et al.,* 2007; Di Iorio and Clark, 2010; Holt *et al.,* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.,* 1995), through amplitude modulation of the signal, or through other compensatory behaviors, including modifications of the acoustic properties of the signal or the signaling behavior (Hotchkin and Parks, 2013). Masking can be tested directly in captive species (*e.g.,* Erbe, 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few

studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.,* Branstetter *et al.,* 2013).

Masking occurs in the frequency band that the animals utilize and is more likely to occur in the presence of broadband, relatively continuous noise sources, such as vibratory pile driving. Energy distribution of vibratory pile driving sound spans a broad frequency spectrum and is anticipated to be within the audible range of marine mammals present in the proposed action area. Since noises generated from the proposed construction activities are mostly concentrated at low frequencies (< 2 kHz), these activities likely have less effect on mid-frequency echolocation sounds produced by odontocetes (toothed whales). However, lower frequency noises are more likely to affect detection of communication calls and other potentially important natural sounds such as surf and prey noise. Low-frequency noise may also affect communication signals when they occur near the frequency band for noise and thus reduce the communication space of animals (*e.g.,* Clark *et al.,* 2009) and cause increased stress levels (*e.g.,* Holt *et al.,* 2009). Unlike TS, masking, which can occur over large temporal and spatial scales, can potentially affect the species at population, community, or even ecosystem levels, in addition to individual levels. Masking affects both senders and receivers of the signals, and at higher levels for longer durations, could have long-term chronic effects on marine mammal species and populations. However, the noise generated by the Navy's proposed activities will only occur intermittently, across an estimated 11 days during the authorization period in a relatively small area focused around the proposed construction site. Thus, while the Navy's proposed activities may mask some acoustic signals that are relevant to the daily behavior of marine mammals, the short-term duration and limited areas affected make it very unlikely that the fitness of individual marine mammals would be impacted.

Airborne Acoustic Effects

Pinnipeds that occur near the project site could be exposed to airborne sounds associated with construction activities that have the potential to cause behavioral harassment, depending on their distance from these activities. Airborne noise would primarily be an issue for pinnipeds that are swimming or hauled out near the project site within the range of noise levels elevated above airborne acoustic harassment criteria. Cetaceans are not expected to be exposed to airborne sounds that would result in harassment as defined under the MMPA. Airborne noise would primarily be an issue for pinnipeds that are swimming or hauled out near the project site within the range of noise levels elevated above the acoustic criteria. We recognize that pinnipeds in the water could be exposed to airborne sound that may result in behavioral harassment when looking with their heads above water. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled out pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon the area and move further from the source. However, these animals would likely previously have been 'taken' because of exposure to underwater sound above the behavioral harassment thresholds, which are generally larger than those associated with airborne sound. Thus, the behavioral harassment of these animals is already accounted for in these estimates of potential take. Therefore, we do not believe that authorization of additional incidental take resulting from airborne sound for pinnipeds is warranted, and airborne sound is not discussed further.

Potential Effects on Marine Mammal Habitat

The Navy's proposed activities could have localized, temporary impacts on marine mammal habitat, including prey, by increasing in-water SPLs. Increased noise levels may affect acoustic habitat and adversely affect marine mammal prey in the vicinity of the project areas (see discussion below). Elevated levels of underwater noise would ensonify the project areas where both fishes and mammals occur and could affect foraging success. Additionally, marine mammals may avoid the area during the proposed construction activities; however, any displacement due to noise is expected to be temporary and is not expected to result in long-term effects to the individuals or populations.

The total area likely impacted by the Navy's activities is relatively small compared to the available habitat in Puget Sound. Avoidance by potential prey (*i.e.,* fish) of the immediate area due to increased noise is possible. The duration of fish and marine mammal avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution, and behavior is anticipated. Any behavioral avoidance by fish or marine mammals of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity.

The nearshore and intertidal habitat where the proposed project would occur is highly industrialized. Most marine mammals do not generally use the area within the footprint of the project area. Temporary, intermittent, and short-term habitat alteration may result from increased noise levels during the proposed construction activities. Effects on marine mammal habitat would be limited to temporary pile installation noise, and effects on prey species would be similarly limited in time and space.

Water quality. Temporary and localized reduction in water quality would occur as a result of in-water construction activities. Most of this effect would occur during the installation of piles when bottom sediments are disturbed. The installation of piles would disturb bottom sediments and may cause a temporary increase in suspended sediment in the project area. The small resulting sediment plume is expected to settle out of the water column within a few hours. Studies of the effects of turbid water on fish (marine mammal prey) suggest that concentrations of suspended sediment can reach thousands of milligrams per liter before an acute toxic reaction is expected (Burton, 1993).

Effects to turbidity and sedimentation are expected to be short-term, minor, and localized. Since the currents are so strong in the area, following the completion of sediment-disturbing activities, suspended sediments in the water column should dissipate and quickly return to background levels in all construction scenarios. Turbidity within the water column has the potential to reduce the level of oxygen in the water and irritate the gills of prey fish species in the proposed project area. However, turbidity plumes associated with the project would be temporary and localized, and fish in the proposed project area would be able to move away from and avoid the areas where plumes may occur. Therefore, it is expected that the impacts on prey fish species from turbidity, and therefore on marine mammals, would be minimal and temporary. In general, the area likely impacted by the proposed construction activities is relatively small compared to the available marine mammal habitat in Puget Sound.

Potential Effects on Prey. Sound may affect marine mammals through impacts on the abundance, behavior, or distribution of prey species (*e.g.,* crustaceans, cephalopods, fishes,

zooplankton). Marine mammal prey varies by species, season, and location and, for some, is not well documented. Studies regarding the effects of noise on known marine mammal prey are described here.

Fishes utilize the soundscape and components of sound in their environment to perform important functions such as foraging, predator avoidance, mating, and spawning (*e.g.,* Zelick *et al.,* 1999; Fay, 2009). Depending on their hearing anatomy and peripheral sensory structures, which vary among species, fishes hear sounds using pressure and particle motion sensitivity capabilities and detect the motion of surrounding water (Fay *et al.,* 2008). The potential effects of noise on fishes depends on the overlapping frequency range, distance from the sound source, water depth of exposure, and species-specific hearing sensitivity, anatomy, and physiology. Key impacts to fishes may include behavioral responses, hearing damage, barotrauma (pressure-related injuries), and mortality.

Fish react to sounds that are especially strong and/or intermittent low-frequency sounds, and behavioral responses such as flight or avoidance are the most likely effects. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. The reaction of fish to noise depends on the physiological state of the fish, past exposures, motivation (*e.g.,* feeding, spawning, migration), and other environmental factors. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fishes (*e.g.,* Scholik and Yan, 2001, 2002; Popper and Hastings, 2009). Several studies have demonstrated that impulse sounds might affect the distribution and behavior of some fishes, potentially impacting foraging opportunities or increasing energetic costs (*e.g.,* Fewtrell and McCauley, 2012; Pearson *et al.,* 1992; Skalski *et al.,* 1992; Santulli *et al.,* 1999; Paxton *et al.,* 2017). However, some studies have shown no or slight reaction to impulse sounds (*e.g.,* Peña *et al.,* 2013; Wardle *et al.,* 2001; Jorgenson and Gyselman, 2009; Cott *et al.,* 2012). More commonly, though, the impacts of noise on fishes are temporary.

SPLs of sufficient strength have been known to cause injury to fishes and fish mortality (summarized in Popper *et al.,* 2014). However, in most fish species, hair cells in the ear continuously regenerate and loss of auditory function likely is restored when damaged cells are replaced with new cells. Halvorsen *et al.* (2012b) showed that a TTS of 4 to 6 dB was recoverable within 24 hours for one species. Impacts would be most severe when the individual fish is close to the source and when the duration of exposure is long. Injury caused by barotrauma can range from slight to severe and can cause death, and is most likely for fish with swim bladders. Barotrauma injuries have been documented during controlled exposure to impact pile driving (Halvorsen *et al.,* 2012a; Casper *et al.,* 2013, 2017).

Fish populations in the proposed project area that serve as marine mammal prey could be temporarily affected by noise from pile installation. The frequency range in which fishes generally perceive underwater sounds is 50 to 2,000 Hz, with peak sensitivities below 800 Hz (Popper and Hastings, 2009). Fish behavior or distribution may change, especially with strong and/or intermittent sounds that could harm fishes. High underwater SPLs have been documented to alter behavior, cause hearing loss, and injure or kill individual fish by causing serious internal injury (Hastings and Popper, 2005).

Zooplankton is a food source for several marine mammal species, as well as a food source for fish that are then preyed upon by marine mammals. Population effects on zooplankton could have indirect effects on marine mammals. Data are limited on the effects of underwater sound on zooplankton species, particularly sound from construction (Erbe *et al.,* 2019). Popper and Hastings (2009) reviewed information on the effects of human-generated sound and concluded that no substantive data are available on whether the sound levels from pile driving, seismic activity, or any human-made sound would have physiological effects on invertebrates. Any such effects would be limited to the area very near (1 to 5 m) the sound source and would result in no population effects because of the relatively small area affected at any one time and the reproductive strategy of most zooplankton species (short generation, high fecundity, and very high natural mortality). No adverse impact on zooplankton populations is expected to occur from the specified activity due, in part, to large reproductive capacities and naturally high levels of predation and mortality of these populations. Any mortality or impacts that might occur would be negligible.

The greatest potential impact to marine mammal prey during construction would occur during impact pile driving. However, impact pile installation of 24-in steel piles is planned on just 1 construction day for a maximum of 11,550 strikes estimated to complete this activity. The remaining vibratory pile driving is planned to occur on just 10 construction days. This in-water construction activities would only occur during daylight hours, allowing fish to forage and transit the project area in the evening. Impact pile driving and vibratory pile driving would possibly elicit behavioral reactions from fishes such as temporary avoidance of the area but is unlikely to cause injuries to fishes or have persistent effects on local fish populations. Additionally, the proposed construction activity would avoid the spawning season of ESA-listed salmon species. Construction also would have minimal permanent and temporary impacts on benthic invertebrate species, a marine mammal prey source. In addition, it should be noted that the area in question is lower-quality habitat since it is already highly developed and experiences a high level of anthropogenic noise from normal operations and other vessel traffic.

Potential Effects on Foraging Habitat

The Navy's Year 1 Bremerton Waterfront Infrastructure Improvement Project is not expected to result in any habitat-related effects that could cause significant or long-term negative consequences for individual marine mammals or their populations, since installation of in-water piles would be temporary and intermittent. The total seafloor area affected by pile installation is a very small area compared to the vast foraging area available to marine mammals outside this project area. At best, the areas impacted provide marginal foraging habitat for marine mammals and fishes. Furthermore, pile driving at the project locations would not obstruct movements or migration of marine mammals.

The area impacted by the project is relatively small compared to the available habitat just outside the project area, and there are no areas of particular importance that would be impacted by this project. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity. As described in the preceding, the potential for the Navy's construction to affect the availability of prey to marine mammals or to meaningfully impact the quality of physical or acoustic habitat is considered to be insignificant. Therefore, impacts of the project are not likely to have adverse effects on marine mammal foraging habitat in the proposed project area.

In summary, given the relatively small areas being affected, as well as the temporary and mostly transitory nature of the proposed construction activities, any adverse effects from the Navy's activities on prey habitat or prey populations are expected to be minor and temporary. The most likely impact to fishes at the project site would be temporary avoidance of the area. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity. Thus, we preliminarily conclude that impacts of the specified activities are not likely to have more than short-term adverse effects on any prey habitat or populations of prey species. Further, any impacts to marine mammal habitat are not expected to result in significant or long-term consequences for individual marine mammals, or to contribute to adverse impacts on their populations.

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes proposed for authorization through the IHA, 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 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 primarily be by Level B harassment, as use of the acoustic source/s (*i.e.,* vibratory and impact pile driving) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for AUD INJ (Level A harassment) to result, primarily for very high frequency species, phocids, and otariids, because predicted AUD INJ zones are larger in comparison to the observability for some species. AUD INJ is unlikely to occur for mysticetes and high-frequency species. The proposed mitigation and monitoring measures are expected to minimize the severity of the taking to the extent practicable.

As described previously, no serious injury or mortality is anticipated or proposed to be authorized for this activity. Below we describe how the proposed take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by considering: (1) acoustic criteria above which NMFS believes there is some reasonable potential for marine mammals to be behaviorally harassed or incur some degree of AUD INJ; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) the number of days of activities. We note that while these factors can contribute to a basic calculation to provide an initial prediction of potential takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimates.

Acoustic Criteria

NMFS recommends the use of acoustic criteria that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur AUD INJ of some degree (equated to Level A harassment).

Level B Harassment. Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.,* frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.,* bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.,* Southall *et al.,* 2007, 2021; Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared sound pressure levels (RMS SPL) of 120 dB (referenced to 1 micropascal (re 1 µPa)) for continuous (*e.g.,* vibratory pile driving, drilling) and above RMS SPL 160 dB re 1 µPa for non-explosive impulsive (*e.g.,* impact pile driving) or intermittent (*e.g.,* scientific sonar) sources. Generally speaking, Level B harassment take estimates based on these behavioral harassment thresholds are expected to include any likely takes by TTS as, in most cases, the likelihood of TTS occurs at distances from the source less than those at which behavioral harassment is likely. TTS of a sufficient degree can manifest as behavioral harassment, as reduced hearing sensitivity and the potential reduced opportunities to detect important signals (conspecific communication, predators, prey) may result in changes in behavior patterns that would not otherwise occur.

The Navy's proposed Year 1 Bremerton Infrastructure Improvements Project includes the use of continuous (vibratory) and impulsive (impact pile driving) sources, and therefore the RMS SPL thresholds of 120 and 160 dB re 1 µPa are applicable.

Level A harassment. NMFS' Updated Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 3.0; Updated Technical Guidance, 2024) identifies dual criteria to assess AUD INJ (Level A harassment) to five different underwater marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). The Navy's proposed Year 1 Bremerton Infrastructure Improvements Project includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving) sources.

The 2024 Updated Technical Guidance criteria include both updated thresholds and updated weighting functions for each hearing group. The thresholds are provided in the table below. The references, analysis, and methodology used in the development of the criteria are described in NMFS' 2024 Updated Technical Guidance, which may be accessed at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance-other-acoustic-tools.*

TABLE 7—THRESHOLDS IDENTIFYING THE ONSET OF AUD INJ

Hearing group	AUD INJ onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 222 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 197 dB.
High-Frequency (HF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,HF,24h}$: 193 dB	*Cell 4:* $L_{E,HF,24h}$: 201 dB.
Very High-Frequency (VHF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,VHF,24h}$: 159 dB	*Cell 6:* $L_{E,VHF,24h}$: 181 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 223 dB; $L_{E,PW,24h}$: 183 dB	*Cell 8:* $L_{E,PW,24h}$: 195 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 230 dB; $L_{E,OW,24h}$: 185 dB	*Cell 10:* $L_{E,OW,24h}$: 199 dB.

* Dual metric criteria for impulsive sounds: Use whichever criteria results in the larger isopleth for calculating AUD INJ onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level criteria associated with impulsive sounds, the PK SPL criteria are recommended for consideration for non-impulsive sources.

Note: Peak sound pressure level ($L_{p,0\text{-}pk}$) has a reference value of 1 µPa, and weighted cumulative sound exposure level ($L_{E,p}$) has a reference value of 1 μPa^2s. In this table, criteria are abbreviated to be more reflective of International Organization for Standardization standards (ISO, 2017). The subscript ''flat'' is being included to indicate peak sound pressure are flat weighted or unweighted within the generalized hearing range of marine mammals underwater (*i.e.,* 7 Hz to 165 kHz). The subscript associated with cumulative sound exposure level criteria indicates the designated marine mammal auditory weighting function (LF, HF, and VHF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The weighted cumulative sound exposure level criteria could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these criteria will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that are used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the proposed project. Marine mammals are expected to be affected via sound generated by the primary components of the project (*i.e.,* vibratory and impact pile driving).

Source levels for these activities are based on reviews of measurements of the same or similar pile types and dimensions of piles available in literature. Source levels agreed upon by NMFS and the Navy for each pile size and activity each year are presented in table 8.

The Navy indicated that two hammers may operate simultaneously during pier 2 construction activities. The Navy assumes that all concurrent pile driving on a given day would be of the same pile size and type. Source levels for the combination of piles that the Navy proposes are also presented in table 8.

The methods for how the source levels for the concurrent vibratory activities are derived are described here: When two noise sources have overlapping sound fields, the sources are considered additive and combined using the rules of dB addition. For addition of two simultaneous sources, the difference between the two sound source levels is calculated, and if that difference is between 0 and 1 dB, 3 dB are added to the higher sound source levels; if the difference is between 2 and 3 dB, 2 dB are added to the highest sound source levels; if the difference is between 4 and 9 dB, 1 dB is added to the highest sound source levels; and with differences of 10 or more dB, there is no addition.

The Navy calculated the maximum estimated likelihood of two impact hammer strikes completely overlapping in time at approximately 0.25 percent (see section 6.6.3 of the application) and based on this low likelihood did not adjust RMS levels for calculation of Level B harassment isopleths during concurrent driving. NMFS concurs with the Navy's approach.

TABLE 8—ESTIMATES OF MEAN UNDERWATER SOUND LEVELS GENERATED DURING VIBRATORY AND IMPACT PILE INSTALLATION

[Unattenuated]

Method	Type	Size (in)	RMS	Peak	SEL_{ss}	[1] Adjusted sound levels for concurrent driving of two of the same hammers and piles types/sizes	Reference
Vibratory	Steel Pipe	24	161	N/A	N/A	N/A	Navy, 2015.
		36	167	N/A	N/A	170 RMS	Navy, 2015.
	Steel Sheet	24	160	N/A	N/A	163 RMS	Caltrans, 2015.
Impact	Concrete	24	174	188	164	No Change	Navy, 2015.

Note: dB peak = peak sound Level; rms = root mean square; SEL = sound exposure level.

[1] Source levels for concurrent vibratory driving adjusted as described in the text. SEL_{ss} for impact driving was not adjusted because the total number of strikes for all all concurrent hammers is input separately. SPL RMS and SPL Peak for impact driving were not adjusted based on the low calculated likelihood of overlapping strikes.

TL is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. *TL* parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater *TL* is:

$TL = B \times \text{Log10}\ (R_1/R_2)$,

Where:

TL = transmission loss in dB

B = transmission loss coefficient

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement

Absent site-specific acoustical monitoring with differing measured *TL,* a practical spreading value of 15 is used as the *TL* coefficient in the above formula. Site-specific *TL* data for Sinclair Inlet are not available; therefore, the default coefficient of 15 is used to determine the distances to the Level A harassment and Level B harassment thresholds.

The ensonified area associated with Level A harassment is more technically challenging to predict due to the need

to account for a duration component. Therefore, NMFS developed an optional User Spreadsheet tool to accompany the 2024 Updated Technical Guidance that can be used to relatively simply predict an isopleth distance for use in conjunction with marine mammal density or occurrence to help predict potential takes. We note that because of some of the assumptions included in the methods underlying this optional tool, we anticipate that the resulting isopleth estimates are typically going to be overestimates of some degree, which may result in an overestimate of potential take by Level A harassment. However, this optional tool offers a practical, alternative way to estimate isopleth distances when more sophisticated modeling methods are not available or practical. For stationary sources such as pile driving, the optional User Spreadsheet tool predicts the distance at which, if a marine mammal remained at that distance for the duration of the activity, it would be expected to incur AUD INJ. Inputs used in the optional User Spreadsheet tool (table 9), and the resulting estimated isopleths (table 10), are reported below.

To calculate Level A harassment isopleths for two simultaneous vibratory hammers, the NMFS User Spreadsheet was used with modified inputs to account for accumulation, weighting, and source overlap in space and time (table 9).

To calculate Level A harassment isopleths for two impact hammers operating simultaneously, the NMFS User Spreadsheet calculator was used with modified inputs to account for the total estimated number of strikes for all piles in a day. For simultaneous impact pile driving of two 24-in concrete piles, the total estimated number of strikes per day was summed to estimate total sound exposure during simultaneous installation, and the number of piles per day was reduced to one. The SEL_{ss} for two simultaneous impact hammers was not adjusted because the cumulative SEL depends on the total amount of energy, which is accounted for using total strikes per day for two identical piles.

TABLE 9—USER SPREADSHEET INPUTS

Method	Pile size and type	Spreadsheet tab used	Weighting factor adjustment (kHz)	Piles per day	Duration to drive a single pile (minutes)	Strikes per day
1 Vibratory Hammer	24-in Steel pipe	A.1 Vibratory pile driving	2.5	4	50	N/A
2 Vibratory Hammers	36-in steel pipe	A.1 Vibratory pile driving	2.5	10	50	N/A
2 Vibratory Hammers	24-in steel sheet	A.1 Vibratory pile driving	2.5	24	21	N/A
2 Impact Hammers	24-in Concrete	E.1 Impact pile driving	2	1	N/A	11,550

TABLE 10—PROJECTED DISTANCES TO LEVEL A AND LEVEL B HARASSMENT ISOPLETHS (m) BY MARINE MAMMAL HEARING GROUP

Component	Hammer	Pile size and type	Level A harassment (m)					Level B harassment zone (m)
			LF	HF	VHF	PW	OW	
M2D2 Temporary Barge Anchor Mooring Piles.	1 vibratory hammer	24-in steel pipe	21	8	17	27	9	5,412
Pier 2 Construction Bulkhead Temporary Piles.	2 vibratory hammers	36-in steel pipe	95	37	78	122	41	7,356
Pier 2 Construction Bulkhead	2 vibratory hammers	24-in steel sheet	33	13	27	42	14	21,522
Pier 2 Construction Indicator Piles	2 impact hammers	24-in concrete	301	38	465	267	100	86

Marine Mammal Occurrence

In this section we provide information about the occurrence of marine mammals, including density or other relevant information which will inform the take calculations.

Available information regarding marine mammal occurrence in the vicinity of the project area includes site-specific and nearby survey information from the Navy, Kitsap Transit, and WSDOT (table 3). Specifically, data sources consulted included the Navy's ''Summary of Weekly Marine Mammal Surveys at Navy Northwest Region Installations: 2008–2025'' (Navy, 2025) and PSO monitoring completed across four projects within or near the project area: the Navy's P454 Multi-Mission Drydock Test Pile Program; Kitsap Transit's Annapolis Passenger Ferry Dock Project; WDSOT's Mannette Bridge Replacement Project (years 2011 and 2012). Species-specific data summaries of the above are included in the Description of Marine Mammals in the Area of Specified Activities section.

No gray whales, Dall's porpoises or northern elephant seals were documented during any of the projects listed above. For these species, NMFS considered: (1) The Orca Network archived sightings (Orca Network, 2026); (2) the whale museum sightings data provided to OPR by the Navy in February 2026; (3) Cascadia Research Collective gray whale strandings in 2026 (Cascadia Research Collective, *https://cascadiaresearch.org/working-list-of-gray-whale-strandings-in-2026/,* retrieved May 28, 2026); and (4) an observation of Dall's porpoise documented by PSO's during the WSDOT's Mukilteo Multimodal Project from the Mukilteo—Clinton Ferry monitoring location (90 FR 31965, July 16, 2025).

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 proposed for authorization.

Exposure Estimates

For species with rare or infrequent occurrence during the in-water work window, the likelihood of occurrence was reviewed on the basis of past records of occurrence (using the data sources listed above and described in Description of Marine Mammals in the Area of Specified Activities) and the total number of work days. In most cases, the occurrence of the species in

this category (*i.e.,* gray whales, Dall's porpoise, and elephant seals), would not be anticipated to extend for multiple days. The equation used to estimate take for species with rare or infrequent occurrence is:

Exposure estimate = Probable abundance during construction × Probable duration

Where:

Probable abundance = expected group size based on data sources referenced above

Probable duration = probable duration of the animal(s) presence at construction sites across the entire in-water pile driving period.

The Navy proposed this approach for large whales, killer whales, and northern elephant seals. NMFS agrees that this approach is appropriate for these species and also adds Dall's porpoise due to the infrequent sightings of this species at the project location.

For less frequently observed small species (*i.e.,* harbor porpoise, Dall's porpoise, and Steller sea lions), Navy initially proposed to use density estimates from the Navy's Marine Mammal Species Density Database (Navy, 2019) to estimate the likelihood of occurrence. The Navy proposed to use local occurrence information to estimate the likelihood of occurrence for California sea lions and harbor seals. However, NMFS finds it more appropriate to use local monitoring data to estimate the likelihood of occurrence for all of these species (except Dall's porpoise, see above). As such, for harbor porpoises, Steller sea lions, California sea lions, and harbor seals, NMFS and the Navy agreed to predict a daily occurrence based on local monitoring data referenced above, and estimate take by multiplying the estimated daily occurrence for each species by the number of in-water construction days, generally using the following equation;

Take by Level B harassment = marine mammal occurrence × days of pile driving activities.

The Navy proposes to implement a shutdown of pile driving activity if any large whale or killer whale is observed within or approaching any defined harassment zone (Proposed Mitigation section). Additionally, the Navy plans daily coordination with the Orca Network to maintain situational awareness of large whales in the vicinity of the project sites and shut down should they be reported or observed by PSOs near the project site. Given the plan to shut down and because large whales and killer whales are generally conspicuous, no takes by Level B or Level A harassment are anticipated for these species (except gray whales) and none are proposed for authorization.

In most cases where proposed shutdown zones are greater than or equal to the calculated Level A harassment zones, take by Level A harassment is not proposed for authorization. However, there are scenarios for some pinniped species and installations (*i.e.,* California sea lions and harbor seals during impact pile driving) where take by Level A harassment is proposed to be authorized to account for the possibility that individuals could enter the shutdown zone and stay long enough to incur AUD INJ before PSOs are able to detect them and enact a shutdown.

Low Frequency and High Frequency Cetaceans

For humpback whales, gray whales, minke whales, and killer whales, the Navy plans to shut down operations upon observation of these species approaching the estimated Level B harassment zone. Although the Navy requested take by Level B harassment for these species, given the plan to shut down and because large whales and killer whales are generally conspicuous, NMFS has preliminarily determined that no takes by Level B or Level A harassment are expected to occur for humpback whales, minke whales, and killer whales, and none are proposed for authorization. However, given the recent reports of stranded gray whales in Puget Sound, NMFS proposes and the Navy agrees that up to two gray whales may be taken by Level B harassment during the project period.

No takes by Level A harassment of any large whale or killer whales are anticipated and none are proposed for authorization.

Very High Frequency Cetaceans

NMFS and the Navy predict that one group of two Dall's porpoise could occur within the project area during active pile driving over the course of the 11-day period for a total of two takes by Level B harassment.

NMFS and the Navy predict that two harbor porpoises could occur within the Level B harassment zone each construction week. This results in four takes by Level B harassment.

Although the estimated Level A harassment zone would be larger than the proposed shutdown zone for very high frequency cetaceans on 1 construction day (impact pile driving of 24-in concrete piles, see Proposed Mitigation section), no take by Level A harassment is estimated for Dall's porpoises or harbor porpoises and none are proposed for authorization due to the rarity of occurrence of these species in the project area.

Otariids and Phocids

Steller Sea Lion. NMFS predicts that two Steller sea lions could occur within the Level B harassment zone each construction day. This results in 22 takes by Level B harassment. No takes by Level A harassment of Steller sea lions are anticipated and none are proposed for authorization.

California Sea Lion. NMFS predicts that 132 California sea lions could occur within the Level B harassment zone each construction day. This results in 1,452 takes by Level B harassment.

For all pinnipeds, the Navy plans to shut down at distances slightly larger than the Level A harassment zones (table 12). However, given the regular occurrence of California sea lions and the nature of docks and piers in the project site, the Navy and NMFS agree that it is possible that several California sea lions could go unobserved and remain within the calculated Level A harassment zone for a sufficient period to accumulate enough energy to result in AUD INJ. Based on the resident nature of this species at this site, the Navy requested that NMFS authorize 55 takes by Level A harassment. However, given the short duration of the proposed work for year 1 and the planned mitigation measures, we find it more appropriate to proposes to authorize 10 takes by Level A harassment of California sea lions.

Takes by Level B harassment were modified to deduct the proposed amount of take by Level A harassment estimated (*i.e.,* 1,452 takes by Level B harassment − 10 takes by Level A harassment = 1,442 takes by Level B harassment). Therefore, for California sea lions, NMFS proposes to authorize 1,442 takes by Level B harassment and 10 takes by Level A harassment for a total of 1,452 takes across the 11 days of construction.

Harbor seal. NMFS predicts that nine harbor seals could occur within the Level B harassment zone, which encompasses a harbor seal haulout along the southern shoreline of Sinclair Inlet during all vibratory activities, each construction day. This results in 99 takes by Level B harassment.

Given the regular occurrence of harbor seals and the nature of docks and piers in the project site, the Navy and NMFS agree that it is possible that several animals could go unobserved and remain within the calculated Level A harassment zone for a sufficient period to accumulate enough energy to result in AUD INJ. Based on the resident nature of this species at this site, the

Navy requested that NMFS authorize 11 takes by Level A harassment of harbor seals. However, given the short duration of the proposed work for year 1 and the planned mitigation measures, we find it more appropriate to propose to authorize 10 takes by Level A harassment of harbor seals.

Takes by Level B harassment were modified to deduct the proposed amount of take by Level A harassment estimated (*i.e.,* 99 takes by Level B harassment − 10 takes by Level A harassment = 89 takes by Level B harassment). Therefore, for harbor seals, NMFS proposes to authorize 89 takes by Level B harassment and 10 takes by Level A harassment for a total of 99 takes across the 11 days of construction.

Northern Elephant Seals. Because the occurrence of northern elephant seals in Puget Sound is unpredictable and generally uncommon, NMFS estimates that one northern elephant seal could occur within the project area on 1 day during the 11 days that in-water work is planned. This results in one take by Level B harassment.

No takes by Level A harassment of northern elephant seals are anticipated and none are proposed for authorization.

TABLE 11—TAKE BY STOCK AND HARASSMENT TYPE AND AS A PERCENTAGE OF STOCK ABUNDANCE

Species	Stock	Level A harassment	Level B harassment	Total harassment proposed	Proposed take as a percentage of stock abundance
Gray whale	Eastern North Pacific	0	2	2	<1
Dall's Porpoise	CA-WA-OR	0	2	2	<1
Harbor Porpoise	Washington Inland	0	4	4	<1
California Sea Lion	United States	10	1,442	1,452	0.6
Steller Sea Lion	Eastern United States	0	22	22	<1
Harbor Seal	Washington Inland Southern Puget Sound	10	89	99	4
Northern Elephant Seal	California Breeding	0	1	1	<1

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable 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 requirements described in the following were proposed by the Navy in its adequate and complete application or are the result of subsequent coordination between NMFS and the Navy. The Navy has agreed that all of the mitigation measures are practicable. NMFS has fully reviewed the specified activities and the mitigation measures to determine if the mitigation measures would result in the least practicable adverse impact on marine mammals and their habitat, as required by the MMPA, and has determined the proposed measures are appropriate. NMFS describes these below as proposed mitigation requirements and has included them in the proposed IHA.

Shutdown Zones

For all pile driving activities, the Navy proposes to implement shutdowns within designated zones. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones vary based on the activity type and marine mammal hearing group (table 12).

For large whales and killer whales (LF and HF cetacean hearing groups, respectively), the Navy proposes to shut down at distances based on the largest harassment zone for each activity and hearing group. For both hearing groups, this corresponds to 5.4 km during vibratory pile driving of 24-in steel, 7.4 km during vibratory pile driving of 24-in steel sheet piles, 21.5 km during vibratory pile driving of 36-in steel. (NMFS notes that the Level B harassment zone is truncated 8.2 km to the east of pier 2 by Bainbridge Island, and 5.2 km to the west of pier 2, also by land). For large whales and killer whales, during impact pile driving the largest harassment zone corresponds to 310 m for low frequency cetaceans and 90 m for high frequency cetaceans. If a large whale or killer whale is observed approaching these shutdown zones, the Navy would implement shutdown measures.

The Navy also plans to take measures to ensure that they are aware of large whale and killer whale locations so that work is not conducted when these species are within the vicinity of the project area. Such measures include contacting and/or reviewing the latest sightings data from the Orca Network on at least a daily basis (Proposed Monitoring and Reporting section).

With the Navy's proposed shutdown zones, and efforts to determine the locations of the nearest marine mammal sightings, all incidental harassment would be prevented for most large whales and all killer whales.

For phocids and otariids, the proposed shutdown zones are based on the estimated Level A harassment isopleths for all activities. The

shutdown zones are also based on the estimated Level A harassment isopleths for very high-frequency cetaceans during vibratory pile driving.

In cases where it would be challenging to detect marine mammals at the Level A harassment isopleth, (*e.g.,* very high-frequency cetaceans during impact pile driving), smaller shutdown zones have been proposed (table 12).

TABLE 12—PROPOSED SHUTDOWN ZONES

Component	Hammer/s	Size/type	Proposed shutdown zones (m)					Level B harassment zone
			LF	HF	VHF	PW	OW	
M2D2 Temporary Barge Anchor Buoys.	1 vibratory hammer	24-in steel pipe ..	5,412	5,412	20	30	10	5,412
Pier 2 Construction Bulkhead Temporary Piles.	2 vibratory hammers ...	36-in steel pipe ..	[1] 21,522	[1] 21,522	80	130	50	[1] 21,522
Pier 2 Construction Bulkhead	2 vibratory hammers ...	24-in steel sheet	[1] 7,365	[1] 7,365	30	50	20	[1] 7,365
Pier 2 Construction Indicator Piles	2 impact hammers	24-in Concrete ...	310	90	350	270	100	86

[1] Underwater noise would be truncated by Bainbridge Island to the east, approximately 8.2 km from pier 2, and truncated by land to the west at about 5.2 km from pier 2.

PSOs

The number and placement of PSOs during all construction activities (described in the Proposed Monitoring and Reporting section) would ensure that the shutdown zones are generally visible, such that PSOs are reasonably confident of their ability observe species at relevant distances. The Navy would employ at least four PSOs during all vibratory pile driving and removal activities and at least three PSOs during impact pile driving activities.

Pre-Clearance Monitoring Through Post-Activity Monitoring

PSOs would monitor the shutdown zones and beyond to the extent that PSOs can see. Monitoring beyond the shutdown zones enables observers to be aware of and communicate the presence of marine mammals in the project areas outside the shutdown zones and thus prepare for a potential cessation of activity should the animal enter the shutdown zone.

Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, PSOs would observe the shutdown zones and as much of the harassment zones as possible for a period of 30 minutes. 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 for which take is authorized.

Pile driving may commence following 30 minutes of observation when the determination is made that the shutdown zones are clear of marine mammals. Monitoring of the shutdown zones and beyond to the extent that PSOs can see would continue for the duration of pile driving through 30 minutes post completion of pile driving activity. Monitoring beyond the shutdown zones enables observers to be aware of and communicate the presence of marine mammals in the project areas outside the shutdown zones and thus prepare for a potential delay or cessation of activity should the animal enter the zone.

If a marine mammal is observed entering or within shutdown zones, pile driving activity must be delayed or halted. If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone, or 15 minutes have passed without re-detection of the animal. If work ceases for more than 30 minutes, the pre-activity monitoring of the shutdown zones would commence.

Construction supervisors and crews, PSOs, and relevant Navy staff must avoid direct physical interaction with marine mammals during all construction activities. If a marine mammal comes within 10 m of such activity, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions, as necessary to avoid direct physical interaction.

Finally, construction activities must be halted upon observation of a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met entering or within any harassment zone. If a marine mammal species for which take is not authorized enters a harassment zone, all in-water activities will cease until the animal leaves the zone or has not been observed for at least 15 minutes. Pile driving will proceed if the unauthorized species is observed leaving the harassment zone or if 15 minutes have passed since the last observation.

Soft Start

The use of soft-start procedures is believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors would be required to provide an initial set of three strikes from the hammer at reduced energy, with each strike followed by a 30-s waiting period. This procedure would be conducted a total of three times before impact pile driving begins. Soft start would be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer. Soft start is not required during vibratory pile driving activities.

NMFS conducted an independent evaluation of the proposed measures and has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) 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) indicate that requests for authorizations must 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.

The monitoring and reporting requirements described in the following were proposed by the Navy in its adequate and complete application and/or are the result of subsequent coordination between NMFS and the Navy. The Navy has agreed to the requirements. NMFS describes these below as requirements and has included them in the proposed IHA.

Visual Monitoring

Visual monitoring would be conducted by trained PSOs positioned at suitable vantage points to be able to observe the entirety of the shutdown zones and the surrounding area to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions.

The Navy intends to employ four PSOs to monitor the shutdown zones and the surrounding area during vibratory pile driving and three PSOs to monitor the shutdown zones and the surrounding area during impact pile driving. At least one PSO would be placed near the pile driving site during all impact and vibratory pile driving activities. During vibratory pile driving two of the PSOs would be placed at suitable vantage points to generally be able to observe the entirety of the shutdown zones, which includes the full extent of the Level B harassment zones for large whales and killer whales. Such locations may include Waterman Point, Illahee State Park, and/or Annapolis Ferry Dock.

Monitoring would be conducted 30 minutes before, during, and 30 minutes after all in-water construction activities. In addition, PSOs would record all incidents of marine mammal occurrence, regardless of distance from activity, and would document any behavioral reactions in concert with distance from piles being driven or removed. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

Coordination With Local Marine Mammal Research Network

The Orca Network receives sighting information from citizen scientists, vessel captains, and researchers throughout the Puget Sound area. Navy biologists and the lead PSO will have access to the Orca Network notification texts, and they can call into the notification system. Prior to pile driving each day, the lead PSO would contact the Orca Network and monitor social media to review updated sighting locations of large whales, including ESA-listed southern resident killer whales and humpback whales. If any large whale or killer whale species are reported approaching, or within the shutdown zone, pile driving would be delayed until the whale or whales have moved away.

Reporting

The Navy would submit a draft marine mammal monitoring report within 90 calendar days after the completion of pile driving activities, or 60 days prior to a requested date of issuance of any future IHAs for projects at the same location, whichever comes first. The report would include an overall description of the construction work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets (in a queryable electronic format). Specifically, the report would include:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including: (1) number of and type of piles that were driven and the method (*e.g.,* impact or vibratory); and (2) total duration of driving time for each pile (vibratory driving) and number of strikes for each pile (impact driving);
- 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 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), PSO confidence in identification, and the composition of the group if there is a mix of species; (4) distance from activities to marine mammals and distance from the marine mammals to the observation point; (5) estimated number of animals (min/max/best estimate); (6) estimated number of animals by cohort (adults, juveniles, neonates, group composition, *etc.*); (7) animal's closest point of approach and estimated time spent within the estimated harassment zone; (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 estimated harassment zones, by species; and,
- Detailed information about implementation of any mitigation (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.

A final report must be prepared and submitted within 30 calendar days following receipt of any NMFS comments on the draft report. If no comments are received from NMFS within 30 calendar days of receipt of the draft report, the report will be considered final. All PSO data would be submitted electronically in a format that can be queried such as a spreadsheet or

database and would be submitted with the draft marine mammal report.

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 NMFS OPR (*PR.ITP.MonitoringReports@noaa.gov* and *itp.fleming@noaa.gov*) and the West Coast Regional Stranding Coordinator as soon as possible. If the death or injury was clearly caused by the specified activity, the Navy 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 the LOA. 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 animals(s), if alive;
- Photographs or video footage of the animal(s), if available; and
- The general circumstances under which the animal was discovered.

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 the 1989 preamble for 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).

To avoid repetition, the majority of our analysis applies to all the species listed in table 2, given that many of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, they are described independently in the analysis below.

Pile driving activities associated with this project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment and, for California sea lions and harbor seals, Level A harassment, from underwater sounds generated by pile installation. Potential takes could occur if individuals are present in the ensonified zone when these activities are underway.

No serious injury or mortality is expected, even in the absence of required mitigation measures, given the nature of the activities. Further, for five species of marine mammals (all low-frequency and very-high-frequency cetaceans, Steller sea lions, and northern elephant seals), no take by Level A harassment is anticipated, due to the rarity of the species near the project area, or due to the relatively small Level A harassment zones. The likelihood of take by Level A harassment occurring is further reduced by Navy's plans to implement mitigation measures such as shutdown zones that encompass all of the Level A harassment zones (low-frequency and high-frequency cetaceans, and pinnipeds) (Proposed Mitigation section).

Take by Level A harassment is proposed for California sea lions and harbor seals. Any take by Level A harassment is expected to arise from, at most, a small degree of AUD INJ (*i.e.,* minor degradation of hearing capabilities within regions of hearing that align most completely with the energy produced by impact pile driving such as the low-frequency region below 2 kHz), not severe hearing impairment or impairment within the ranges of greatest hearing sensitivity. Animals would need to be exposed to higher levels and/or longer duration than are expected to occur here in order to incur any more than a small degree of AUD INJ.

Additionally, the amount of take by Level A harassment of these two species proposed for authorization is very low; NMFS expects no more than 10 takes by Level A harassment for California sea lions and 10 takes by Level A harassment for harbor seals. For all hearing groups, if hearing impairment occurs, it is most likely that the affected animal would lose only a few dB in its hearing sensitivity. Due to the small degree anticipated, any AUD INJ potentially incurred would not be expected to affect the reproductive success or survival of any individual, much less result in adverse impacts on the species or stock.

Additionally, some subset of the individuals that are behaviorally harassed could also simultaneously incur some small degree of TTS for a short duration of time. However, since the hearing sensitivity of individuals that incur TTS is expected to recover completely within minutes to hours, it is unlikely that the brief hearing impairment would affect the individual's long-term ability to forage and communicate with conspecifics and would therefore not likely impact reproduction or survival of any individual marine mammal, let alone adversely affect rates of recruitment or survival of the species or stock.

Effects on individuals that are taken by Level B harassment in the form of behavioral disruption, on the basis of reports in the literature as well as monitoring from other similar activities, would likely be limited to reactions such as avoidance, increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006). The Navy has previously conducted and monitored activities potentially affecting marine mammals at NAVBASE Kitsap-Bremerton. Reporting from these activities has described no apparently consequential behavioral reactions or long-term effects on marine mammal populations (DoN, 2024). Most likely, individuals would simply move away from the sound source and temporarily avoid the area where pile driving is occurring.

If sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activities are occurring.

We expect that any avoidance of the project areas by marine mammals would be temporary in nature and that any marine mammals that avoid the project areas during construction would not be permanently displaced. Short-term avoidance of the project areas and energetic impacts of interrupted foraging or other important behaviors is unlikely to affect the reproduction or survival of individual marine mammals, and the effects of behavioral disturbance on individuals is not likely to accrue in a manner that would affect the rates of recruitment or survival of any affected stock.

Some individual marine mammals in the project areas, such as California sea lions, harbor seals or harbor porpoises, may be present and be subject to repeated exposure to sound from pile driving activities on multiple days. Repeated exposures of individuals to relatively low levels of sound outside of preferred habitat areas are unlikely to significantly disrupt critical behaviors. Thus, even repeated Level B harassment of some small subset of a stock is unlikely to result in any effects on rates of reproduction and survival of the stock as a whole.

Additionally, pile driving and extraction is expected on only 11 days during the year and thus would not occur on every day, and these individuals would likely return to normal behavior during gaps in pile driving activity within each day of construction and in between workdays. As discussed above, individuals could temporarily relocate during construction activities to reduce exposure to elevated sound levels from the project. While vibratory driving associated with some project components may produce sound at distances of many kms from the pile driving site, thus intruding on higher-quality habitat, the project sites themselves and the majority of sound fields produced by the specified activities are within industrialized areas. Therefore, we expect that animals displaced by project sound would simply avoid the area.

The project is also not expected to have significant adverse effects on affected marine mammals' habitats. The project activities would not modify existing marine mammal habitat for a significant amount of time. The activities may cause a low level of turbidity in the water column and some fish may leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected (there are no habitats of known particular importance to marine mammals), the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

As described above, increased sightings and strandings of gray whales have been reported in Puget Sound. We do not expect authorized takes to exacerbate or compound upon these increased strandings. As discussed above, no injury, serious injury or mortality is expected or proposed, and the impact of Level B harassment takes of these species will be minimized through the incorporation of mitigation measures. The strandings do not provide cause for concern regarding population-level impacts. Despite the strandings, the Eastern North Pacific population of gray whales remains healthy.

Finally, it is unlikely that minor noise effects in a small, localized area of habitat would have any effect on the reproduction or survival of any individuals, much less these stocks' annual rates of recruitment or survival. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activities would have only minor, short-term effects on individuals. The specified activities are not expected to impact rates of recruitment or survival and would therefore not result in population-level impacts.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or proposed for authorization;
- Any Level A harassment is anticipated to cause only slight AUD INJ, including PTS of a few decibels within the lower frequencies associated with impact pile driving of 24-in concrete on 1 construction day, and not encompassing a species' full hearing range;
- At worst, the anticipated incidents of Level B harassment would result in temporary behavior modifications or a small degree of TTS that would resume to baseline at the cessation of activities or as animals move away from the source;
- The project area is industrialized; therefore, individuals taken are likely habituated to anthropogenic activities and behavioral reactions are expected to be minor and temporary;
- The project areas are small relative to the overall habitat range of each species, and overlap with known habitats of particular importance is minimal;
- Effects on marine mammal prey species from the activities are primarily expected to be short-term, and any associated impacts on marine mammal feeding are not expected to result in significant or long-term consequences for individuals, or to accrue to adverse impacts on their populations;
- The proposed mitigation measures are expected to minimize the severity of the effects of the specified activity.

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 proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed 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 section 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 number of individuals taken 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 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 (86 FR 5322, January 19, 2021). Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

We propose to authorize incidental take of seven marine mammal stocks (table 2). The total amount of taking proposed for authorization is less than 4 percent of each of these stocks. Though the most recent SAR includes an unreliable population estimate for the Washington Inland Southern Puget Sound stock of harbor seal because it is more than 8 years old, Pearson *et al.,* 2024, reports that the peak population estimate for this stock is 2,832. As such, the 89 proposed takes by Level B harassment, and 10 proposed takes by Level A harassment, compared to the abundance estimate, suggests that about

4 percent of the stock would be expected to be impacted.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily 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 would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency ensures 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 incidental take authorizations, NMFS consults internally whenever we propose to authorize take for ESA-listed species.

No incidental take of ESA-listed species is proposed for authorization 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.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to the Navy for conducting Year 1 of the Bremerton Waterfront Infrastructure Improvement project in Puget Sound, Washington, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.*

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed construction project. We also request comment on the potential renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, 1-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical activities as described in the Description of Proposed Activity section of this notice is planned, or (2) the activities as described in the Description of Proposed Activity section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).
- The request for renewal must include the following:

1. An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

2. A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

- Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: August 25, 2026.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–17614 Filed 8–27–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF971]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of hybrid meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) will hold a Crab Plan Team Meeting on September 14–17, 2026.

DATES: The meeting will be held on Monday, September 14, through Thursday, September 17, 2026, 8 a.m. to 5 p.m. Alaska Time.

ADDRESSES: The meeting will be a hybrid meeting. Attend in-person at the Traynor Room, Alaska Fisheries Science Center, 7600 Sand Point Way NE, Seattle, WA 98115, in Building 4. If you plan to attend in person, please notify Anita Kroska (*akroska@npfmc.org*) at least 2 days before the meeting (or 2 weeks prior if you are a foreign national). You will also need a valid U.S. REAL Identification Card. Join online through the link at *https://meetings.npfmc.org/Meeting/Details/6146.*

Council address: North Pacific Fishery Management Council, 1007 West 3rd Ave., Suite 400, Anchorage, AK 99501–2252; telephone: (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Anita Kroska, Council staff; phone; (907) 271–2805; email: *akroska@npfmc.org*. For technical support, please contact our admin Council staff, email: *support@npfmc.org;* telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

Monday, September 14–Thursday, September 17

The agenda will include (a) Council updates; (b) Eastern Bering Sea (EBS) Ecosystem Status Report (ESR) updates; (c) Ecosystem and Socioeconomic Profile (ESP) Report Cards; (d) Tanner crab Center for Independent Experts (CIE) Review results; (e) Tanner crab final Stock Assessment and Fishery Evaluation (SAFE); (f) Snow crab final SAFE; (g) Bristol Bay red king crab (BBRKC) final SAFE; (h) St. Matthew blue king crab (SMBKC) final SAFE; (i) NOAA Summer trawl survey results; (j) Fishery summary; (k) Overfishing status

updates; (l) SAFE and document guidelines; (m) Saint Paul BBRKC hatchery permit application review; (n) research updates (tentative); and (o) other new business. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/6146* prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smartphone, or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/6146.*

Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/6146.*

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

Dated: August 25, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–17540 Filed 8–27–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF995]

Fisheries of the Caribbean; Southeast Data, Assessment, and Review; Public Meeting

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

ACTION: Notice of webinar.

SUMMARY: The Southeast Data Assessment and Review (SEDAR) 103 assessment process of Caribbean Alternate Assessment Methods will consist of a Development Workshop, a series of Assessment Webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 103 Post-Data Workshop Webinar will be held from 2 p.m. until 4 p.m. EDT September 25, 2026.

ADDRESSES:

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405. *www.sedarweb.org.*

Meeting address: The SEDAR 103 Post-Data Workshop Webinar 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.

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, a multi-step method for determining the status of fish stocks in the Southeast Region SEDAR is a participatory process for developing, evaluating and reviewing information used for fisheries management advice. The process may include (1) a Data stage, and (2) an Assessment stage, and (3) a Review stage. The product of the Data stage is a report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment stage is a report which compiles and evaluates recommended model configurations that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks and projects future population conditions. The product of the Review Workshop is a Review Summary documenting panel opinions regarding the strengths and weaknesses of the products reviewed. Participants for SEDAR Workshops 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 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 Post-Development Workshop Webinar are as follows:

The Panel will finalize decisions that were not completed at the in-person development workshop. 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 25, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–17543 Filed 8–27–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF985]

Nominations for Advisory Committee and Species Working Group Technical Advisor Appointments to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas

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

ACTION: Notice of request for nominations.

SUMMARY: NMFS is soliciting nominations (which may include self-nominations) to the Advisory Committee to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas (ICCAT) as established by the Atlantic Tunas Convention Act (ATCA). NMFS is also soliciting nominations for Technical Advisors to the Advisory Committee's species working groups.

DATES: Nominations must be received by October 31, 2026.

ADDRESSES: Nominations, including a letter of interest and a resume or curriculum vitae, should be sent via email to Bryan Keller at *bryan.keller@noaa.gov.* Include in the subject line whether the nomination is for a position as an Advisory Committee member or as a Technical Advisor to one of the Committee's species working groups.

FOR FURTHER INFORMATION CONTACT: Bryan Keller, Office of International Affairs, Trade, and Commerce; email: *bryan.keller@noaa.gov;* phone: 301–427–7725.

SUPPLEMENTARY INFORMATION:

The Convention and the Commission

ICCAT was established to provide an effective program of international cooperation in research and conservation in recognition of the unique problems related to the highly migratory nature of tunas and tuna-like species. The International Convention for the Conservation of Atlantic Tunas (Convention), which established ICCAT, entered into force in 1969. ICCAT usually holds an Annual Meeting in November of each year, and convenes meetings of its working groups and other subsidiary bodies between annual meetings as needed. Under ATCA (see 16 U.S.C. 971a), the United States is represented at ICCAT by not more than three U.S. Commissioners. Additional information about ICCAT is available at *https://www.iccat.int.*

Advisory Committee to the U.S. Section to ICCAT and its Species Working Groups

ATCA (see 16 U.S.C. 971 *et seq.*) establishes an advisory committee comprising: (1) Not less than 5 nor more than 20 individuals appointed by the U.S. Commissioners to ICCAT who shall select such individuals from the various groups concerned with the fisheries covered by the ICCAT Convention; and (2) the chairs (or their designees) of the New England, Mid-Atlantic, South Atlantic, Caribbean, and Gulf Fishery Management Councils. Each appointed member of the Advisory Committee shall serve for a term of 2 years and be eligible for reappointment (*see* 16 U.S.C. 971b). The Committee meets at least twice a year during which members receive information and provide advice on ICCAT-related matters. All appointed members of the Advisory Committee serve in their individual professional capacity and undergo a background screening. Any individual appointed to the Committee who is unable to attend all or part of an Advisory Committee meeting may not appoint another person to attend such meetings as his or her proxy. Nominees should be able to fulfill the time and travel commitments required to participate in the Committee's annual spring and fall meetings, in addition to ad hoc meetings as necessary throughout the year. The annual spring and fall meetings are normally 2 days long and are usually held in Silver Spring, Maryland, or Miami, Florida.

Members of the Advisory Committee receive no compensation for their services. The Secretary of Commerce and the Secretary of State may pay the necessary travel expenses of members of the Advisory Committee. The terms of all currently appointed Advisory Committee members expire on December 31, 2026. NMFS is soliciting nominees to serve as members of the Advisory Committee for a term of 2 years that will begin January 1, 2027, and expire December 31, 2028.

ATCA specifies that the U.S. Commissioners may establish species working groups for the purpose of providing advice and recommendations to the U.S. Commissioners and to the Advisory Committee on matters relating to the conservation and management of any highly migratory species covered by the ICCAT Convention (*see* 16 U.S.C. 971b–1). Any species working group shall consist of no more than seven members of the Advisory Committee and no more than four scientific or technical personnel, as considered necessary by the Commissioners. Currently, there are four species working groups advising the Committee and the U.S. Commissioners: a Bluefin Tuna and Albacore Working Group, a Swordfish/Sharks Working Group, a Billfish Working Group, and a Bigeye, Yellowfin, and Skipjack Tunas Working Group. Scientific or technical personnel (known as Technical Advisors) appointed to species working groups serve at the pleasure of the Commissioners; therefore, the Commissioners can choose to alter these appointments at any time. As with Committee Members, Technical Advisors may not be represented by a proxy during meetings of the Advisory Committee. Nominees should be able to fulfill the time and travel commitments required to participate in the annual spring meeting of the Advisory Committee, when the species working groups are convened, in addition to ad hoc meetings throughout the year, as appropriate.

Procedure for Submitting Nominations

Nominations to either the Advisory Committee or a species working group should include a letter of interest and a resume or curriculum vitae that describes the individual's knowledge and experience in a field related to the highly migratory species covered by the ICCAT Convention. Self-nominations are acceptable. Letters of recommendation are useful but not required. When making a nomination, please specify which appointment (Advisory Committee member or Technical Advisor to a species working group) is being sought. Nominees are also encouraged to indicate which of the four species working groups is preferred, although placement on the requested group is not guaranteed.

Dated: August 26, 2026.

Alexa Cole,

Director, Office of International Affairs, Trade, and Commerce, National Marine Fisheries Service.

[FR Doc. 2026–17644 Filed 8–27–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–85]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD (referred to herein as ''the Department,'' ''Department of War'' or ''DoW'') is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695–6233, *urooj.zahra.civ@mail.mil,* or *dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.*

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 26–85, Policy Justification, and Sensitivity of Technology.

Dated: August 25, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–85

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Kingdom of Saudi Arabia

(ii) *Total Estimated Value:*

Major Defense Equipment *	$1.35 billion

Other	$0.61 billion
TOTAL	$1.96 billion

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Up to Ten thousand (10,000) Advanced Precision Kill Weapon System (APKWS–II) air-to-air guidance sections

Up to Ten thousand (10,000) APKWS–II air-to-ground guidance sections

Non-MDE:

The following non-MDE items will also be included: LAU–131 A/A launchers; Mk-152 high explosive warheads; MK66 rocket motors; proximity fuzes; WTU–1/B practice warheads; inert MK66 rocket motors; test support equipment; launch and employment equipment; spare and repair parts; publications and technical documentation; personnel training, training equipment, and support equipment; other support equipment; transportation; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Navy (SR–P–ACC; SR–P–ACF), Air Force (SR–D–QEE)

(v) *Prior Related Cases, if any:* SR–P–ABZ; SI–P–AAA

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* June 15, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Kingdom of Saudi Arabia—Advanced Precision Kill Weapon System-II Guidance Sections

The Kingdom of Saudi Arabia has requested to buy up to ten thousand (10,000) Advanced Precision Kill Weapon System (APKWS–II) air-to-air guidance sections; and up to ten thousand (10,000) APKWS–II air-to-ground guidance sections. The following non-major defense equipment items will also be included: LAU–131 A/A launchers; Mk-152 high explosive warheads; MK66 rocket motors; proximity fuzes; WTU–1/B practice warheads; inert MK66 rocket motors; test support equipment; launch and employment equipment; spare and repair parts; publications and technical documentation; personnel training, training equipment, and support equipment; other support equipment; transportation; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is up to $1.96 billion.

This proposed sale will support the foreign policy and national security objectives of the United States by improving the security of a Major non-NATO Ally that is a force for political stability and economic progress in the Gulf Region.

The proposed sale will improve Saudi Arabia's capability to deter current and future threats by strengthening its homeland defense, and improving interoperability with U.S. forces, and other regional and NATO forces. The proposed sale will also augment Saudi Arabia's operational aircraft and enhance its air-to-air, and air-to-ground self-defense capability. The Kingdom of Saudi Arabia will have no difficulty absorbing this equipment and services into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region

The principal contractor will be BAE Systems, located in Nashua, NH. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will require the assignment of fifteen (15) additional U.S. Government and fifteen (15) U.S. contractor representatives to Saudi Arabia for an extended period to support program and technical reviews plus training and maintenance support in-country.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 26–85

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The Advanced Precision Kill Weapon System-II (APKWS–II) all-up-round is a low cost air-to-air and air-to-ground system that consists of an APKWS–II guidance section developed by BAE Systems, legacy 2.75-inch MK66 Mod 4 rocket motor, and legacy MK152 and MK435/436-point detonating or M728 proximity fuze. The APKWS is a tactical rocket system that can be launched from several platforms, including rotary wing, fixed wing and ground-based vehicles, offering multi-mission, multi-target capability, and precision-strike lethality. These guided rockets are steered to the target by following reflected laser beam energy directed onto the target either by the launching aircraft, a second aircraft, or ground-based troops operating a laser designator.

2. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Saudi Arabia can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles, technical data, and services listed in this transmittal have been authorized for release and export to the Kingdom of Saudi Arabia.

[FR Doc. 2026–17566 Filed 8–27–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–54]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD (referred to herein as ''the Department,'' ''Department of War'' or ''DoW'') is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695–6233, *urooj.zahra.civ@mail.mil,* or *dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil*.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to

fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 26–54, Policy Justification, and Sensitivity of Technology.

Dated: August 25, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–54

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Singapore

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$17.1 million
Other	$ 5.2 million
TOTAL	$22.3 million

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Foreign Military Sales (FMS) case SN–B–VIF was below congressional notification threshold at $12.4 million ($9.4 million in major defense equipment (MDE)) and included forty-three (43) AGM–114R Hellfire missiles; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The Government of Singapore has requested the case be amended to include an additional twenty-four (24) AGM–114R Hellfire missiles; AGM–114R spare parts, Hellfire technical manual, reprogramming of M299 launchers, software verification and calibration of AN/AWM–101, Hellfire missiles and support equipment, and technical assistance. The following non-MDE items will also be included: five (5) years of AGM–114R Hellfire spare parts; Hellfire technical manual, reprogramming of M299 launchers, return and repair material and services, technical publications, unguided munitions and services, software verification and calibration of AN/AWM–101, Hellfire missile and support equipment, chaff, flares, and technical assistance. This amendment will cause the case to exceed the notification threshold, and thus notification of the entire program is required. The above notification requirements are combined as follows:

Major Defense Equipment (MDE):

Sixty-seven (67) AGM–114R Hellfire missiles

Non-MDE:

The following non-MDE items will also be included: AGM–114R Hellfire spare parts; Hellfire technical manual; reprogramming of M299 launchers; return and repair material and services; technical publications; unguided munitions and services; software verification and calibration of AN/AWM–101; Hellfire missiles and support equipment; chaff, flares, and technical assistance; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Army (SN–B–VIF)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* June 30, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Singapore—Hellfire Missiles

The Government of Singapore has requested to buy an additional twenty-four (24) AGM–114R Hellfire missiles; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support that will be added to a previously implemented case whose value was under the congressional notification threshold. The original Foreign Military Sales (FMS) case, valued at $12.4 million ($9.4 million in major defense equipment (MDE), included personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. This notification is for a combined total of sixty-seven (67) Hellfire missiles (AGM–114R). The following non-MDE items will also be included: five (5) years of AGM–114R Hellfire spare parts; Hellfire technical manual; reprogramming of M299 launchers; return and repair material and services; technical publications; unguided munitions and services; software verification and calibration of AN/AWM–101; Hellfire missiles and support equipment; chaff, flares, and technical assistance; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is $22.3 million.

This proposed sale will support the foreign policy and national security objectives of the United States by improving the security of a strategic partner that is an important force for political stability and economic progress in Asia.

The proposed sale will improve Singapore's capability to meet current and future threats by enhancing and extending the Singapore Air Force's ability to conduct operations and enable effective training. Singapore will have no difficulty absorbing this training into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Lockheed Martin Corporation, located in Orlando, FL. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Singapore.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 26–54

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The Hellfire missile (AGM–114R) is a precision strike, Semi-Active Laser guided missile and is the principal AGM for the Army. The AGM–114R missile provides the warfighter with an air-to-ground, point-target precision strike capability to defeat advanced armor and an array of traditional and nontraditional targets.

2. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Singapore can provide substantially

the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Singapore.

[FR Doc. 2026–17562 Filed 8–27–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 0C–23]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD (referred to herein as ''the Department,'' ''Department of War'' or ''DoW'') is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695–6233, *urooj.zahra.civ@mail.mil,* or *dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil*.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 0C–23.

Dated: August 25, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 0C–23

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(A), AECA)

(i) (U) *Purchaser:* Government of Georgia

(ii) (U) Sec. *36(b)(1), AECA Transmittal No.:* 21–48

Date: August 3, 2021

Military Department: Army

Funding Source: National Funds

(iii) (U) *Description:* On August 3, 2021, Congress was notified by Congressional certification transmittal number 21–48, of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of eighty-two (82) Javelin FGM–148 Missiles; and forty-six (46) Javelin Command Launch Units (CLU). Also included were Enhanced Producibility Basic Skills Trainers; Missile Simulation Rounds; Security Assistance Management Directorate Technical Assistance; Tactical Aviation and Ground Munitions Project Office Technical Assistance; other associated equipment and services; and other related elements of logistical and program support. The estimated total cost was $30 million. Major Defense Equipment (MDE) constituted $25 million of this total.

This transmittal reports the replacement of the previously notified forty-six (46) Javelin Command Launch Units (CLUs) with thirty (30) Javelin Light Weight Command Launch Units (LWCLUs) (MDE). The following non-MDE items will also be added: technical assistance, training and support equipment in support of Javelin program management, logistics, oversight, and successful delivery of the weapon system. The estimated total value of these additional items is $7.16 million. The total estimated MDE value remains $25 million. The estimated total value will increase by $7 million, resulting in an estimated total case value of $37 million.

(iv) (U) *Significance:* This notification is provided to report the replacement of the previously notified Javelin CLUs with Javelin LWCLUs. The proposed sale will support Georgia's ability to build its long-term defense capacity to defend its sovereignty and territorial integrity to meet its national defense requirements. It is vital to the U.S. national interest to assist Georgia in developing and maintaining a strong and ready self-defense capability.

(v) (U) *Justification:* This proposed sale will support the foreign policy and national security of the United States by improving the security of Georgia which is a strategic partner and a key contributor to security and stability in the region.

(vi) (U) *Sensitivity of Technology:*

The Javelin Weapon System is comprised of two major tactical components, which are a reusable Light Weight Command Launch Unit (LWCLU) and a round contained in a disposable launch tube assembly. The LWCLU incorporates an integrated day-night sight that provides a target engagement capability in adverse weather and countermeasure environments. It may also be used in a stand-alone mode for battlefield surveillance and target detection. The LWCLU's thermal sight is a 3rd generation Forward Looking Infrared (FLIR) sensor. To facilitate initial loading and subsequent updating of software, all on-board missile software is uploaded via the LWCLU after mating and prior to launch.

The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

(vii) (U) *Date Report Delivered to Congress:* July 28, 2026

[FR Doc. 2026–17559 Filed 8–27–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 0C–23]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD (referred to herein as ''the Department,'' ''Department of War'' or ''DoW'') is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695–6233, *urooj.zahra.civ@mail.mil,* or *dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil*.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 0C–23.

Dated: August 25, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 0C–23

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(A), AECA)

(i) (U) *Purchaser:* Government of Georgia

(ii) (U) Sec. *36(b)(1), AECA Transmittal No.:* 21–48

Date: August 3, 2021

Military Department: Army

Funding Source: National Funds

(iii) (U) Description: On August 3, 2021, Congress was notified by Congressional certification transmittal number 21–48, of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of eighty-two (82) Javelin FGM–148 Missiles; and forty-six (46) Javelin Command Launch Units (CLU). Also included were Enhanced Producibility Basic Skills Trainers;

Missile Simulation Rounds; Security Assistance Management Directorate Technical Assistance; Tactical Aviation and Ground Munitions Project Office Technical Assistance; other associated equipment and services; and other related elements of logistical and program support. The estimated total cost was $30 million. Major Defense Equipment (MDE) constituted $25 million of this total.

This transmittal reports the replacement of the previously notified forty-six (46) Javelin Command Launch Units (CLUs) with thirty (30) Javelin Light Weight Command Launch Units (LWCLUs) (MDE). The following non-MDE items will also be added: technical assistance, training and support equipment in support of Javelin program management, logistics, oversight, and successful delivery of the weapon system. The estimated total value of these additional items is $7.16 million. The total estimated MDE value remains $25 million. The estimated total value will increase by $7 million, resulting in an estimated total case value of $37 million.

(iv) (U) Significance: This notification is being provided to report the replacement of the previously notified Javelin CLUs with Javelin LWCLUs. The proposed sale will support Georgia's ability to build its long-term defense capacity to defend its sovereignty and territorial integrity to meet its national defense requirements. It is vital to the U.S. national interest to assist Georgia in developing and maintaining a strong and ready self-defense capability.

(v) (U) *Justification:* This proposed sale will support the foreign policy and national security of the United States by improving the security of Georgia which is a strategic partner and a key contributor to security and stability in the region.

(vi) (U) *Sensitivity of Technology:*

The Javelin Weapon System is comprised of two major tactical components, which are a reusable Light Weight Command Launch Unit (LWCLU) and a round contained in a disposable launch tube assembly. The LWCLU incorporates an integrated day-night sight that provides a target engagement capability in adverse weather and countermeasure environments. It may also be used in a stand-alone mode for battlefield surveillance and target detection. The LWCLU's thermal sight is a 3rd generation Forward Looking Infrared (FLIR) sensor. To facilitate initial loading and subsequent updating of software, all on-board missile software is uploaded via the LWCLU after mating and prior to launch.

The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

(vii) (U) *Date Report Delivered to Congress:* July 28, 2026

[FR Doc. 2026–17560 Filed 8–27–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–1B]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD (referred to herein as ''the Department,'' ''Department of War'' or ''DoW'') is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695–6233, *urooj.zahra.civ@mail.mil,* or *dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil*.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 26–1B.

Dated: August 25, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–1B

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC, 36(B)(5)(C), AECA)

(i) *Prospective Purchaser:* Government of Qatar

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 18–43

Date: November 27, 2018

Implementing Agency: Air Force

Funding Source: National Funds

(iii) *Description:* On November 27, 2018, Congress was notified by congressional certification transmittal number 18–43 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of forty (40) AIM 120C–7 Advanced Medium Range Air-to-Air Missiles (AMRAAM); and one (1) spare AIM 120C–7 AMRAAM guidance section. The following non-major defense equipment (MDE) items were also included: spare AIM–120C–7 control section; AMRAAM Captive Air Training Missile (CATM–120C); missile containers; classified software for the AN/MPQ–64F1 sentinel radar; spare and repair parts; cryptographic and communication security devices; precision navigation equipment; other software; site surveys; weapons system equipment and computer software support; publications and technical documentation; common munitions and test equipment; repair and return services and equipment; personnel training and training equipment; integration support and test equipment; U.S. government and contractor, engineering, technical, and logistics support services; and other related elements of logistical and program support. The estimated total cost was $215 million. MDE constituted $95 million of this total.

On October 01, 2019, Congress was notified by congressional certification transmittal number 19–0J of the inclusion of up to eighty additional (80) AIM–120C–7 missiles; one hundred twenty (120) AIM–120C–7 ER missiles; and thirteen (13) Multifunction Information Distribution System Low Volume Terminal (MIDS–LVT) Block Upgrade 2. The following non-MDE items were also included: associated materiel, support, and services. The estimated MDE value was increased by $461 million to a revised $556 million. The estimated non-MDE value was increased by $16 million to a revised $136 million. The estimated total case value was increased by $477 million to a revised $692 million.

This transmittal notifies the inclusion of the following MDE items: eight hundred (800) AIM–120C–7 or AIM–120C–8 AMRAAMs; and fifty (50) AIM–120C–7 or AIM–120C–8 AMRAAM guidance sections. The following non-MDE items will also be included: AMRAAM support equipment; and other related elements of program and logistics support. The estimated total value of the new items is $2.09 billion. The estimated MDE value will increase by $1.97 billion to a revised $2.526 billion. The estimated non-MDE value will increase by $0.12 billion to a revised $0.256 billion. The estimated total case value will increase by $2.09 billion to a revised $2.782 billion.

(iv) *Significance:* This notification accounts for requested additional MDE and non-MDE items not included in the original notification. The inclusion of this MDE and non-MDE represents an increase in capability over what was previously notified. This proposed sale improves Qatar's defense capability to deter regional threats and strengthen its homeland defense. The National Advanced Surface to Air Missile System

capability would provide a full range of protection from imminent hostile cruise missile, unmanned aerial vehicle, rotary wing, and fixed wing threats.

(v) *Justification:* This proposed sale will support the foreign policy and national security objectives of the United States by helping to improve the security of a friendly country that continues to be an important force for political stability and economic progress in the Middle East.

(vi) *Sensitivity of Technology:*

The Sensitivity of Technology Statement contained in the original notification applies to the additional items reported here.

The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

(vii) *Date Report Delivered to Congress:* July 6, 2026

[FR Doc. 2026–17561 Filed 8–27–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 0E–26]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD (referred to herein as ''the Department,'' ''Department of War'' or ''DoW'') is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695–6233, *urooj.zahra.civ@mail.mil,* or *dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil*.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 0E–26.

Dated: August 25, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. RSAT 0E–26

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(A), AECA)

(i) Prospective Purchaser: Government of Sweden

(ii) Sec. 36(b)(1), AECA Transmittal No.: 23–33

Date: July 7, 2023

Implementing Agency: Air Force

(iii) Description: On July 7, 2023, Congress was notified by congressional certification transmittal number 23–33 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of up to two hundred fifty (250) AIM–120C–8 Advanced Medium Range Air-to-Air Missiles (AMRAAM); and up to six (6) AMRAAM C–8 guidance sections. Also included were spare AIM–120 control sections and containers; AMRAAM test set telemetry kits; encryption devices; munitions support and support equipment; classified software delivery and support; spare parts, consumables, and accessories; repair and return support; transportation support; classified publications and technical documentation; studies and surveys; U.S. Government and contractor technical engineering, and logistics support services; and other related elements of logistical and program support. The estimated total cost was $605 million. Major defense equipment (MDE) constituted $530 million of this total.

This transmittal notifies the following additional MDE items: ten (10) AIM 120C–8 AMRAAM air-instrumented vehicles. The following non-MDE items will also be included: AMRAAM training missiles; KGV–135A encryption devices; and other related elements of logistics and program support. The estimated total value of the new items is $25 million. The estimated total cost of the new MDE items is $24 million and does not result in a net increase in total cost of MDE. The estimated total MDE cost remains $530 million. The estimated total cost of the new non-MDE items is $1 million and does not result in a net increase in total cost of non-MDE. The total non-MDE cost remains $75 million. The total case value does not increase and remains $605 million.

(iv) Significance: This notification accounts for requested additional MDE and non-MDE items not included in the original notification. The inclusion of this MDE represents an increase in capability over what was previously notified. The proposed articles and services will support Sweden's capability to meet and deter current and future threats in the region by ensuring Sweden has modern, capable air-to-air munitions. The proposed sale will further advance the Swedish Air Force interoperability with U.S. joint forces and other regional and NATO forces.

(v) Justification: This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a NATO Ally that is a force for political stability and economic progress in Europe.

(vi) Sensitivity of Technology:

The AIM 120C–8 AMRAAM air-instrumented vehicle is a live launch test vehicle used primarily for flight test integration with a rocket motor and instrumentation unit in place of a warhead. The AIM 120C–8 AMRAAM air-instrumented vehicle verifies and assesses the ability to safely launch an AMRAAM and validate the missile's performance.

The KGV–135A communications device is a high-speed general purpose encryptor and decryptor module used for wideband data encryption.

The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

(vii) Date Report Delivered to Congress: July 22, 2026

[FR Doc. 2026–17567 Filed 8–27–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 0F–26]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD (referred to herein as ''the Department,'' ''Department of War'' or ''DoW'') is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695–6233, *urooj.zahra.civ@mail.mil,* or *dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil*.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 0F–26.

Dated: August 25, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. RSAT 0F–26

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(A), AECA)

(i) *Prospective Purchaser:* Government of Poland

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 24–33

Date: March 12, 2024

Implementing Agency: Air Force

Funding Source: National Funds

(iii) *Description:* On March 12, 2024, Congress was notified by congressional certification transmittal number 24–33 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of up to eight hundred twenty-one (821) AGM–158B–2 Joint Air-to-Surface Standoff Missiles (JASSM) with Extended Range All-Up-Rounds. The following non-major defense equipment (MDE) items were also included: AGM–158 JASSM classified test equipment; weapon system support; integration and test support equipment; classified software delivery and support; unclassified publications and technical documentation; transportation; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The total estimated value was $1.77 billion. MDE constituted $1.67 billion of this total.

This transmittal notifies the inclusion of the following MDE items: up to five (5) AGM–158 inert JASSMs with test instrumentation kits (1 installed, 4 spares). The following non-MDE items will also be included: other related elements of program and logistics support. The estimated total value of the new items is $21 million but will not require an increase in the estimated total case value. The estimated total value of the new MDE items is $18 million and does not result in a net increase in total cost of MDE. The estimated total cost of the new non-MDE items is $3 million and does not result in a net increase in total cost of non-MDE. The estimated total case value of $1.77 billion will remain unchanged. MDE remains $1.67 billion of this total.

(iv) *Significance:* This notification accounts for requested additional MDE and non-MDE items not included in the original notification. The inclusion of this MDE represents an increase in capability over what was previously notified. The proposed articles and services will support Poland's AGM–158 flight test program required for the Poland F–16 Viper configuration upgrade.

(v) *Justification:* This proposed sale will support the foreign policy and national security of the United States by improving the security of a NATO Ally that is a force for political and economic stability in Europe.

(vi) *Sensitivity of Technology:*

The flight certification vehicle will be used during flight testing to verify compatibility of the AGM–158 munitions with the F–16 aircraft software under Poland's F–16 Viper upgrade program. The Global Positioning System/Precise Positioning Service is to be provided by either Selective Availability Anti-Spoofing Module or M-Code.

The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

(vii) *Date Report Delivered to Congress: July 22, 2026*

[FR Doc. 2026–17568 Filed 8–27–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–76]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD (referred to herein as ''the Department,'' ''Department of War'' or ''DoW'') is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695–6233, *urooj.zahra.civ@mail.mil,* or *dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.*

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 26–76, Policy Justification, and Sensitivity of Technology.

Dated: August 25, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–76

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Greece

(ii) *Total Estimated Value:*

Major Defense Equipment *	$32.1 million
Other	$48 million
TOTAL	$80.1 million

Funding Source: Foreign Military Financing and National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Three hundred fifty (350) Switchblade 300 Block 20 (SB300B20) Lethal Miniature Aerial Missile System (LMAMS)

Thirty-five (35) SB300B20 LMAMS Fire Control Systems (FCS)

Non-MDE:

The following non-MDE items will also be included: Switchblade 600 (SB600) Selective Availability Anti-Spoofing Module Global Positioning System LMAMS; SB600 FCS; SB300B20 tactical battery chargers; smart battery chargers; spares packages; training services; field service representative support; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Army (GR–B–UBA)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* July 16, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Greece—Switchblade 300 Block 20 Lethal Miniature Aerial Missile System

The Government of Greece has requested to buy three hundred fifty (350) Switchblade 300 Block 20 (SB300B20) Lethal Miniature Aerial Missile System (LMAMS) and thirty-five (35) SB300B20 LMAMS Fire Control Systems (FCS). The following non-major defense equipment items will also be included: Switchblade 600 (SB600) Selective Availability Anti-Spoofing Module Global Positioning System LMAMS; SB600 FCS; SB300B20 tactical battery chargers; SB600 smart battery chargers; spares packages; training services; field service representative support; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is $80.1 million.

This proposed sale will support the foreign policy and national security of the United States by improving the security of a NATO Ally that continues to be a force for political and economic stability in Europe.

The proposed sale will improve Greece's capability to deter current and future threats, support coalition operations, and increase interoperability with the United States. Greece will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Aero Vironment Inc., located in Simi Valley, CA. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Greece.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 26–76

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The Switchblade 300 Block 20 (SB300B20) Lethal Miniature Aerial Missile System (LMAMS) is loitering precision guided munitions intended to allow small unit engagement of enemy combatants without direct enemy fire. The SB300B20 LMAMS uses a common Fire Control System (FCS) and core capabilities, including Electro-Optical/Infrared (E.O./IR) imagery for day and night operations, automated mission planning, and a ''Forward Pass'' feature to extend operational range. The SB300B20 is a lightweight system with beyond-visual-range capability, optimized for anti-personnel missions. The SB300B20 LMAMS is anti-personnel, surface-to-surface launched missile that utilizes proprietary pixel lock technology and a fragmenting warhead to engage targets. The system is controlled via a secure Digital Data Link (DDL), which provides the connection between the operator's FCS and the air vehicle for both command inputs and near real-time video transmission.

2. The Switchblade 600 (SB600) Selective Availability Anti-Spoofing Module Global Positioning System (GPS) LMAMS is loitering precision guided munitions intended to allow small unit engagement of enemy combatants without direct enemy fire. The SB600 uses a common FCS and core capabilities, including E.O./IR imagery for day and night operations, automated mission planning, and a ''Forward Pass'' feature to extend operational range. The larger SB600 provides extended capabilities, featuring a high-performance anti-armor warhead and a significantly longer flight endurance of over sixty minutes, enabling it to engage hardened targets and conduct prolonged reconnaissance. The SB600 is an anti-tank, surface-to-surface launched missile that utilizes the same pixel lock technology and a shaped charge warhead to engage hardened targets. The system is controlled via a secure DDL, which provides the connection between the operator's FCS and the air vehicle for both command inputs and near real-time video transmission. and all its support equipment to facilitate proper operation. This software is hosted on the Flight Control Unit (FCU) and is where Built-in Tests (BIT), payload arming/disarming, and waypoints are initiated. Aerial Reconfigurable Embedded System (ARES) is also where a range of non-flight functions are conducted; to include preflight checks, periodic maintenance checks, loading of Operational Flight Program (OFP) data, and loading of GPS cryptographic keys.

3. The SB300B20 features an Advanced Encryption Standard (AES) 256-bit encryption, securing both video and data transmission. As a key security feature, a unique bind code links the ground controller to its specific air vehicle, preventing unauthorized systems from taking control. The ARES is flight software used across the Switchblade family of systems, it interfaces with the SB300B20.

4. The SB600 features an AES 256-bit encryption, securing both video and data transmission. As a key security feature, a unique bind code links the ground controller to its specific air vehicle, preventing unauthorized systems from taking control. The ARES is flight software used across the Switchblade family of systems, it interfaces with the SB600 and all its support equipment to facilitate proper operation. This software is hosted on the FCU and is where BIT, payload arming/disarming, and waypoints are initiated. Ares is also where a range of non-flight functions are conducted; including preflight checks, periodic maintenance checks, loading of OFP data, and loading of GPS cryptographic keys.

5. The SB300B20 is controlled by the FCU which hosts the ARES flight software. The warhead and other capabilities of the SB300B20 are also controlled by the FCU. Specific to the warhead, there is an Electronic Safe and Arm Device (ESAD) that sets the sensing environment and logic to ensure the warhead only goes off under certain conditions.

6. The SB600 is controlled by the FCU which hosts the ARES flight software. The warhead and other capabilities of the SB300B20 are also controlled by the FCU. Specific to the warhead, there is an ESAD that sets the sensing environment and logic to ensure the warhead only goes off under certain conditions.

7. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

8. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

9. A determination has been made that Greece can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

10. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Greece.

[FR Doc. 2026–17564 Filed 8–27–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–82]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD (referred to herein as ''the Department,'' ''Department of War'' or ''DoW'') is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695–6233, *urooj.zahra.civ@mail.mil,* or *dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.*

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the

attached Transmittal 26–82 and Policy Justification.

Dated: August 25, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–82

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Norway

(ii) *Total Estimated Value:*

Major Defense Equipment *	$ 0
Other	$270 million
TOTAL	$270 million

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Foreign Military Sales (FMS) case NO–B–VSJ was below the congressional notification threshold at $99.99 million ($0 in major defense equipment (MDE)) and included 155mm High Explosive (HE) M795 Projectiles. The Government of Norway has requested that the case be amended to include additional 155mm HE M795 Projectiles; technical assistance; technical documentation; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. This amendment will cause the case to exceed the notification threshold, and thus notification of the entire program is required. The above notification requirements are combined as follows:

Major Defense Equipment (MDE):

None

Non-MDE:

The following non-MDE items will be included: 155mm HE M795 Projectiles; technical assistance; technical documentation; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Army (NO–B–VSJ)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* August 5, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Norway—155mm High Explosive (HE) M795 Projectile

The Government of Norway has requested to buy additional 155mm High Explosive (HE) M795 Projectiles; technical assistance; technical documentation; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support that will be added to a previously implemented case whose value was under the congressional notification threshold. The original Foreign Military Sales (FMS) case, valued at $99.99 million ($0 in major defense equipment (MDE)), included 155mm HE M795 Projectiles. This notification is for a combined total of the following non-MDE items: 155mm HE M795 Projectiles; technical assistance; technical documentation; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is $270 million.

This proposed sale will support the foreign policy and national security objectives of the United States by improving the security of a NATO Ally that is a force for political stability and economic progress in Europe.

The proposed sale will improve Norway's capability to meet current and future threats and increase its interoperability with the U.S. and other allied forces. This proposed sale will enhance Norway's artillery and mid-range fire capability. Norway will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be American Ordinance, located in Middletown, IA; and General Dynamics, located in Camden, AR. While this purchaser typically requests offsets, there is currently no known offset agreement regarding the items being added to this case. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Norway.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2026–17565 Filed 8–27–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–61]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD (referred to herein as ''the Department,'' ''Department of War'' or ''DoW'') is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695–6233, *urooj.zahra.civ@mail.mil,* or *dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil*.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 26–61 and Policy Justification.

Dated: August 25, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001–FR–P

DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

AUG 2 5 2022

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(5)(C) of the Arms Export Control Act (AECA), as amended, we are forwarding Transmittal No. 20-0M. This notification relates to enhancements or upgrades from the level of sensitivity of technology or capability described in the Section 36(b)(1) AECA certification 15-51 of November 4, 2015.

Sincerely,

for James A. Hursch
Director

Enclosures:
1. Transmittal
2. Regional Balance (Classified document provided under separate cover)

DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

AUG 2 5 2022

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(5)(C) of the Arms Export Control Act (AECA), as amended, we are forwarding Transmittal No. 20-0M. This notification relates to enhancements or upgrades from the level of sensitivity of technology or capability described in the Section 36(b)(1) AECA certification 15-51 of November 4, 2015.

Sincerely,

James A. Hursch
Director

Enclosures:
1. Transmittal
2. Regional Balance (Classified document provided under separate cover)

BILLING CODE 6001–FR–C

Transmittal No. 26–61

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Kuwait

(ii) *Total Estimated Value:*

Major Defense Equipment *	$ 0
Other	$484 million
TOTAL	$484 million

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):
None

Non-MDE:
The following non-MDE items will be included: major and minor modification equipment and support; aircraft components, parts, and accessories; instruments and lab equipment; spares and repair parts, consumables and accessories, and repair and return support; ground handling equipment; unclassified Computer Program Identification Numbers; pyrotechnics equipment; cartridges, chaffs, and flares; communications equipment; electrical items support equipment; classified and unclassified software and software support, classified and unclassified publications and technical documentation; clothing, textiles, and individual equipment; personnel training and training equipment; jet fuel; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Air Force (KU–D–QAJ)

(v) *Prior Related Cases, if any:* KU–D–QAH

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* July 15, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Kuwait—C–17 Sustainment

The Government of Kuwait has requested to buy the following non-major defense equipment: major and minor modification equipment and support; aircraft components, parts, and accessories; instruments and lab equipment; spares and repair parts, consumables and accessories, and repair and return support; ground handling equipment; unclassified Computer Program Identification Numbers; pyrotechnics equipment; cartridges, chaffs, and flares; communications equipment; electrical items support equipment; classified and unclassified software and software support, classified and unclassified publications and technical documentation; clothing, textiles, and individual equipment;

personnel training and training equipment; jet fuel; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is $484 million.

This proposed sale will support the foreign policy and national security objectives of the United States by improving the security of a major non-NATO ally that has been an important force for political stability and economic progress in the Middle East.

The proposed sale will improve Kuwait's capability to meet current and future threats by ensuring the operational readiness of its C–17 fleet. Kuwait's C–17 fleet provides strategic airlift capabilities that directly support U.S. and coalition operations around the world. Kuwait will have no difficulty absorbing these articles and services into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be The Boeing Company, located in Arlington, VA. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Kuwait.

There will be no adverse impact on U.S. defense readiness as a result of this proposed

[FR Doc. 2026–17563 Filed 8–27–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1948]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Educational Opportunity Centers Program (EOC) Annual Performance Report

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before September 28, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Marie Julienne, (202) 987–1054.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Educational Opportunity Centers Program (EOC) Annual Performance Report.

OMB Control Number: 1840–0830.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 160.

Total Estimated Number of Annual Burden Hours: 1,280.

Abstract: The Department of Education (ED) collects Annual Performance Reports (APRs) from Educational Opportunity Centers (EOC) grantees under the authority of Title IV, Part A, Subpart 2, Division 1, Sections 402A and 402B of the Higher Education Act of 1965, as amended, the program regulations in 34 CFR 644, and the Education Department General Administrative Regulations (EDGAR), in 34 CFR 74.51, 75.720, and 75.732. The information that grantees submit in their APRs allows ED to annually assess each grantee's progress in meeting their project's approved goals and objectives. The APR data that grantees submit are compared with the projects' approved objectives to determine the projects' accomplishments, to make decisions regarding whether funding should be continued, and to award ''prior experience'' points. The regulations for this program provide for awarding up to 15 points for prior experience (34 CR 644.22).

During a competition for new grant awards, the prior experience points are added to the average of the peer reviewers' scores to arrive at a total score for each application. Funding recommendations and decisions are primarily based on the rank order of applications on the slate; therefore, assessment of prior experience points, based on data in the annual performance report, is a crucial part of the overall application process.

Further, this performance report form is the main source of data for the Department's response to the requirements of the Government Performance and Results Act (GPRA) for this program. In addition, the Department uses the annual performance reports to produce program level data for annual reporting, budget submissions to OMB, Congressional hearings and inquiries, and responding to inquiries from higher education interest groups and the general public.

EOC APRs are prepared and submitted by EOC grant projects. For each EOC grant project, the grant project director of record completes, or supervises the completion of the data submission process. The grant project director supervises the administration of an EOC grant. An EOC grant provides counseling and information on college admissions to qualified adults who want to enter or continue a program of postsecondary education. The program also provides services to improve the financial and economic literacy of participants. An important objective of the program is to counsel participants on financial aid options, including basic financial planning skills, and to assist in the application process. The goal of the EOC program is to increase the number

of adult participants who enroll in postsecondary education institutions.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–17575 Filed 8–27–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1949]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Student Support Services Annual Performance Report

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before September 28, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Marie Julienne, (202) 987–1054.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Support Services Annual Performance Report.

OMB Control Number: 1840–0525.

Type of Review: Revision of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 1,181.

Total Estimated Number of Annual Burden Hours: 18,129.

Abstract: Student Support Services (SSS) program grantees must submit the Annual Performance Report (APR) annually. The reports are used to evaluate grantees' performance for substantial progress, respond to Government Performance and Results Act requirements, and award prior experience points at the end of each project (budget) period. The Department also aggregates the data to provide descriptive information on the projects and to analyze the impact of the SSS program on the academic progress of participating students.

Total burden hours have been adjusted to reflect an increase in the size of the reporting universe. In addition, the collection has been updated to include the Competitive Preference Priorities used in the Fiscal Year 2025 competition for new awards. No change in burden is associated with this update.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–17573 Filed 8–27–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–2179]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Talent Search (TS) Annual Performance Report

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a reinstatement without change of a previously approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before September 28, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Marie Julienne, (202) 987–1054.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Talent Search (TS) Annual Performance Report.

OMB Control Number: 1840–0826.

Type of Review: Reinstatement without change of a previously approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 517.

Total Estimated Number of Annual Burden Hours: 9,306.

Abstract: The U.S. Department of Education (Department) is requesting a reinstatement without change of the previously-approved Talent Search

Annual Performance Report, which expired on January 31, 2026 (OMB No.: 1840–0826). The report provides the Department with information needed to evaluate a grantee's performance and compliance with program requirements and to award prior experience points in accordance with the program regulations. The data collection is also aggregated to provide national information on project participants and program outcomes.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–17574 Filed 8–27–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1951]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Veterans Upward Bound (VUB) Program Annual Performance Report

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before September 28, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Marie Julienne, (202) 987–1054.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Veterans Upward Bound (VUB) Program Annual Performance Report.

OMB Control Number: 1840–0832.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 62.

Total Estimated Number of Annual Burden Hours: 1,054.

Abstract: Veterans Upward Bound (VUB), one of the U.S. Department of Education's Upward Bound programs, is designed to motivate and assist veterans in developing academic and other requisite skills necessary for acceptance and success in a program of postsecondary education. The program provides assessment and enhancement of basic skills through counseling, mentoring, tutoring and academic instruction in the core subject areas. The primary goal of the program is to increase the rate at which participants enroll in and complete postsecondary education programs.

All Veterans Upward Bound projects must provide instruction in mathematics through pre-calculus, laboratory science, foreign language, composition, and literature. Projects may also provide short-term remedial or refresher courses for veterans who are high school graduates but have delayed pursuing postsecondary education. Projects are also expected to assist veterans in securing support services from other locally available resources such as the U.S. Department of Veterans Affairs, veterans' associations, and other state and local agencies that serve veterans.

The Department's annual performance report (APR) for VUB collects each current grantee's data at the participant level on services and performance over the course of a year. The Department uses the information conveyed in the performance report to assess a grantee's progress in meeting its approved goals and objectives and to evaluate a grantee's prior experience in accordance with the program regulations in 34 CFR 645.32. Grantees' annual performance reports also provide information on the outcomes of projects' work and of the VUB program as a whole. In addition, APR data allows the Department to respond to the reporting requirements of the Government Performance and Results Act.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–17570 Filed 8–27–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–2806]

Agency Information Collection Activities; Comment Request; State and EIS Record Keeping and Reporting Requirements Under Part C

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before October 27, 2026.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2026–SCC–2806. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, the Department will temporarily accept comments at *ICDocketMgr@ed.gov*. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for

information or comments submitted by postal mail or delivery should be addressed to the Chief of the Data Collection and Analysis Unit within the State Monitoring and Program Improvement Division, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Ave. SW, Washington, DC 20202–1200.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Diana Yu, (202) 245–6371.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: State and EIS Record Keeping and Reporting Requirements under Part C.

OMB Control Number: 1820–0682.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 4,268.

Abstract: The Office of Special Education and Rehabilitative Services needs to extend (renew as-is) its Office of Management and Budget (OMB) Information Collection (IC): 1820–0682 State and Early Intervention Services (EIS) Record Keeping under Part C which is set to expire on 1/31/2027. These record-keeping requirements are not new and do not require reporting to the Secretary. The record keeping requirements outlined in this IC were created to reflect the requirements in Part C of the Individuals with Disabilities Education Act (IDEA) in 20 U.S.C. 1431–1443 and the final Part C regulations. These regulations require the 56 State lead agencies (LAs) that receive IDEA Part C funds to collect and maintain information or data and, in some cases, report information or data to other public agencies or to the public. This Information Collection was created to ensure that all IDEA Part C information responsibilities are documented and have been submitted for OMB review.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–17610 Filed 8–27–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1981]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Ronald E. McNair Postbaccalaureate Achievement Program Annual Performance Report

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before September 28, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Marie Julienne, (202) 987–1054.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Ronald E. McNair Postbaccalaureate Achievement Program Annual Performance Report.

OMB Control Number: 1840–0640.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 197.

Total Estimated Number of Annual Burden Hours: 2,197.

Abstract: Ronald E. McNair Postbaccalaureate Achievement (McNair) Program grantees must submit the Annual Performance Report each year. The reports are used to evaluate grantees' performance for substantial progress, respond to the Government Performance and Results Act (GPRA), and award prior experience points at the end of each project (budget) period. The Department also aggregates the data to provide descriptive information on the projects and to analyze the impact of the McNair Program on the academic progress of participating students.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–17571 Filed 8–27–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1950]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Upward Bound (UB) Upward Bound Math Science (UBMS) Annual Performance Report

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before September 28, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Marie Julienne, (202) 987–1054.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Upward Bound (UB) Upward Bound Math Science (UBMS) Annual Performance Report.

OMB Control Number: 1840–0831.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 1,244.

Total Estimated Number of Annual Burden Hours: 21,148.

Abstract: The purpose of the Upward Bound (UB) and Upward Bound Math Science (UBMS) Program is to generate in the program's participants the skills and motivation necessary to complete a program of secondary education and to enter and succeed in a program of postsecondary education.

Authority for this program is contained in Title IV, Part A, Subpart 2, Chapter 1, Section 402C of the Higher Education Opportunity Act of 2008. Eligible applicants include institutions of higher education, public or private agencies, or organizations, including community-based organizations with experience in serving disadvantaged youth, secondary schools, and combinations of institutions, agencies, organizations and secondary schools.

The UB and UBMS Program's participants must be potential first-generation college students, low-income individuals, or individuals who have high risk of academic failure and have a need for academic support in order to pursue successfully a program of education beyond high school. Required services of the UB–UBMS Program include: (1) academic tutoring; (2) advice and assistance in secondary and postsecondary course selection; (3) preparation for college entrance exams and completing college admission applications; (4) information on federal student financial aid programs including (a) Federal Pell grant awards, (b) loan forgiveness, and (c) scholarships; (5) assistance completing financial aid applications; (6) guidance and assistance in: (a) secondary school reentry, (b) alternative programs for secondary school drop outs that lead to the receipt of a regular secondary school diploma, (c) entry into general educational development (GED) programs or (d) entry into postsecondary education; and (7) education or counseling services designed to improve the financial and economic literacy of students or the students' parents, including financial planning for postsecondary education. (8) Also, projects funded for at least two years under the program must provide instruction in mathematics through pre-calculus; laboratory science; foreign language; composition; and literature.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–17572 Filed 8–27–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Extension Without Changes

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Notice and request for comments.

SUMMARY: EIA invites public comment on the proposed three-year extension, without changes, to Form EIA–846 Manufacturing Energy Consumption Survey Report as required under the Paperwork Reduction Act of 1995. The report is part of EIA's comprehensive energy data program. Form EIA–846 Manufacturing Energy Consumption Survey Report (quadrennial) collects information on energy consumption, expenditures, and building characteristics from establishments in the manufacturing sector.

DATES: EIA must receive all comments on this proposed information collection no later than October 27, 2026. If you anticipate any difficulties in submitting your comments by the deadline, contact the person listed in the **ADDRESSES** section of this notice as soon as possible.

ADDRESSES: You may submit comments, identified by OMB control number 1905–0169, by email at *EIA-FRNcomments@eia.gov.* Include the OMB control number listed in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Debra Coaxum, Acting EIA Clearance Officer, at (202) 586–7876 or by email at *EIA-FRNcomments@eia.gov.* The form and instructions are available on EIA's website at *www.eia.gov/survey/.*

SUPPLEMENTARY INFORMATION: Comments are invited whether or not: (a) The proposed collection of information is necessary for the proper performance of agency functions, including whether the information will have a practical utility; (b) EIA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used, is

accurate; (c) EIA can improve the quality, utility, and clarity of the information it will collect; and (d) EIA can minimize the burden of the collection of information on respondents, such as automated collection techniques or other forms of information technology.

This information collection request contains:

(1) *OMB No.:* 1905–0169;

(2) *Information Collection Request Title:* Manufacturing Energy Consumption Survey (MECS);

(3) *Type of Request:* Extension without changes;

(4) *Purpose:* Form EIA–846 will be a self-administered sample survey of the U.S. manufacturing sector. Specifically, EIA proposes to limit the sample to sector codes 31–33 of the North American Industry Classification System (NAICS). The information from this survey is used to publish aggregate statistics on the energy consumption of the manufacturing sector, including energy purchases, expenditures, transfers in and shipments out, onsite generation, and both fuel and nonfuel use. The survey also gathers information on energy-related issues such as onsite electricity generation, purchases of electricity from utilities and non-utilities, and fuel switching capabilities. To maintain an updated National Energy Modeling System (NEMS) and greenhouse gases data series, Form EIA–846 will also be used to update the historical industrial energy consumption benchmarks.

The information collection and the content of the 2026 MECS will be unchanged from the 2022 survey. Most respondents will submit their data electronically in a question-answer format as opposed to the spreadsheet format used in the past. The MECS information products will continue to present industry-by-Census Region level data as well as national data.

(5) *Annual Estimated Number of Respondents:* 15,000;

(6) *Annual Estimated Number of Total Responses:* 3,750;

(7) *Annual Estimated Number of Burden Hours:* 34,565;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $3,281,601 (34,565 annual burden hours multiplied by $94.94 per burden hour). EIA estimates that respondents will have no additional costs associated with the survey, however a slight amount of burden hours may be necessary to conduct data follow-up questioning. The number of respondents affected by the data follow-up questioning will be minimal and the associated burden hours are negligible;

(Statutory Authority: 15 U.S.C. 772(b) and 42 U.S.C. 7101 *et seq.*)

Signed in Washington, DC, on August 24, 2026.

Pushpal Mukhopadhyay,

Director, Office of Statistical Methods and Research, U.S. Energy Information Administration.

[FR Doc. 2026–17593 Filed 8–27–26; 8:45 am]

BILLING CODE 6450–01–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: ER18–92–010.

Applicants: Carroll County Energy LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective 11/24/2025.

Filed Date: 8/25/26.

Accession Number: 20260825–5035.

Comment Date: 5 p.m. ET 9/15/26.

Docket Numbers: ER18–92–011.

Applicants: Carroll County Energy LLC.

Description: Compliance filing: Compliance Filing Regarding Effective Date to be effective 5/1/2026.

Filed Date: 8/25/26.

Accession Number: 20260825–5037.

Comment Date: 5 p.m. ET 9/15/26.

Docket Numbers: ER25–2212–001.

Applicants: Prairie Solar 1, LLC.

Description: Notice of Non-Material Change in Status of Prairie Solar 1, LLC.

Filed Date: 8/24/26.

Accession Number: 20260824–5147.

Comment Date: 5 p.m. ET 9/14/26.

Docket Numbers: ER25–2232–005.

Applicants: Illinois Generation LLC.

Description: Tariff Amendment: Notice of WD of Req for Deferred Action, Req for Action on SFA, and Waiver to be effective 8/25/2026.

Filed Date: 8/24/26.

Accession Number: 20260824–5128.

Comment Date: 5 p.m. ET 9/14/26.

Docket Numbers: ER25–2234–004.

Applicants: Heritage Prairie Solar LLC.

Description: Tariff Amendment: Notice of WD of Req for Deferred Action, Req for Action on SFA, and Waiver to be effective 8/25/2026.

Filed Date: 8/24/26.

Accession Number: 20260824–5130.

Comment Date: 5 p.m. ET 9/14/26.

Docket Numbers: ER26–2693–001.

Applicants: Entergy Louisiana, LLC, Entergy Mississippi, LLC, Entergy New Orleans, LLC, Entergy Texas, Inc., Entergy Services, LLC, Entergy Arkansas, LLC.

Description: Tariff Amendment: Entergy Arkansas, LLC submits tariff filing per 35.17(b): Deficiency Response_MSS–4R NDTF Amendment to be effective 8/1/2026.

Filed Date: 8/24/26.

Accession Number: 20260824–5135.

Comment Date: 5 p.m. ET 9/14/26.

Docket Numbers: ER26–3598–000.

Applicants: Central Hudson Gas & Electric Corporation, 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: Central Hudson 205: Formula Rate Revisions re: Hurley Ave to be effective 10/24/2026.

Filed Date: 8/24/26.

Accession Number: 20260824–5132.

Comment Date: 5 p.m. ET 9/14/26.

Docket Numbers: ER26–3599–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Rose Quartz BESS Generation Interconnection Agreement to be effective 7/28/2026.

Filed Date: 8/24/26.

Accession Number: 20260824–5134.

Comment Date: 5 p.m. ET 9/14/26.

Docket Numbers: ER26–3600–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2026–08–25_SA 4851 ITCTransmission-DTE Electric GIA (E0008) to be effective 8/20/2026.

Filed Date: 8/25/26.

Accession Number: 20260825–5019.

Comment Date: 5 p.m. ET 9/15/26.

Docket Numbers: ER26–3601–000.

Applicants: PJM Interconnection, L.L.C.

Description: Notice of Termination of Network Integration Transmission Service Agreement No. 1681 among PJM Interconnection, L.L.C. and the City of Batavia, Illinois.

Filed Date: 8/24/26.

Accession Number: 20260824–5146.

Comment Date: 5 p.m. ET 9/14/26.

Docket Numbers: ER26–3602–000.

Applicants: Neradean Energy Inc.

Description: § 205(d) Rate Filing: Initial Market-Based Rate Tariff Filing to be effective 8/25/2026.

Filed Date: 8/25/26.

Accession Number: 20260825–5059.

Comment Date: 5 p.m. ET 9/15/26.

Docket Numbers: ER26–3603–000.

Applicants: Midcontinent Independent System Operator, Inc., Michigan Electric Transmission Company, LLC.

Description: § 205(d) Rate Filing: Michigan Electric Transmission Company, LLC submits tariff filing per 35.13(a)(2)(iii: 2026–08–25_SA 4853 METC-Birch Valley Solar E&P (J2578) to be effective 8/24/2026.

Filed Date: 8/25/26.

Accession Number: 20260825–5065.

Comment Date: 5 p.m. ET 9/15/26.

Docket Numbers: ER26–3604–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Attachment AE Revisions for Affiliate Designation Registration Requirement to be effective 12/9/2026.

Filed Date: 8/25/26.

Accession Number: 20260825–5072.

Comment Date: 5 p.m. ET 9/15/26.

Docket Numbers: ER26–3605–000.

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: Alabama Power (Lindsay Hill) Second Revised and Restated LGIA Filing to be effective 8/13/2026.

Filed Date: 8/25/26.

Accession Number: 20260825–5077.

Comment Date: 5 p.m. ET 9/15/26.

Docket Numbers: ER26–3606–000.

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: Southern Power (Harris 1) Amended and Restated LGIA Filing to be effective 8/13/2026.

Filed Date: 8/25/26.

Accession Number: 20260825–5079.

Comment Date: 5 p.m. ET 9/15/26.

Docket Numbers: ER26–3607–000.

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: Southern Power (Harris 2) Amended and Restated LGIA Filing to be effective 8/13/2026.

Filed Date: 8/25/26.

Accession Number: 20260825–5080.

Comment Date: 5 p.m. ET 9/15/26.

Docket Numbers: ER26–3608–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2026–08–25_SA 4849 METC-Consumers Energy GIA (J4160) to be effective 8/19/2026.

Filed Date: 8/25/26.

Accession Number: 20260825–5085.

Comment Date: 5 p.m. ET 9/15/26.

Docket Numbers: ER26–3609–000.

Applicants: Niagara Mohawk Power Corporation, 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: NYISO-National Grid Joint 205: SGIA NY37 Solar Project SA2975 to be effective 8/13/2026.

Filed Date: 8/25/26.

Accession Number: 20260825–5108.

Comment Date: 5 p.m. ET 9/15/26.

Docket Numbers: ER26–3610–000.

Applicants: Cheyenne Power Hub, LLC.

Description: Initial Rate Filing: Application for Market-Based Rate Authorization to be effective 10/25/2026.

Filed Date: 8/25/26.

Accession Number: 20260825–5121.

Comment Date: 5 p.m. ET 9/15/26.

Take notice that the Commission received the following Electric Reliability filings:

Docket Numbers: RR26–3–000.

Applicants: North American Electric Reliability Corp.

Description: Request of North American Electric Reliability Corporation for Acceptance of the 2027 Business Plans and Budgets of NERC and Regional Entities and for Approval of Proposed Assessments to Fund Budgets.

Filed Date: 8/25/26.

Accession Number: 20260825–5045.

Comment Date: 5 p.m. ET 9/15/26.

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 25, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–17635 Filed 8–27–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC26–27–000]

Commission Information Collection Activities (Ferc–516); Comment Request; Merger; Extension

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is submitting its information collection FERC–516: Electric Rates and Tariffs (OMB No. 1902–0096) to the Office of Management and Budget (OMB) for review of the information collection requirements. There are no proposed changes to any of the ongoing reporting requirements; however, the collection is being updated to remove a number of one-time collections that no longer need to be submitted.

DATES: Comments on the collections of information are due September 28, 2026.

ADDRESSES: Send written comments on FERC–516 to OMB through *https://www.reginfo.gov/public/do/PRA/icrPublicCommentRequest?ref_nbr=202608-1902-001.* You can also visit *https://www.reginfo.gov/public/do/PRAMain* and use the drop-down under ''Currently under Review'' to select the ''Federal Energy Regulatory Commission'' where you can see the open opportunities to provide comments. Comments should be sent within 30 days of publication of this notice.

Please submit a copy of your comments to the Commission via email to *DataClearance@FERC.gov.* You must specify the Docket No. (IC26–27–000) and the FERC Information Collection number (FERC–516) in your email. If you are unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

- *Mail via U.S. Postal Service Only:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
- *All other delivery methods:* Federal Energy Regulatory Commission,

Secretary of the Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Docket: To view comments and issuances in this docket, please visit *https://elibrary.ferc.gov/eLibrary/search*.

FOR FURTHER INFORMATION CONTACT: Kayla Williams may be reached by email at *DataClearance@FERC.gov,* or by telephone at (202) 502–6468.

SUPPLEMENTARY INFORMATION:

Title: Electric Rate Schedules and Tariff Filings.

OMB Control No.: 1902–0096.

Type of Request: Three-year extension of the FERC–516 information collection requirements together with merging the following collections into FERC–516: Electric Rate Schedules and Tariff Filings and removing outdated requirements.

- FERC–516A (OMB 1902–0203): Standardization of Small Generator Interconnection Agreements and Procedures [SGIA and SGIP]
- FERC–516E (OMB 1902–0290): Electric Rate Schedules and Tariff Filings—NAESB Standards—Electric
- FERC–516H (OMB 1902–0303): Electric Rate Schedules and Tariff Filings Pro Forma Open Access Transmission Tariff
- FERC–516J (OMB 1902–0332): Electric Rate Schedules and Tariff Filings (Temp. No. PL24–1–000)
- FERC–717 (OMB–0173): Standards for Bus. Practices & Communication (Real Time Information Networks/Stan. Cond.)
- FERC–917 (OMB 1902–0233) Electric Transmission Facilities: Standards for Business Practices and Communication Protocols for Public Utilities.
- FERC–919 (OMB 1902–0234): Market-Based Rates for Wholesale Sales of Electric Energy, Capacity, and Ancillary Services by Public Utilities

Abstract: The Commission is obligated under Section 205 and Section 206 of the Federal Power Act (FPA) to regulate electric rates and tariffs. The FERC–516 information collection is associated with filings that are submitted to the Commission to regulate electric rates and tariffs, which provide the Commission and the public with information regarding utility rates and service conditions. Without tariffs, FERC and the public would not be able to properly evaluate rates. This collection currently consists of 15 information collection activities that support regulating the electric rates and tariffs.

The Commission conducted an in-depth review of information collections related to electric tariffs and identified several collections that were unnecessarily separated into distinct collections, as well as information collection instruments that were completed or no longer needed. The Commission proposes to consolidate these information collection activities under FERC–516, its primary electric tariff information collection, so that we can accurately reflect the burden placed on the public. In addition, the Commission is merging the burden of the temporary collections FERC–516E (Electric Rate Schedules and Tariff Filings—NAESB Standards—Electric) and FERC–516J (Project Area Labor Wage Data) into FERC–516. FERC is also renewing all of the relevant information collections to harmonize their expiration dates under FERC–516. Once the information collection activities are incorporated into FERC–516, then the Commission will discontinue the other collections as they will no longer be needed.

1. *FERC–516 (OMB 1902–0096 Exp 11/30/2026):* Electric Rates and Tariffs Section 206 of the FPA, 16 U.S.C. 824e, obligates the Commission to remedy unjust, unreasonable, and unduly discriminatory or preferential rates, terms, and conditions of transmission service. The Commission uses information provided through the FERC–516 collection to analyze proposed changes to tariffs, rates, fares, and charges of public utilities providing electric interstate transmission and other jurisdictional services.

2. *FERC–516A (OMB 1902–0203 Exp 11/30/2026):* Standardization of Small Generator Interconnection Agreements and Procedures (SGIA and SGIP).

The regulations at 18 Code of Federal Regulations (CFR) 35.28(f)(1) require transmission providers to include the following information in their open-access transmission tariffs (OATTs): [1]

- Commission-approved, standard, *pro forma* interconnection procedures (*i.e.,* small generator interconnection procedures or SGIP); and
- A single, uniformly applicable interconnection agreement (*i.e.,* a small generator interconnection agreement or SGIA).

This information helps the Commission ensure that transmission providers consider and process interconnection requests by small generators consistently and in compliance with the FPA.

3. *FERC–516E (OMB 1902–0290 Exp 4/30/2028):* Electric Rate Schedules and Tariff Filings—NAESB Standards—Electric.

This was a temporary collection, implemented solely because another item was pending for FERC–516. Merging the collection into FERC–516 resolves this administrative situation. The Commission's regulations incorporate by reference, with certain enumerated exceptions, the latest version (Version 004) of the Standards for Business Practices and Communication Protocols for Public Utilities adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB) (WEQ Version 004 Standards) applicable to the wholesale electric industry.

The WEQ Version 004 Standards include standards to support cybersecurity for the wholesale electric industry, and complement the NERC Reliability Standards, the NAESB Renewable Energy Certificates Contract, and standards to identify definitions for common grid services to support distributed energy resource interactions. Additionally, WEQ Version 004 Standards include Open Access Same-time Information System (OASIS) Business Practice Standards, the Coordinate Interchange Business Practice Standards, and the Abbreviations, Acronyms, and Defined Terms. Industry-wide business practice standards help the industry achieve increased levels of efficiency.

4. *FERC–516H (OMB 1902–0303 Exp 3/31/2027):* Electric Rate Schedules and Tariff Filings Pro Forma Open Access Transmission Tariff.

This collection covers the requirement for transmission owners to update their OATT, which includes forecasts and ratings, and share transmission line ratings and facilities ratings methodologies with transmission providers, RTOs/ISOs, and market monitors. This collection also included a one-time update to their OATT related to rulemaking RM22–2–000 in which the Commission revised Schedule 2 of its *pro forma* OATT, section 9.6.3 of its *pro forma* large generator interconnection agreement (LGIA), and section 1.8.2 of its *pro forma* SGIA to prohibit the inclusion in transmission rates of any charges related to the provision of reactive power within the standard power factor range by generating facilities. This one-time filing has been completed and will no longer be included in the burden estimate.

[1] The regulation at 18 CFR 35.28(c)(1) requires an OATT ''of general applicability'' for every public utility that owns, controls, or operates facilities used for the transmission of electric energy in interstate commerce. The OATT must be the *pro forma* tariff promulgated by the Commission, as amended from time to time, or such other tariff as may be approved by the Commission consistent with the principles set forth in Commission rulemaking proceedings promulgating and amending the *pro forma* tariff.

5. *FERC–516J (OMB 1902–0332 Exp 6/30/2027):* Electric Rate Schedules and Tariff Filings.

This was a temporary collection, implemented solely because another item was pending for FERC–516. Merging the collection into FERC–516 resolves this administrative situation. The Commission clarified it will look to applicable collective-bargaining agreements or Project Labor Agreements as an appropriate default source of project-area wage standards because collectively bargained wages reflect actual wage and fringe benefit rates paid to the project workforce. Collective-bargaining agreements reflect the actual labor cost that should be included in public utilities' cost-of-service rate filings and depreciation studies filed pursuant FPA sections 205 and 206.

6. *FERC–717 (OMB 1902–0173 Exp 4/30/2028):* Standards for Bus. Practices & Communication (Real Time Information Networks/Stan. Cond.).

OASIS is an internet-based tool for sharing information on transmission prices and product availability. In Order No. 889, the Commission required public utilities to establish OASIS sites to provide transmission customers with equal and timely access to information about transmission and ancillary services provided in the tariffs. This requirement was established because the Commission has determined that transmission customers must have simultaneous access to the same information available to the Transmission Provider in order to achieve nondiscriminatory transmission services. This is part of the Commission's requirements under the FPA section 205 to ensure that the rates and charges for the wholesale sale of electric energy are just and reasonable, and that the rules and regulations affecting or pertaining to the rates and charges for the wholesale sale of electric energy are just and reasonable.

7. *FERC–917 (OMB 1902–0233 Exp 10/31/2027) Electric Transmission Facilities:* Standards for Business Practices and Communication Protocols for Public Utilities.

Section 206 of the FPA, 16 U.S.C. 824e, obligates the Commission to remedy unjust, unreasonable, and unduly discriminatory or preferential rates, terms, and conditions of transmission service. FERC–917 supports the Commission's implementation of FPA section 206 via 18 CFR 35.28 and the *pro forma* OATT. The Commission's regulations at 18 CFR 35.28 require certain types of entities to have on file an OATT that contains minimum terms and conditions of non-discriminatory transmission service. This requirement applies to all public utilities [2] that own, control, or operate facilities used for transmitting electric energy in interstate commerce. Other provisions in section 35.28 of the Commission's regulations apply to non-public utilities, but only if they seek voluntary compliance with jurisdictional transmission tariff reciprocity conditions.

8. *FERC–919 (OMB 1902–0234 Exp 11/30/2026):* Market-Based Rates for Wholesale Sales of Electric Energy, Capacity, and Ancillary Services by Public Utilities.

The FERC–919 collection is necessary to ensure that market-based rates charged by public utilities are just and reasonable as mandated by FPA sections 205 and 206. Section 205 of the FPA requires just and reasonable rates and charges. Section 206 allows the Commission to revoke a seller's market-based rate authorization if it determines that the seller may have gained market power since it was originally granted market-based rate authorization by the Commission. Under FERC–919, as stated in 18 CFR part 35, subpart H, the Commission codifies market-based rate standards for generating electric utilities for use in the Commission's determination of whether a wholesale seller of electric energy, capacity, or ancillary services qualifies for market-based rate authority. Subpart H mandates that sellers submit market power analyses and related filings. Market power analyses must address both horizontal and vertical market power.

[2] As defined at 16 U.S.C. 824(e), a ''public utility'' is any person who owns or operates facilities subject to the jurisdiction of the Commission under Subchapters II and III of the FPA.

Type of Respondents: Jurisdictional Public Utilities and Electric Transmission Companies.

Estimate of Annual Burden: [3] As part of its in-depth review of these information collection activities, FERC identified three categories of information collection requirements that cover all previous information collection activities: Electric Tariff Filings, Compliance Filings, and Information Sharing Requirements. The Electric Tariff Filings and Compliance Filings are triggered by a respondent's activities rather than a predictable schedule based on the number of potential respondents. The previous approach overestimated the burden because it did not account for the frequency of responses based on FERC's historical records. Therefore, FERC determined that it could more accurately reflect the number of respondents for these information collection activities by using the number of actual submissions from previous years. While the electric market is always adapting to new circumstances, the number of submissions has been roughly consistent over the last 5 years. Therefore, the number of historic annual submissions provides a reasonable estimate of the number of submissions per year in the next three years. FERC also reviewed the estimated number of hours for each information collection activity and determined that the burden hours are driven by complexity of an entity's proposed change, which cannot be predicted by FERC. As such, FERC is confident that an average across this wider group of activities still represents an appropriate estimated burden. The Information Sharing Requirements are based on the number of entities subject to an information sharing requirement. The Commission estimates the annual public reporting burden for the combined FERC–516 information collection as:

[3] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 CFR 1320.3.

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response [4]	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Electric Tariff Filings—Common Filings.	4,355	1	4,355	100 hrs. $10,200	435,500 hrs. $44,421,000.	$10,200
Electric Tariff Filings—Long Term Transmission.	1	1	1	1,180 hrs. $120,360	1,180 hrs. $120,360	120,360
Compliance Filings—Common Filings.	3,377	1	3,377	12 hrs. $1,224	40,524 hrs. $4,133,448.	1,224
Compliance Filings—Regional Planning with OATT.	221	1	221	1,434 hrs. $146,268	316,914 hrs. $32,325,228.	146,268
Information Sharing Requirements.	1,879	1	1,879	95 hrs. $9,690	178,505 $18,207,510	9,690
Total			9,833	972,623 hrs.	$99,207,546	

Electric Tariff Filings Category

The Electric Tariff Filings category includes all tariff requests, tariff revisions, and rate change applications, as well as Change in Status Filings, Triennial Filings, and Notices of Succession and Cancellation for sellers with existing authorization. These filings are part of the Commission's processes to grant market-based rate authorization for wholesale sales of electric energy, capacity, and ancillary services by sellers that can demonstrate that they and their affiliates lack or have adequately mitigated horizontal and vertical market power.

Electric Tariff Filings Category—Common Filings—Previous Information Collection Activities

Previous FERC Form	Title	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden per response	Total annual burden hours
		(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)
516	Electric Rate Schedules and Tariff Filings (Ongoing Filing).	1,230	4	4,920	103	506,760
516A	Standardization of Small Generator Interconnection Agreements and Procedures.	141	1	141	16.84	2,421
516J	Project Area Labor Wage	6	1	6	15	90
919	Change in Status Filings (18 CFR 35.42(a)).	149	1	149	49	7,301
919	Market power analysis in new applications for market-based rates (18 CFR 35.37a).	144	1	144	135	19,440
919	Triennial market power analysis in category 2 seller updates (18 CFR 35.37a).	65	1	65	133.23	[5] 8,660
Total				5,425		544,672

Electric Tariff Filings Category—Long Term Transmission—Previous Information Collection Activities

Previous FERC Form	Title	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden per response	Total annual burden hours
		(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)
516	Long-Term Firm Transmission Rights in Organized Electricity Markets.	1	1,180	1,180	1	1,180

[4] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $102 per Hour = Average Cost per Response. The hourly cost figure comes from the Commission's average salary and benefits for FY2026. FERC estimates that respondents require a similar mix of skills as the Commission in responding to Information Collections.

[5] Rounded.

Previous FERC Form	Title	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden per response	Total annual burden hours
		(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)
Total	.....	.....	.....	1,180	.....	1,180

Compliance Filings Category

FERC's electric tariff compliance filings are a core regulatory mechanism through which jurisdictional utilities, RTOs/ISOs, and other market participants demonstrate adherence to Commission-approved requirements under the FPA and Title 18 of the CFR. These filings ensure that the terms, rates, and conditions of wholesale electric service remain just, reasonable, and not unduly discriminatory, and that any changes mandated by Commission orders or rulemakings are accurately implemented.

Relevant jurisdictional public utilities and electric transmission providers must submit compliance filings when the Commission issues an order or rule that directs specific tariff changes or requires utilities to update previously filed tariff records. These filings are triggered by the utility's activities and the timing of FERC directives rather than by a predetermined schedule, and they must be submitted within the deadlines established in the relevant order or regulation. The burden for any compliance filing depends on the individual entity's circumstances and the complexity of their filing related to the directive or regulation.

Compliance Filings Category—Common Filings—Previous Information Collection Activities

Previous FERC Form	Title	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden per response	Total annual burden hours
		(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)
516	Ongoing Uplift Reporting (previously approved under 516G).	6	12	72	3	216
516	Annual Update of ADIT Worksheet, RM19–5 (Ongoing Filing).	106	1	106	4	424
516	Compliance Filing Rehearing	44	11	484	[6] 1.45	704
516	Interconnection Reform_RM22–14_Reasonable Efforts Standard (Ongoing).	44	4	176	4	704
516	Interconnection Reforms_RM22–14_First Ready First Served (Ongoing).	44	4	176	4	704
516	Interconnection Reforms_RM22–14_Interconnection Info. Access (Ongoing).	44	2	88	4	352
516A	Ongoing Mandatory Pre-Application Report, Supplemental Review, and Review of Required Upgrades (RM13–2).	426	3.76	1,602	[7] 7.88	12,630
516A	Ongoing Voluntary Pre-Application Report, Supplemental Review, and Review of Required Upgrades (RM13–2).	800	1.94	1,550	0.83	[8] 1,300
516E	NAESB Version 4	216	1	216	6	1,296
516H	Compliance Filing—Transmission Providers (One-Time).	40	1	40	4	160
917	RM21–17: Revise the regional transmission planning process—Right-sizing transmission (with OATT) (Ongoing)).	48	1	48	120	5,760
917	RM21–17: Evaluating Alternative Transmission Technologies (with OATT).	48	1	48	100	4,800
917	RM21–17–001: Requirement for transmission providers to consult with states prior to amendment of cost allocation methods on file with the Commission (ongoing).	48	1	48	39	1,872
917	RM21–17: Consider in the regional transmission planning processes regional transmission facilities that address certain interconnection-related needs.	48	1	48	50	2,400

Previous FERC Form	Title	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden per response (4)	Total annual burden hours (3) * (4) = (5)
917	RM21–17: Sharing Information between planning regions.	48	1	48	25	1,200
917	RM21–17: Revise the regional transmission planning process—Right-sizing transmission (with OATT) (One-time).	48	1	48	30	1,440
917	RM21–17: Participate in Long-Term Regional Transmission Planning (Without OATT)).	77	1	77	202	15,554
917	RM21–17: Evaluating Alternative Transmission Technologies (without OATT).	77	1	77	20	1,540
917	RM21–17: Revise the regional transmission planning process—Right-sizing transmission (without OATT) (One-Time)).	77	1	77	20	1,540
917	RM21–17: Revise the regional transmission planning process—Right-sizing transmission (without OATT) (Ongoing).	77	1	77	40	3,080
919	Order 860A Upstream Affiliates	440	1	440	46	20,240
919	Relational Database: Order 860–A Category 1-(Ongoing).	1,000	0.33	333	2.44	[9] 814
919	Relational Database: Order 860–A Category 2 (Ongoing).	1,500	1	1,500	[10] 4.1	6,154
Total				7,379		84,884

Compliance Filings Category—Regional Planning With OATT—Previous Information Collection Activities

Previous FERC Form	Title	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden per response (4)	Total annual burden hours (3) * (4) = (5)
917	FERC–917, Non-discriminatory Open Access Transmission Tariff.	162	1	162	576	93,312
917	RM21–17: Revise OATT to comply with regional transmission planning process (One-Time)).	48	1	48	770	36,960
917	RM21–17: Participate in Long-Term Regional Transmission Planning (With OATT)).	48	1	48	4,995	239,760
Total				258		370,032

Information Sharing Requirements Category

FERC's electric tariff information sharing requirements apply primarily to RTOs and ISOs, which must share credit related information with one another so they can accurately assess market participants' credit exposure and respond quickly to credit events. The rule does not require entities to submit this information to FERC; instead, each RTO/ISO must maintain tariff provisions that enable information sharing and then facilitate that sharing according to its own processes. This includes the requirement that public utilities must operate an OASIS site, which provides all transmission customers with equal and timely access to information about transmission availability, prices, and terms of service and ensures transparency and nondiscriminatory access.

Information Sharing Requirements Category—Previous Information Collection Activities

[6] Rounded. The total previous burden is 704 hours.

[7] Rounded. The total previous burden is 12,630 hours.

[8] Rounded. The total previous burden is 1,300 hours.

[9] Rounded. The total previous burden is 814 hours.

[10] Rounded. The total previous burden is 6,154 hours.

Previous FERC Form	Title	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden per response (4)	Total annual burden hours (3) * (4) = (5)
516	Demand Response, RM10–17 (Ongoing Filing).	6	12	72	50	3,600
516	Variable Energy Resource Integration Rule, RM10–11 (Ongoing Filing, Voluntary).	162	2	324	30	9,720
516	Variable Energy Resource Integration Rule, RM10–11 (Ongoing Filing, Mandatory).	294	2	588	31	18,228
516H	Transmission owners update forecasts and ratings, and share transmission line ratings and facilities ratings methodologies w/ transmission providers, RTOs/ISOs & market monitors (Year 1 and ongoing).	289	1	289	176	50,864
717	Open Access Same-Time Information System (OASIS).	216	1	216	30	6,480
917	Information to be Posted on the OASIS and Auditing Transmission Service Information (Standards).	162	1	162	421	68,202
Total				1,651		157,094

Removed Information Collection Activities

Information collection activities are removed when the underlying regulatory obligations have already been fully completed, or when later rules or policy updates render those activities unnecessary or obsolete. FERC regularly reviews information collections to identify those that have been overtaken by regulatory updates, superseded by newer requirements, or are no longer needed for oversight.

Previous FERC Form	Title	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden per response[11] (4)	Total annual burden hours (3) * (4) = (5)
516	Reform of Generator Interconnection Procedures and Agreements, RM17–8, Non-RTO/ISO (Ongoing Filing).	162	4	648	4	2,592
516	Reform of Generator Interconnection Procedures and Agreements, RM17–8, RTO/ISO (Ongoing Filing).	6	4	24	4	96
516	Updates to Interconnection Procedures and Agreements per Final Rule RM22–14 (One-Time).	44	7	308	32.95	[12] 10,149
516	Compliance Filing (FR RM22–2) ..	43	1	43	4	172
516	Essential Reliability Services and the Evolving Bulk-Power System—Primary Frequency Response, RM16–6 (Ongoing Filing).	74	1	74	10	740
516A	Compliance Filing (FR RM22–2) ..	43	1	43	4	172
516A	Interconnection Reforms_RM22–14_Alternative Technologies (One-Time).	44	1	44	29.33	[13] 1,291
516A	Update Interconnection Procedures and Agreements (Rehearing Order RM22–14).	44	2	88	1	88

Previous FERC Form	Title	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden per response[11] (4)	Total annual burden hours (3) * (4) = (5)
917	RM21–17: Seek agreement from the states to establish a Long-Term Regional Transmission Cost Allocation Method and/or a State Agreement Process (Year 1).	48	1	48	390	18,720
Total	.....	.....	.....	1,320	.....	34,020

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: August 25, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–17630 Filed 8–27–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL26–90–000.

Applicants: CBRE Investment Management Infrastructure Inc.

Description: Supplement to 07/14/2026 Petition for Declaratory Order of CBRE Investment Management Infrastructure Inc.

Filed Date: 8/25/26.

Accession Number: 20260825–5050.

Comment Date: 5 p.m. ET 9/9/26.

Take notice that the Commission received the following Electric Rate filings:

Docket Numbers: ER26–3091–001.

Applicants: Municipal Prepaid Energy 3, LLC.

Description: Tariff Amendment: Response to Deficiency Letter to be effective 9/1/2026.

Filed Date: 8/25/26.

Accession Number: 20260825–5160.

Comment Date: 5 p.m. ET 9/15/26.

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 25, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–17634 Filed 8–27–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26–549–000]

ETC Tiger Pipeline, LLC; Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Franklin Farms Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document that will discuss the environmental impacts of the Franklin Farms Project involving construction and operation of natural gas facilities by ETC Tiger Pipeline, LLC (ETC Tiger) in Richland Parish, Louisiana. The Commission will use this environmental document in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the project. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues. Additional information about the Commission's NEPA process is described below in the *NEPA Process and Environmental Document* section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document. To ensure that your comments are timely and

[11] These Average Burden Hours estimates are rounded based on previously approved Total Burden Hours and respondents. The Total Annual Burden Hours reflect the already approved levels.

[12] Rounded.

[13] Rounded.

properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on September 24, 2026. Comments may be submitted in written form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the environmental document. Commission staff will consider all written comments during the preparation of the environmental document.

If you submitted comments on this project to the Commission before the opening of this docket on July 1, 2026, you will need to file those comments in Docket No. CP26–549–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not subsequently grant, exercise, or oversee the exercise of that eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

ETC Tiger provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (*www.ferc.gov*) under the Natural Gas, Landowner Topics link.

Public Participation

There are three methods you can use to submit your comments to the Commission. Please carefully follow these instructions so that your comments are properly recorded. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the eComment feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is also 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 will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP26–549–000) 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, MD 20852.

Additionally, the Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

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.*

Summary of the Proposed Project

ETC Tiger states that the proposed project would supply natural gas to Entergy Louisiana, LLC's new Combined Cycle Combustion Turbine generating facilities which would be utilized for power generation to support a new data center campus in Richland Parish, Louisiana. As such, ETC Tiger is proposing to construct and operate the following facilities:

- approximately 13.2 miles of new 36-inch-diameter greenfield pipeline (Franklin Farms Lateral);
- approximately 1.75 miles of 20-inch-diameter pipeline lateral (Franklin Farms Trio Farm Lateral);
- the Franklin Farms, Bee Bayou, and Trio Farm Delivery Meter Stations;
- the Midcontinent Express, Gulf South, and Gulf Crossing Receipt Meter Stations and the Gulf Run Bi-directional Meter Station;
- the Franklin Farms Interconnect; and
- three new mainline valves and other related appurtenant facilities.

ETC Tiger states that the project would provide 250,000 dekatherms per day of firm transportation service mainline capacity and 1,000,000 dekatherms per day of capacity on a newly constructed lateral for power generation to serve the Richland Parish Data Center.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 250 acres of land for the aboveground facilities and the pipelines. Following construction, ETC Tiger would maintain about 107 acres for permanent operation of the project's facilities; the remaining acreage would be restored and reverted to former uses.

NEPA Process and the Environmental Document

Any environmental document issued by the Commission will discuss effects that could occur as a result of the construction and operation of the proposed project under the relevant general resource areas:

- geology and soils;
- water resources and wetlands;

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary.'' For instructions on connecting to eLibrary, refer to the last page of this notice. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- air quality and noise; and
- reliability and safety.

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project and make recommendations on how to lessen or avoid effects on the various resource areas. Your comments will help Commission staff identify and focus on the issues that might have an effect on the human environment and potentially eliminate others from further study and discussion in the environmental document.

Following this scoping period, Commission staff will determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or the EIS will present Commission staff's independent analysis of the issues. If Commission staff prepares an EA, a *Notice of Schedule for the Preparation of an Environmental Assessment* will be issued. The EA may be issued for an allotted public comment period. The Commission would consider timely comments on the EA before making its decision regarding the proposed project. If Commission staff prepares an EIS, a *Notice of Intent to Prepare an EIS/ Notice of Schedule* will be issued, which will open an additional comment period. Staff will then prepare a draft EIS, which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary [2] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the environmental document is issued.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the environmental document.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the *Public Participation* section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] The environmental document for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes, state, and local government representatives and agencies; elected officials; Native American Tribes; Alaska Native Corporations, environmental and public interest groups; other interested parties; local libraries; and media outlets. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number CP26–549–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached ''Mailing List Update Form'' (appendix 2).

Additional Information

Additional information about the project is available from the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

(Authority: 18 CFR 2.1)

Dated: August 25, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–17631 Filed 8–27–26; 8:45 am]

BILLING CODE 6717–01–P

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] Cooperating agency responsibilities are addressed in Section 107(a)(3) of NEPA (42 U.S.C. 4336(a)(3)).

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26–547–000]

Gulf South Pipeline Company, LLC;

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Texas Gateway Project, Request for Comments on Environmental Issues, and Schedule for Environmental Review

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental effects of the Texas Gateway Project involving construction and operation of facilities by Gulf South Pipeline Company, LLC (Gulf South) in Panola, Shelby, San Augustine, Sabine, Jasper, Newton, and San Jacinto counties, Texas, and Beauregard Parish,

Louisiana.[1] The Commission will use this EIS in its decision-making process to determine whether the project is in the public convenience and necessity. The schedule for preparation of the EIS is discussed in the *Schedule for Environmental Review* section of this notice.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the project. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental effects that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity/ authorization. This gathering of public input is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues. Additional information about the Commission's NEPA process is described below in the *NEPA Process and the EIS* section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document, including comments on potential alternatives and effects, and any relevant information, studies, or analyses of any kind concerning effects affecting the quality of the human environment. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on September 24, 2026. Comments may be submitted in written form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not grant, exercise, or oversee the exercise of eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

Gulf South provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (*www.ferc.gov*) under the Natural Gas, Landowner Topics link.

Public Participation

There are three methods you can use to submit 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, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is located 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 will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP26–547–000) 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, MD 20852.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Summary of the Proposed Project, the Project Purpose and Need, and Expected Effects

Gulf South proposes to construct and operate the Texas Gateway Project which will comprise approximately 154 miles of new natural gas pipelines and associated metering and compression facilities in east Texas and southwest Louisiana. Gulf South also proposes to construct a new compressor station along its existing Index 129 Legacy System in San Jacinto County, Texas and expand two existing compressor stations located along the new pipeline route. Overall, the project will allow Gulf South to transport approximately 1.8 billion cubic feet per day of natural gas from existing facilities in Carthage, Texas to delivery points in southeast Texas and southwest Louisiana.

According to Gulf South, its project would support liquefied natural gas (LNG), industrial, and utility demand by connecting shippers to diverse natural gas supplies from the Permian, Eagle Ford, and Haynesville basins. The project would enhance system reliability, supply security, flow assurance, and long-term economic development in southwest Louisiana and southeast Texas by linking these production areas to the growing market centers in southeast Texas and southwestern Louisiana, including LNG export facilities located near the Gillis Hub and surrounding Gulf Coast Region.

The Texas Gateway Project would consist of the following facilities:

- a new 154-mile-long natural gas pipeline comprised of 36-inch- and 42-inch-diameter pipe segments, in Panola, Shelby, San Augustine, Sabine, Jasper, Newton, and San Jacinto counties, Texas, and Beauregard Parish, Louisiana;
- three new delivery meter and regulator stations;
- a new 13,410-horsepower compressor station (the Cleveland Compressor Station [CS]) along Gulf South's existing Index 129 Legacy System in San Jacinto County, Texas;
- expansion of compressor capacity at the existing Carthage Junction CS in Panola County, Texas and the existing Magasco CS in Sabine County, Texas; and

[1] For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EISX–019–20–000–1786695591.

• a new bi-directional check meter and regulator station at the Carthage Junction CS in Panora County, Texas.

The general location of the project facilities is shown in appendix 1.[2]

Construction of the proposed facilities would disturb about 2,970 acres of land for the above ground facilities and the pipeline. Following construction, Gulf South would maintain about 991 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses. About 44 percent of the proposed pipeline route parallels existing pipeline, utility, or road rights-of-way.

Based on an initial review of Gulf South's proposal, Commission staff have identified several expected effects that deserve attention in the EIS. These include effects from waterbody crossings, including two designated Scenic Rivers; effects to wetlands, including permanent conversion of about 29 acres of forested wetland to emergent wetland; crossing federally managed land, including a designated Wildlife Management Area; crossing the El Camino Real de los Tejas Historic Trail, crossing private land managed under a conservation easement; and potential effects to designated Critical Habitat for species listed under the Endangered Species Act.

The NEPA Process and the EIS

The EIS issued by the Commission will discuss effects that could occur as a result of the construction and operation of the proposed project under the relevant general resource areas:

- geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- socioeconomics;
- air quality and noise; and
- reliability and safety.

Commission staff will also make recommendations on how to lessen or avoid effects on the various resource areas. Your comments will help Commission staff focus its analysis on the issues that may have a significant effect on the human environment.

The EIS will present Commission staff's independent analysis of the issues. The following are cooperating agencies in the preparation of the EIS:[3] the U.S. Army Corps of Engineers; U.S. Bureau of Land Management; U.S. Forest Service; U.S. Fish and Wildlife Service; and the U.S. Environmental Protection Agency.

Staff will prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any draft and final EIS will be available in electronic format in the public record through eLibrary[4] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the environmental document is issued.

Alternatives Under Consideration

The EIS will evaluate reasonable alternatives that are technically and economically feasible and meet the purpose and need for the proposed action. Alternatives currently under consideration include:

- the no-action alternative, meaning the project is not implemented;
- pipeline route alternatives, including minor deviations;
- aboveground facility site alternatives; and
- compression alternatives.

With this notice, the Commission requests specific comments regarding any additional potential alternatives to the proposed action or segments of the proposed action. Please focus your comments on reasonable alternatives (including alternative facility sites and pipeline routes) that meet the project objectives, are technically and economically feasible, and avoid or lessen environmental effects.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Offices, and other government agencies, interested Indian tribes, and the public to solicit their views and concerns regarding the project's potential effects on historic properties.[5] The project EIS will document findings on the effects on historic properties and summarize the status of consultations under section 106.

Schedule for Environmental Review

On July 15, 2026, the Commission issued its Notice of Application for the project. Among other things, that notice alerted other agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on the request for a federal authorization within 90 days of the date of issuance of the Commission staff's final EIS for the project. We developed this schedule based on a thorough review of the relevant factors, including the size and greenfield nature of the project, the absence of pre-filing review, and the need to allot adequate time for coordination with cooperating agencies. This notice identifies the Commission staff's planned schedule for completion of the final EIS for the project, which is based on an issuance of the draft EIS in April 2027, opening a 45-day comment period.

Issuance of Notice of Availability of the final EIS—September 24, 2027

90-day Federal Authorization Decision Deadline[6]—December 23, 2027

In accordance with Title 41 of the Fixing America's Surface Transportation Act, agencies are to publish completion dates for all federal environmental reviews and authorizations. This notice identifies the Commission's anticipated schedule for issuance of the final order for the project, which is based on the anticipated issuance date for the final EIS. We currently anticipate issuing a final order for the project no later than:

Issuance of Final Order—December 16, 2027

If a schedule change becomes necessary, an additional notice will be provided so that the relevant agencies are kept informed of the project's progress.

[2] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary.'' For instructions on connecting to eLibrary, refer to the last page of this notice. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

[3] Cooperating agency responsibilities are addressed in Section 107(a)(3) of NEPA (42 U.S.C. 4336(a)(3)).

[4] For instructions on connecting to eLibrary, refer to the last page of this notice.

[5] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

[6] The Commission's deadline applies to the decisions of other federal agencies, and state agencies acting under federally delegated authority, that are responsible for federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per Title 18 Code of Federal Regulations 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by federal law.

Permits and Authorizations

The table below lists the anticipated permits and authorizations for the project required under federal law. This list may not be all-inclusive and does not preclude any permit or authorization if it is not listed here. Agencies with jurisdiction by law and/or special expertise may formally cooperate in the preparation of the Commission's EIS and may adopt the EIS to satisfy its NEPA responsibilities related to this project. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the *Public Participation* section of this notice.

Agency	Permit
Federal Energy Regulatory Commission	Certificate of Public Convenience and Necessity.
U.S. Bureau of Land Management	Right-of-way Grant.
U.S. Fish and Wildlife Service, Texas Coastal and Central Plains Ecological Services Field Office.	Section 7 of the Endangered Species Act, Threatened and Endangered Species Consultation.
U.S. Fish and Wildlife Service, Louisiana Ecological Services Field Office.	Section 7 of the Endangered Species Act, Threatened and Endangered Species Consultation.
U.S. Army Corps of Engineers, Galveston District	Section 404 Clean Water Act/Section 10 Rivers and Harbors Act—Individual Permit.
U.S. Army Corps of Engineers, Fort Worth District	Section 404 Clean Water Act—Nationwide Permit 12.
U.S. Army Corps of Engineers, New Orleans District	Section 404 Clean Water Act/Section 10 Rivers and Harbors Act—Individual Permit.
U.S. Forest Service	Archaeological Resource Protection Act Permit.
U.S. Forest Service	SF–299 Survey Permit.
Railroad Commission of Texas	Individual Section 401 Water Quality Certification.
Railroad Commission of Texas	Hydrostatic Test Discharge Permit.
Railroad Commission of Texas	Landfarming Permit.
Texas Commission on Environmental Quality	General Permit to Discharge Hydrostatic Test Water (TXG670000).
Texas Commission on Environmental Quality	Temporary Water Rights Permit.
Texas Commission on Environmental Quality	Permit-by-Rule Air Authorization.
Texas Parks and Wildlife Department	State Threatened and Endangered Species Consultation/Clearance.
Advisory Council on Historic Preservation/Texas Historical Commission	Section 106 of the National Historic Preservation Act.
Louisiana Department of Environmental Quality	Individual Section 401 Water Quality Certification.
Louisiana Department of Environmental Quality	Hydrostatic Water Discharge General Permit (LAG670000).
Louisiana Department of Wildlife and Fisheries	State Threatened and Endangered Species Clearance.
Louisiana Department of Wildlife and Fisheries	Louisiana State Scenic River Permit.
Louisiana State Historic Preservation Office	Section 106 of the National Historic Preservation Act.

Environmental Mailing List

This notice is being sent to the Commission's current environmental mailing list for the project which includes federal, state, and local government representatives and agencies; local police departments and police juries; local fire departments and districts; local learning institutions; elected officials; Native American Tribes; environmental and public interest groups; other interested parties; and local libraries and media outlets. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you need to make changes to your name/address, or if you would like to remove your name from themailing list, please complete one of the following steps:

(1) Send an email to GasProjectAddressChange@ferc.gov stating your request. You must include the docket number CP26–547–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached ''Mailing List Update Form'' (appendix 2).

Additional Information

Additional information about the project is available on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.,* CP26–547). Be sure you have selected an appropriate date range. For assistance with eLibrary, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Additionally, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

(Authority: 18 CFR 2.1)

Dated: August 25, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–17632 Filed 8–27–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e) (1) (v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. Each filing may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket Nos.	File date	Presenter or requester
Prohibited:		
NONE.		
Exempt:		
1. P–14787–004	08–13–2026	FERC Staff.[1]
2. EC26–131–000	08–13–2026	FERC Staff.[2]
3. EL26–66–000	08–14–2026	Senator Richard Blumenthal.
4. P–3267–021	08–24–2026	FERC Staff.[3]

[1] Memorandum regarding email correspondence from U.S. Fish and Wildlife.
[2] Letter communication dated 8/10/26 from Senator Edward J. Markey.
[3] Emailed communication from individual Lisa Chan.

Dated: August 25, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–17629 Filed 8–27–26; 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: PR26–78–000.

Applicants: Delta North Louisiana Gas Company, LLC.

Description: § 284.123(g) Rate Filing: Delta North Amended SOC to be effective 8/3/2026.

Filed Date: 8/24/26.

Accession Number: 20260824–5109.

Comment Date: 5 p.m. ET 9/14/26.

§ 284.123(g) Protest: 5 p.m. ET 10/23/26.

Docket Numbers: RP26–1070–000.

Applicants: Calpine Energy Services, L.P., Calpine Hidalgo Energy Center, L.P., Granite Ridge Energy, LLC, Constellation Energy Generation, LLC.

Description: Joint Petition for Limited Waiver of Capacity Release Regulations, et al. of Calpine Energy Services, L.P., et al.

Filed Date: 8/21/26.

Accession Number: 20260821–5328.

Comment Date: 5 p.m. ET 9/2/26.

Docket Numbers: RP26–1074–000.

Applicants: National Fuel Gas Supply Corporation.

Description: Compliance filing: National Fuel NAESB CF (Order No. 587–AB) to be effective 1/1/2027.

Filed Date: 8/24/26.

Accession Number: 20260824–5079.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: RP26–1075–000.

Applicants: Empire Pipeline, Inc.

Description: Compliance filing: Empire NAESB v4 (Order 587–AB) CF to be effective 1/1/2027.

Filed Date: 8/24/26.

Accession Number: 20260824–5091.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: RP26–1076–000.

Applicants: BP Energy Company, Dynegy Marketing and Trade, LLC.

Description: Joint Petition for Approval of Settlement of BP Energy Company et al.

Filed Date: 8/24/26.

Accession Number: 20260824–5145.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: RP26–1077–000.

Applicants: Southwest Gas Storage Company.

Description: Compliance filing: NAESB 4.0 Revisions Compliance to be effective 1/1/2027.

Filed Date: 8/25/26.

Accession Number: 20260825–5038.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: RP26–1078–000.

Applicants: Columbia Gas Transmission, LLC.

Description: Compliance filing: NAESB—4.0 Revision Compliance to be effective 1/1/2027.

Filed Date: 8/25/26.

Accession Number: 20260825–5039.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: RP26–1079–000.

Applicants: Blue Lake Gas Storage Company.

Description: Compliance filing: NAESB—4.0 Revision Compliance to be effective 1/1/2027.

Filed Date: 8/25/26.
Accession Number: 20260825–5040.
Comment Date: 5 p.m. ET 9/8/26.
Docket Numbers: RP26–1080–000.
Applicants: Sea Robin Pipeline Company, LLC.
Description: Compliance filing: NAESB 4.0 Revisions Compliance to be effective 1/1/2027.
Filed Date: 8/25/26.
Accession Number: 20260825–5041.
Comment Date: 5 p.m. ET 9/8/26.
Docket Numbers: RP26–1081–000.
Applicants: Great Lakes Gas Transmission Limited Partnership.
Description: Compliance filing: NAESB—4.0 Revision Compliance to be effective 1/1/2027.
Filed Date: 8/25/26.
Accession Number: 20260825–5046.
Comment Date: 5 p.m. ET 9/8/26.
Docket Numbers: RP26–1082–000.
Applicants: Columbia Gulf Transmission, LLC.
Description: Compliance filing: NAESB—4.0 Revision Compliance to be effective 1/1/2027.
Filed Date: 8/25/26.
Accession Number: 20260825–5049.
Comment Date: 5 p.m. ET 9/8/26.
Docket Numbers: RP26–1083–000.
Applicants: Northern Border Pipeline Company.
Description: Compliance filing: NAESB—4.0 Revision Compliance to be effective 1/1/2027.
Filed Date: 8/25/26.
Accession Number: 20260825–5051.
Comment Date: 5 p.m. ET 9/8/26.
Docket Numbers: RP26–1084–000.
Applicants: ANR Pipeline Company.
Description: Compliance filing: NAESB—4.0 Revision Compliance to be effective 1/1/2027.
Filed Date: 8/25/26.
Accession Number: 20260825–5053.
Comment Date: 5 p.m. ET 9/8/26.
Docket Numbers: RP26–1085–000.
Applicants: Gas Transmission Northwest LLC.
Description: Compliance filing: NAESB—4.0 Revision Compliance to be effective 1/1/2027.
Filed Date: 8/25/26.
Accession Number: 20260825–5055.
Comment Date: 5 p.m. ET 9/8/26.
Docket Numbers: RP26–1086–000.
Applicants: Tuscarora Gas Transmission Company.
Description: Compliance filing: NAESB—4.0 Revision Compliance to be effective 1/1/2027.
Filed Date: 8/25/26.
Accession Number: 20260825–5061.
Comment Date: 5 p.m. ET 9/8/26.
Docket Numbers: RP26–1087–000.
Applicants: Crossroads Pipeline Company LLC.
Description: Compliance filing: NAESB 4.0 Revision Compliance to be effective 1/1/2027.
Filed Date: 8/25/26.
Accession Number: 20260825–5064.
Comment Date: 5 p.m. ET 9/8/26.
Docket Numbers: RP26–1088–000.
Applicants: ANR Storage Company.
Description: Compliance filing: NAESB—4.0 Revision Compliance to be effective 1/1/2027.
Filed Date: 8/25/26.
Accession Number: 20260825–5067.
Comment Date: 5 p.m. ET 9/8/26.
Docket Numbers: RP26–1089–000.
Applicants: Bison Pipeline LLC.
Description: Compliance filing: NAESB—4.0 Revision Compliance to be effective 1/1/2027.
Filed Date: 8/25/26.
Accession Number: 20260825–5071.
Comment Date: 5 p.m. ET 9/8/26.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov*.

Dated: August 25, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–17633 Filed 8–27–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14796–002]

GreenGenStorage, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major Original License.

b. *Project No.:* 14796–002.

c. *Date filed:* March 14, 2025.

d. *Applicant:* GreenGenStorage, LLC (GreenGen).

e. *Name of Project:* Mokelumne Pumped Storage Project (Mokelumne Project or project).

f. *Location:* The proposed project would be located near the town of Jackson, in Amador and Calaveras counties, California. The project would occupy 85.7 acres of federal land administered by the US Forest Service.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Nicholas Sher, GreenGenStorage, LLC, 4900 Shattuck Avenue, P.O. Box 3833, Oakland, CA 94609; (209) 217–1425; email: *nicholas@greengenstorage.com.*

i. *FERC Contact:* Rebecca Kipp at (202) 502–8846 or *rebecca.kipp@ferc.gov.*

j. *Deadline for filing motions to intervene and protests:* on or before 5:00 p.m. Eastern Time on October 26, 2026. Reply comments are due: on or before 5:00 p.m. Eastern Time on December 8, 2026.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 10,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx*. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy

Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Mokelumne Pumped Storage Project (P–14796–002).

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing but is not ready for environmental analysis at this time.

l. The proposed Mokelumne Pumped Storage Project would utilize the existing Pacific Gas and Electric's (PG&E) reservoirs licensed under Mokelumne River Project No. 137 with the following: (1) a 979-foot-long, 253-foot-high concrete faced rock filled dam and an 865-foot-long, 149-foot-high concrete faced rock filled dam impounding a 52,025-acre-foot Lower Bear River Reservoir (LBRR) to be used as the upper reservoir; (2) a 1,257-foot long and 332-foot high concrete faced, rock filled dam impounding a 141,600-acre-foot Salt Spring Reservoir (SSR) to be used as the lower reservoir;

The proposed project would consist of the following: (1) an upper reservoir with a submerged screened lake tap within the LBRR with a 100-foot diameter, 30-foot high intake riser at an elevation of 5,680.3 feet NAVD88, a 50-foot diameter intake lake tap at an elevation of 5,680.3 feet NAVD88 with a 23-foot by 23-foot fixed wheel gate and 23-foot by 23-foot stoplogs; (2) a lower reservoir (SSR) with a submerged screened lake tap with an 80-foot diameter, 30-foot high intake riser at an elevation of 3,693.5 feet NAVD88, a 40-foot diameter intake lake tap at an elevation of 3,693.5 feet NAVD88, and a 22-foot butterfly valve for the lower intake; (3) a 10,700-foot long, 22-foot-diameter low pressure headrace tunnel (tunnel 1); (4) a 1560-foot-long, 22-foot diameter pressure shaft with a 550-foot-long, 30-foot diameter surge shaft daylighting on the surface; (5) a 4,700-foot long, 22-foot diameter pressurized water conveyance system (tunnel 2); (6) a 260-foot long, 70-foot wide, 163-foot high underground cavern containing two reversible Francis turbines with a spare bay for the potential installation of a third unit in the future with a total generating capacity of 400 megawatts; (7) a 2,200-foot long, 22-foot diameter low pressure tailrace (tunnel 3); (8) a 4,100-foot-long, 18-foot diameter utility tunnel that would transmit power to the 230-kilovolt switchyard serving as the interconnection point with the existing Salt Springs substation; and (9) appurtenant facilities.

m. A copy of the application is available for review via the internet through the Commission's Home Page (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

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.*

n. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE,'' ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' or ''COMPETING APPLICATION;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: August 25, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–17628 Filed 8–27–26; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OPRM–FAD–237]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–993–3272 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed August 17, 2026 10 a.m. EST Through August 24, 2026 10 a.m. EST

Pursuant to CEQ Guidance on 42 U.S.C. 4332.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search.*

EIS No. 20260104, Draft, USAF, GA, F–35A Beddown at Moody Air Force Base, Georgia, Comment Period Ends: 09/28/2026, Contact: Grace Keesling 229–257–4146.

EIS No. 20260105, Final, USDA, ND, Upper Maple River Watershed Plan, Review Period Ends: 09/30/2026, Contact: Nicholas Reynolds 701–530–2055.

EIS No. 20260106, Final, MARAD, DOE, MT, North Plains Connector Project, Contact: Steven Smith 240–449–5716.

EIS No. 20260108, Final, NASA, CA, Berkeley Space Center at NASA Research Park, Contact: Andres Estrada 650–224–8532.

Dated: August 24, 2026.

Nancy Abrams,

Deputy Director, Federal Activities Division.

[FR Doc. 2026–17606 Filed 8–27–26; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2026–N–9]

Privacy Act of 1974; System of Records

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, (Privacy Act), the Federal Housing Finance Agency (FHFA or Agency) is proposing to modify an existing system of records titled, ''Employee Benefits Records, FHFA–10.'' This system of records contains documentation pertaining to current and former FHFA employees and their spouses, domestic partners, dependents, and beneficiaries who are enrolled in, apply for, or participate in any FHFA employee benefits program including health club memberships; health, life, and other insurance programs; retirement savings programs; and other FHFA-sponsored benefit programs. The purpose of the system is to collect, maintain, and use the records necessary to administer and manage FHFA's employee benefits programs. The system supports the full lifecycle of benefits-related activities, and ensures the accurate processing of claims, reimbursements, contributions, payroll deductions, and benefit payments. The system also facilitates the recording and tracking of key program functions, including eligibility determinations, enrollments, changes in coverage, and termination of benefits. The proposed modifications include: revising the system security classification, system location, system manager, legal authorities for maintenance of the system, categories of individuals covered by the system, categories of records maintained in the system, and record source categories; the revision, removal, and addition of routine uses; removal of the Disclosure to Consumer Reporting Agencies section; updating the policies and practices for storage of records, the policies and practices for retention and disposal of records, and the administrative, technical, and physical safeguards; and minor updates for clarity and consistency.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this modified system of records will go into effect without further notice on August 28, 2026, unless otherwise revised pursuant to comments received. New routine uses will go into effect on September 28, 2026. Comments must be received on or before September 28, 2026. FHFA will publish a new notice if the effective date is delayed for the Agency to review the comments or if changes are made based on comments received.

ADDRESSES: Submit comments to FHFA, identified by ''No. 2026–N–9,'' using any one of the following methods:

- *Agency Website: https://www.fhfa.gov/regulation/federal-register?comments=open.*
- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comments to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Please include ''Comments/No. 2026–N–9'' in the subject line of the message.
- *Hand Delivered/Courier:* The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/No. 2026–N–9, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. The package should be delivered to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m., EST.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* Themailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/No. 2026–N–9, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.*

See **SUPPLEMENTARY INFORMATION** for additional information on submission and posting of comments.

FOR FURTHER INFORMATION CONTACT: Senior Agency Official for Privacy, *privacy@fhfa.gov* or (202) 649–3803 (not a toll-free number), Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to the contact number above.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA seeks public comments on the revisions to the SORN identified in this notice and will take all comments into consideration. The Agency will post all public comments, including any personally identifiable information such as name and contact information, on the FHFA public website at *https://www.fhfa.gov,* except as described below. Commenters should submit only information that the commenter wishes to make available publicly. FHFA will not redact personally identifiable information once it is submitted. Commenters who do not wish to be identified by their comments may submit their comments anonymously. FHFA may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. FHFA may, in its discretion, redact or refrain from posting all or any portion of any comment that contains content that is obscene, vulgar, profane, or threatens harm. All comments, including those that are redacted or not posted, will be retained in their original form in FHFA's internal file and considered as required by all applicable laws. Commenters who would like FHFA to consider any portion of their comment exempt from disclosure on the basis that it contains trade secrets, or financial, confidential or proprietary data or information, should follow the procedures in section IV.D. of FHFA's *Policy on Communications with Outside Parties in Connection with FHFA Rulemakings, see https://www.fhfa.gov/sites/default/files/documents/Ex-Parte-Communications-Public-Policy_3-5-19.pdf.* FHFA cannot guarantee that such data or information will remain confidential if disclosure is sought pursuant to an applicable statute or regulation. See 12 CFR 1202.8, 12 CFR 1214.2, and FHFA's *FOIA Reference Guide* at *https://www.fhfa.gov/about/foia-reference-guide* for additional information.

II. Introduction

This notice informs the public of FHFA's proposed revisions to an existing system of records. This notice satisfies the Privacy Act requirement that an agency publish a system of records notice in the **Federal Register** when there is an addition or change to an agency's system of records. As required by the Privacy Act, 5 U.S.C. 552a(r), and pursuant to section 7 of Office of Management and Budget

(OMB) Circular No. A–108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,* prior to publication of this notice, FHFA submitted a report describing the system of records covered by this notice to the OMB, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.

III. Revised System of Records

The revised system of records notice is set out in its entirety and described in detail below. The proposed modification to ''Employee Benefits Records, FHFA–10'' makes the following substantive and non-substantive changes:

(1) Modifies the system's security classification consistent with OMB guidance;

(2) Revises the Agency's official address and adds references to FHFA-authorized service providers and contractor networks in the system location;

(3) Updates the contact information for the designated system manager;

(4) Revises the legal authorities for maintaining the system;

(5) Clarifies the system's purpose by detailing how the records support the administration and management of the program;

(6) Clarifies that the categories of individuals covered in the system include beneficiaries and expounds upon applicable employee benefit programs;

(7) Updates the categories of records maintained in the system by removing references to employees' emergency contact information and including beneficiaries and retirement savings contribution information;

(8) Updates the record source categories to include relevant Federal agencies and FHFA benefits providers;

(9) Revises existing routine use (1), which provides for disclosures ''[t]o appropriate federal, state, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto'' and renumbers it new routine use (3);

(10) Revises existing routine use (2), which provides for disclosure ''[t]o a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when FHFA is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary'' by dividing that routine use into new routine use (7), which provides for disclosure ''[t]o a court, magistrate, or administrative tribunal, including disclosures to opposing counsel or witnesses shared in the course of discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction if the requested information is relevant and necessary to the pending judicial or administrative proceeding'' and new routine use (10), which provides for disclosure ''[t]o outside counsel contracted by FHFA, DOJ (including United States Attorney Offices), or other Federal agencies conducting litigation or in proceedings before any court, or adjudicative or administrative body, when it is relevant and necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation: (a) FHFA; (b) Any employee of FHFA in his/her official capacity; (c) Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or (d) The United States or any agency thereof that is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation'';

(11) Revises existing routine use (4), which provides for disclosure ''[t]o appropriate federal, state, local authorities, and other entities when (a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FHFA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FHFA or another agency or entity) that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with FHFA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm,'' by dividing that routine use into new routine use (1), which provides for disclosure ''[t]o appropriate agencies, entities, and persons when—(a) FHFA suspects or has confirmed that there has been a breach of the system of records; (b) FHFA has determined that as a result of a suspected or confirmed breach there is a risk of harm to individuals, FHFA (including its information systems, programs, and operations), the Federal Government, or national security; and (c) The disclosure is made to agencies, entities, and persons as reasonably necessary to assist with FHFA's efforts to: (i) Respond to a suspected or confirmed breach; or (ii) Prevent, minimize, or remedy harm caused by such breach,'' and new routine use (2), which provides for disclosure ''[t]o a Federal agency or Federal entity, when FHFA determines information from the system of records is reasonably necessary to assist the recipient agency or entity in: (a) Responding to a suspected or confirmed breach; or (b) Preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or to national security, resulting from a suspected or confirmed breach'';

(12) Revises existing routine use (7), which provides for disclosure ''[t]o appropriate federal agencies and other public authorities for use in records management inspections'' into new routine use (11), which provides for disclosure ''[t]o the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906'';

(13) Revises existing routine use (9), which provides for disclosure ''[t]o contractor personnel, grantees, volunteers, interns, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government'' into new routine use (5), which provides for disclosure ''[t]o any contractor, agent, or other authorized individual performing work on a contract, service, cooperative agreement, job, or other activity on behalf of FHFA who has a need to access the information in the performance of their official duties or activities'';

(14) Revises existing routine use (10), which provides for disclosure ''[t]o the Department of Agriculture, National Finance Center to provide personnel, payroll, and related services and systems involving FHFA employees'' into new routine use (16), which

provides for disclosure ''[t]o the Department of Interior, to provide personnel, payroll, and related services and systems involving FHFA employees'';

(15) Removes existing routine use (11), which provides for disclosure ''[t]o the Department of Treasury, Bureau of the Public Debt to provide financial management services and systems, including local and temporary duty travel, involving FHFA employees'';

(16) Revises existing routine use (12), which provides for disclosure ''[t]o the Internal Revenue Service and appropriate State and local taxing authorities'' into new routine use (17), which provides for disclosure ''[t]o the Internal Revenue Service and appropriate state and local taxing authorities if the employee is subject to tax by that authority and to the extent necessary for that entity to carry out its legally authorized functions, whether or not tax is withheld'';

(17) Revises existing routine use (13), which provides for disclosure ''[t]o appropriate Federal agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States'' into new routine use (18), which provides for disclosure ''[t]o the U.S. Department of the Treasury, Federal debt collection centers, other appropriate Federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to FHFA or the Federal government. Disclosure will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status, and history of the debt'';

(18) Adds new routine use (4), which provides for disclosure ''[t]o any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe the individual to whom the record is disclosed may have further information about the matters related thereto, and the record appears to be relevant and necessary at the time to the subject matter of the inquiry'';

(19) Adds new routine use (8), which provides for disclosure ''[t]o the Office of Management and Budget, the Department of Justice (DOJ), Department of Labor, Office of Personnel Management, the Equal Employment Opportunity Commission, U.S. Office of Special Counsel Department of Homeland Security, or other Federal agencies, to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records'';

(20) Adds new routine use (9), which provides for disclosure ''[t]o appropriate third parties contracted by FHFA to facilitate mediation or other dispute resolution procedures or programs, where the record is relevant to the dispute and the dispute is related to the purpose for which the record was collected'';

(21) Adds new routine use (12), which provides for disclosure ''[t]o an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is relevant and necessary to such audit or oversight functions'';

(22) Adds new routine use (23), which provides for disclosure ''[t]o the U.S. Department of the Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program in accordance with Executive Order 14249'';

(23) Removes the ''Disclosure to Consumer Reporting Agencies'' category to align with OMB guidance;

(24) Updates the policies and practices for storage of records with FHFA's modernized practices, including use of Federal Records Centers;

(25) Revises the policies and practices for the retention and disposal of records to add the Agency's retention practices related to legal holds and business use of records;

(26) Revises the ''Administrative, Technical, and Physical Safeguards'' category to replace ''access codes'' with ''role-based access controls'' to reflect current practices; and

(27) Makes minor corrections and other administrative updates to the remaining sections of the notice in accordance with OMB Circular A–108 and related OMB guidance.

SYSTEM NAME AND NUMBER:

Employee Benefits Records, FHFA–10.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, and any alternate work site used by employees of FHFA, including contractors assisting agency employees, FHFA-authorized service providers, and FHFA-authorized contractor networks located within the Continental United States.

SYSTEM MANAGER(S):

Chief Human Resource Officer, Office of Human Resources Management, Federal Housing Finance Agency, *benefits@fhfa.gov* 400 Seventh Street SW, Washington, DC 20219.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 4513(a)(2)(B); 12 U.S.C. 4515(a); 5 U.S.C. 7901; 5 U.S.C. Chapter 84; 5 U.S.C. Chapter 87; 5 U.S.C. Chapter 89; 5 U.S.C. Chapter 89A; 5 U.S.C. Chapter 89B; 5 U.S.C. Chapter 90.

PURPOSE(S) OF THE SYSTEM:

The purpose of the system is to collect, maintain, and use records necessary to administer and manage FHFA's employee benefits programs. The system supports the full lifecycle of benefits-related activities for current and former employees, their spouses, domestic partners, dependents, and designated beneficiaries who are enrolled in, apply for, or otherwise participate in Agency-sponsored benefit programs. The system ensures the accurate processing of claims, reimbursements, contributions, payroll deductions, and benefit payments. It also facilitates the recording and tracking of key program functions, including eligibility determinations, enrollments, changes in coverage, and termination of benefits.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers current and former FHFA employees and their spouses, domestic partners, dependents and beneficiaries who are enrolled in, apply for, or participate in one or more of FHFA employee benefit programs including retirement savings, health club memberships, health, life, and other insurance programs, and other FHFA-sponsored benefit programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains general enrollment and claim information for FHFA-sponsored programs. As appropriate to the specific program, records contain salary and earnings; name of employee and employee's spouse, domestic partner, and dependents and their sex, birth date,

home address, contact information (including home phone number, mobile phone number, and personal email address), and Social Security number; beneficiary information including names and dates of birth; membership in professional organizations (including membership number); retirement savings contribution information; health, life, vision, and dental information; claims for reimbursement; student loan information; and related information.

RECORD SOURCE CATEGORIES:

The information is provided by current and former employees, the Office of Human Resources Management, FHFA personnel records, the Office of Personnel Management, the Department of Labor, the Thrift Savings Plan, and vendors who provide benefits services such health, dental, and vision insurance providers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records and information contained therein may specifically be disclosed outside of FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows, to the extent such disclosures are compatible with the purposes for which the information was collected:

(1) To appropriate agencies, entities, and persons when—

(a) FHFA suspects or has confirmed that there has been a breach of the system of records;

(b) FHFA has determined that as a result of a suspected or confirmed breach there is a risk of harm to individuals, FHFA (including its information systems, programs, and operations), the Federal Government, or national security; and

(c) The disclosure is made to agencies, entities, and persons as reasonably necessary to assist with FHFA's efforts to:

(i) Respond to a suspected or confirmed breach; or

(ii) Prevent, minimize, or remedy harm caused by such breach.

(2) To a Federal agency or Federal entity, when FHFA determines information from the system of records is reasonably necessary to assist the recipient agency or entity in:

(a) Responding to a suspected or confirmed breach; or

(b) Preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or to national security, resulting from a suspected or confirmed breach.

(3) When there is an indication of a violation or potential violation of law (whether civil, criminal, or regulatory in nature or whether arising by general statute or particular program statute or by regulation, rule, or order issued pursuant thereto), the relevant records in the system of records may be referred, as a routine use, to the appropriate agency (*e.g.,* federal, state, local, tribal, foreign or a financial regulatory organization) charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, rule, regulation or order issued pursuant thereto.

(4) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe the individual to whom the record is disclosed may have further information about the matters related thereto, and the record appears to be relevant and necessary at the time to the subject matter of the inquiry.

(5) To any contractor, agent, or other authorized individual performing work on a contract, service, cooperative agreement, job, or other activity on behalf of FHFA who has a need to access the information in the performance of their official duties or activities.

(6) To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(7) To a court, magistrate, or administrative tribunal, including disclosures to opposing counsel or witnesses, shared in the course of discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction if the requested information is relevant and necessary to the pending judicial or administrative proceeding.

(8) To the Office of Management and Budget, the Department of Justice (DOJ), Department of Labor, Office of Personnel Management, the Equal Employment Opportunity Commission, U.S. Office of Special Counsel, Department of Homeland Security, or other Federal agencies, to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records.

(9) To appropriate third parties contracted by FHFA to facilitate mediation or other dispute resolution procedures or programs, where the record is relevant to the dispute and the dispute is related to the purpose for which the record was collected.

(10) To outside counsel contracted by FHFA, DOJ (including United States Attorney Offices), or other Federal agencies conducting litigation or in proceedings before any court, or adjudicative or administrative body, when it is relevant and necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

(a) FHFA;

(b) Any employee of FHFA in his/her official capacity;

(c) Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or

(d) The United States or any agency thereof that is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation.

(11) To the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(12) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is relevant and necessary to such audit or oversight functions.

(13) To appropriate federal, state, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit.

(14) To appropriate federal, state, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties.

(15) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

(16) To the Department of Interior, to provide personnel, payroll, and related services and systems involving FHFA employees.

(17) To the Internal Revenue Service and appropriate state and local taxing authorities if the employee is subject to tax by that authority and to the extent necessary for that entity to carry out its

legally authorized functions, whether or not tax is withheld.

(18) To the U.S. Department of the Treasury, Federal debt collection centers, other appropriate Federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to FHFA or the Federal government. Disclosure will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status, and history of the debt.

(19) To the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establish and modify orders of child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act, the Federal Parent Locator System and the Federal Tax Offset System.

(20) To the Office of Child Support Enforcement for release to the Social Security Administration for verifying Social Security numbers in connection with the operation of the Federal Parent Locator System by the Office of Child Support Enforcement.

(21) To the Office of Child Support Enforcement for release to the U.S. Department of the Treasury for purposes of administering the Earned Income Tax Credit Program and verifying a claim with respect to employment in a tax return.

(22) To commercial benefit providers, carriers, vendors, contractor personnel, and agents to process claims and provide related administrative services involving FHFA employees.

(23) To the U.S. Department of the Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program in accordance with Executive Order 14249.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records at FHFA are maintained in electronic format. Electronic records are stored on FHFA's secured network, the networks of FHFA-authorized cloud service providers, FHFA-authorized contractor networks, or the networks of other Federal agencies (or their authorized contractors) acting as shared service providers for FHFA. All networks are located within the Continental United States. All records for the system that were stored in paper format or on magnetic disk or tape at FHFA have been moved off-site to Federal Records Centers.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by the name, Social Security number, assigned file number, or employee identification number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The records are retained and managed in accordance with FHFA's Comprehensive Records Schedule and the National Archives and Records Administration's General Records Schedule. Records are destroyed or deleted according to the retention schedule associated with the relevant records schedule, but longer retention is authorized for business use and any applicable legal holds. Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic records are safeguarded in a secured environment and protected by controlled access procedures through the use of role-based access controls and other information technology security measures. FHFA buildings where records and computerized systems are stored have security cameras and 24-hour security guard service. Access to records is restricted to only FHFA employees, FHFA contractors, and the employees and contractors of FHFA's shared service providers who require access in the performance of official duties related to the purposes for which the system of records is maintained.

RECORD ACCESS PROCEDURES:

Individuals seeking access to and/or amendment of records about themselves contained in this system of records should follow the ''Notification Procedures'' below.

CONTESTING RECORD PROCEDURES:

Individuals seeking access to and/or amendment of records about themselves contained in this system of records should follow the ''Notification Procedures'' below.

NOTIFICATION PROCEDURES:

Individuals seeking notification of any records about themselves contained in this system of records should address their inquiry to the Privacy Act Officer via email to *privacy@fhfa.gov,* by mail to the Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, or in accordance with the procedures set forth in 12 CFR part 1204. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.*

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The system of records notice was last published in the **Federal Register** at 76 FR 33286 on June 8, 2011 and 80 FR 60900 on October 8, 2015.

Clinton Jones,

General Counsel, Federal Housing Finance Agency.

[FR Doc. 2026–17585 Filed 8–27–26; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2026–N–10]

Privacy Act of 1974; System of Records

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, (Privacy Act), the Federal Housing Finance Agency (FHFA or Agency) is proposing to modify an existing system of records titled, ''Payroll, Retirement, Time and Attendance, and Leave Records, FHFA–15.'' This system of records contains records pertaining to current and former employees, detailees, and other persons who work at FHFA under the Intergovernmental Personnel Act, as well as these individuals' spouses, domestic partners, dependents, emergency contacts, beneficiaries, or estate trustees. The proposed modifications include: revising the system security classification, system location, system manager, legal

authorities for maintenance of the system, purpose of the system, and categories of records maintained in the system; the revision and addition of routine uses; updating the policies and practices for storage of records, policies and practices for the retention and disposal of records, and the administrative, technical, and physical safeguards; and other minor updates for clarity and consistency.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this modified system of records will go into effect without further notice on August 28, 2026, unless otherwise revised pursuant to comments received. New routine uses will go into effect on September 28, 2026. Comments must be received on or before September 28, 2026. FHFA will publish a new notice if the effective date is delayed for the Agency to review the comments or if changes are made based on comments received.

ADDRESSES: Submit comments to FHFA, identified by ''No. 2026–N–10,'' using any one of the following methods:

- *Agency Website: https://www.fhfa.gov/regulation/federal-register?comments=open*.
- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. If you submit your comments to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Please include ''Comments/No. 2026–N–10'' in the subject line of the message.
- *Hand Delivered/Courier:* The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/No. 2026–N–10, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. The package should be delivered to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m., EST.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/No. 2026–N–10, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.*

See **SUPPLEMENTARY INFORMATION** for additional information on submission and posting of comments.

FOR FURTHER INFORMATION CONTACT: Senior Agency Official for Privacy, *privacy@fhfa.gov* or (202) 649–3803 (not a toll-free number), Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to the contact number above.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA seeks public comments on the revisions to the SORN identified in this notice and will take all comments into consideration. The Agency will post all public comments, including any personally identifiable information such as name and contact information, on the FHFA public website at *https://www.fhfa.gov,* except as described below. Commenters should submit only information that the commenter wishes to make available publicly. FHFA will not redact personally identifiable information once it is submitted. Commenters who do not wish to be identified by their comments may submit their comments anonymously. FHFA may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. FHFA may, in its discretion, redact or refrain from posting all or any portion of any comment that contains content that is obscene, vulgar, profane, or threatens harm. All comments, including those that are redacted or not posted, will be retained in their original form in FHFA's internal file and considered as required by all applicable laws. Commenters who would like FHFA to consider any portion of their comment exempt from disclosure on the basis that it contains trade secrets, or financial, confidential or proprietary data or information, should follow the procedures in section IV.D. of FHFA's *Policy on Communications with Outside Parties in Connection with FHFA Rulemakings, see https://www.fhfa.gov/sites/default/files/documents/Ex-Parte-Communications-Public-Policy_3-5-19.pdf*. FHFA cannot guarantee that such data or information will remain confidential if disclosure is sought pursuant to an applicable statute or regulation. See 12 CFR 1202.8, 12 CFR 1214.2, and FHFA's *FOIA Reference Guide* at *https://www.fhfa.gov/about/foia-reference-guide* for additional information.

II. Introduction

This notice informs the public of FHFA's proposed revisions to an existing system of records. This notice satisfies the Privacy Act requirement that an agency publishes a system of records notice in the **Federal Register** when there is an addition or change to an agency's system of records. As required by the Privacy Act, 5 U.S.C. 552a(r), and pursuant to section 7 of Office of Management and Budget (OMB) Circular No. A–108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,* prior to publication of this notice, FHFA submitted a report describing the system of records covered by this notice to the OMB, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.

III. Revised System of Records

The revised system of records notice is set out in its entirety and described in detail below. The proposed modification to the ''Payroll, Retirement, Time and Attendance, and Leave Records, FHFA–15'' makes the following substantive and non-substantive changes:

(1) Modifies the system's security classification consistent with OMB guidance;

(2) Updates the system's location by adding references to FHFA-authorized service providers and contractor networks;

(3) Updates the contact information for the designated system manager;

(4) Revises the legal authorities identified in the Authority for Maintenance of the System section;

(5) Revises the purpose of the system to include support for the telework and other human resources functions of the Agency, as well as to allow for the Agency to contact employees or their designated emergency contacts in the event of a health or safety emergency, including to confirm the well-being of an employee;

(6) Revises the Categories of Records in the System section by adding ''date of birth'' and employees' emergency contact information;

(7) Revises existing routine use (6), which provides for disclosure ''[t]o appropriate third parties contracted by FHFA to facilitate mediation or other dispute resolution procedures or programs'' by adding language clarifying that such disclosures are limited to records relevant to the dispute and where the dispute relates to the purpose for which the records were collected;

(8) Revises existing routine use (10), which provides for disclosure ''[t]o the Department of the Treasury, Bureau of the Public Debt to provide financial management services and systems, including local and temporary duty travel, involving FHFA employees'' by deleting the sub-office Bureau of Public Debt to ensure the appropriate office is identified in case of an office name change;

(9) Revises existing routine use (11), which provides for disclosure ''[t]o the Internal Revenue Service and appropriate State and local taxing authorities'' by narrowing the scope and including the caveat that the disclosure will be made if the employee is subject to tax by that authority and to the extent necessary for that entity to carry out its legally authorized functions, whether or not tax is withheld;

(10) Adds new routine use (20), which provides for disclosure ''[t]o officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions'';

(11) Adds new routine use (21), which provides for disclosure ''[t]o a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual'';

(12) Adds new routine use (22), which provides for disclosure ''[t]o a court, magistrate, or administrative tribunal, including disclosures to opposing counsel or witnesses, shared in the course of discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction if the requested information is relevant and necessary to the pending judicial or administrative proceeding'';

(13) Adds new routine use (23), which provides for disclosure ''[t]o OMB, DOJ, Department of Labor, Office of Personnel Management, Equal Employment Opportunity Commission, U.S. Office of Special Counsel, Department of Homeland Security, or other Federal agencies, to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records'';

(14) Adds new routine use (24), which provides for disclosure ''[t]o the U.S. Department of the Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program in accordance with Executive Order 14249'';

(15) Updates the ''Policies and Practices for Storage of Records'' section to include FHFA's authorized contractor and shared-service provider networks;

(16) Updates the ''Policies and Practices for Retention and Disposal of Records'' section to add the Agency's retention practices regarding legal holds and disposal procedures;

(17) Revises the Administrative, Technical, and Physical Safeguards to replace ''access codes'' with ''role-based access controls''; and

(18) Makes minor corrections and other administrative updates to the remaining sections of the notice in accordance with OMB Circular A–108 and related OMB guidance.

SYSTEM NAME AND NUMBER:

Payroll, Retirement, Time and Attendance, and Leave Records, FHFA–15.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, and any alternate work site used by employees of FHFA, including contractors assisting agency employees, FHFA-authorized service providers, and FHFA-authorized contractor networks located within the Continental United States and Department of the Interior, Interior Business Center, 7301 W. Mansfield Avenue, Lakewood, CO 80235.

SYSTEM MANAGER(S):

Chief Human Resources Officer, Office of Human Resources Management, Federal Housing Finance Agency, (202) 557–6191, *OHRMpayroll@fhfa.gov,* 400 Seventh Street SW, Washington, DC 20219.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 4513(a)(2)(B); 12 U.S.C. 4515; 5 U.S.C. Chapter 55; 5 U.S.C. Chapter 61; 5 U.S.C. Chapter 63; 5 U.S.C. 6501–6506; 5 U.S.C. Chapter 83; 5 U.S.C. Chapter 84.

PURPOSE(S) OF THE SYSTEM:

The purpose of the system of records is for FHFA to support operations for payroll, time and attendance, leave, telework, insurance, tax, retirement, benefits and other human resources functions; to prepare related reports to other Federal agencies including the U.S. Department of the Treasury and the Office of Personnel Management; and to locate and contact FHFA employees and former employees and determine such matters as their position, period of service, type of leave, benefits, pay, work history, and work agreements. Emergency contact information in the system may be used by authorized individuals to contact employees or their designated emergency contacts in the event of a health or safety emergency or to confirm the well-being of an employee.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on current and former employees, detailees, and individuals who work at FHFA under the Intergovernmental Personnel Act. This system may also include limited information regarding these individuals' spouses, dependents, emergency contacts, beneficiaries, or estate trustees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in the system include the individual's name; home address and alternate work locations; telephone numbers; Social Security number; date of birth; organization code; pay rate; salary; grade; length of service; pay and leave records; source documents for posting time and leave attendance; and payroll deductions for Medicare, Old-Age, Survivors, and Disability Insurance (OASDI, also known as Social Security), bonds, Federal Employee Group Life Insurance, union dues, taxes, allotments, retirement, charitable contributions, Federal Government and commercial health benefits, Flexible Spending Account, Long Term Care Insurance, Thrift Savings Plan contributions, and 401(k) plan contributions. Records also contain information regarding awards; shift schedules; pay differential; tax lien data; wage garnishments; work agreements, locations, and schedules; and any other information pertaining to payroll, retirement, time and attendance, leave and other human resources functions. The system also includes emergency contact information for employees (including personal and work address; personal and work email address; personal and work phone numbers and mobile numbers) and individuals they designate as emergency contacts (including name; relationship to employee; personal, work and mobile phone numbers; and home address). The payroll, retirement, and leave

records described in this notice form a part of the information contained in the Interior Business Center's integrated Federal Personnel and Payroll System (FPPS). Some personnel and payroll records contained in the systems of shared service providers may also be covered under the government-wide system of records notices published by the Office of Personnel Management (OPM/GOVT–1 and OPM/GOVT–5).

RECORD SOURCE CATEGORIES:

Record sources include individuals on whom the records are maintained, official personnel and payroll records of individuals on whom the records are maintained, work agreements, time and attendance records, withholding certificates, third-party benefit providers, and other pay-related records prepared by the individual or the Office of Human Resources Management. Records and information covered by this SORN may also be obtained from the individual's supervisor.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records and information contained therein may specifically be disclosed outside of FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows, to the extent such disclosures are compatible with the purposes for which the information was collected:

(1) To appropriate agencies, entities, and persons when—

(a) FHFA suspects or has confirmed that there has been a breach of the system of records;

(b) FHFA has determined that as a result of a suspected or confirmed breach there is a risk of harm to individuals, FHFA (including its information systems, programs, and operations), the Federal Government, or national security; and

(c) The disclosure is made to agencies, entities, and persons as reasonably necessary to assist with FHFA's efforts to:

(i) Respond to a suspected or confirmed breach; or

(ii) Prevent, minimize, or remedy harm caused by such breach.

(2) To a Federal agency or Federal entity, when FHFA determines information from the system of records is reasonably necessary to assist the recipient agency or entity in:

(a) Responding to a suspected or confirmed breach; or

(b) Preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or to national security, resulting from a suspected or confirmed breach.

(3) When there is an indication of a violation or potential violation of law (whether civil, criminal, or regulatory in nature or whether arising by general statute or particular program statute or by regulation, rule, or order issued pursuant thereto), the relevant records in the system of records may be referred, as a routine use, to the appropriate agency (*e.g.,* federal, state, local, tribal, foreign or a financial regulatory organization) charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, rule, regulation or order issued pursuant thereto.

(4) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe the individual to whom the record is disclosed may have further information about the matters related thereto, and the record appears to be relevant and necessary at the time to the subject matter of the inquiry.

(5) To any contractor, agent, or other authorized individual performing work on a contract, service, cooperative agreement, job, or other activity on behalf of FHFA who has a need to access the information in the performance of their official duties or activities.

(6) To appropriate third parties contracted by FHFA to facilitate mediation or other dispute resolution procedures or programs, where the record is relevant to the dispute and the dispute is related to the purpose for which the record was collected.

(7) To outside counsel contracted by FHFA, the Department of Justice (DOJ) (including United States Attorney Offices), or other Federal agencies conducting litigation or in proceedings before any court, or adjudicative or administrative body, when it is relevant and necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

(a) FHFA;

(b) Any employee of FHFA in his/her official capacity;

(c) Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or

(d) The United States or any agency thereof that is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation.

(8) To the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(9) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is relevant and necessary to such audit or oversight functions.

(10) To the Department of the Treasury to provide financial management services and systems, including local and temporary duty travel, involving FHFA employees.

(11) To the Internal Revenue Service and appropriate state and local taxing authorities if the employee is subject to tax by that authority and to the extent necessary for that entity to carry out its legally authorized functions, whether or not tax is withheld.

(12) To appropriate Federal agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States.

(13) To the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for purposes of locating individuals to establish paternity and establish and modify orders of child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act, the Federal Parent Locator System, and the Federal Tax Offset System.

(14) To the Office of Child Support Enforcement for release to the Social Security Administration for verifying Social Security numbers in connection with the operation of the Federal Parent Locator System by the Office of Child Support Enforcement.

(15) To the Office of Child Support Enforcement for release to the U.S. Department of the Treasury for purposes of administering the Earned Income Tax Credit Program and verifying a claim with respect to employment in a tax return.

(16) To commercial benefit providers, carriers, vendors, contractor personnel, and agents to process claims and provide related administrative services involving FHFA employees.

(17) To any Federal, state, or local government agency compiling tax withholding, retirement contributions, or allotments to charities, labor unions, wage garnishments, and other authorized recipients.

(18) To any member of the public for employment verification at an employee's written request.

(19) To any judgment creditor for the purpose of wage garnishment.

(20) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

(21) To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(22) To a court, magistrate, or administrative tribunal, including disclosures to opposing counsel or witnesses, shared in the course of discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction if the requested information is relevant and necessary to the pending judicial or administrative proceeding.

(23) To OMB, DOJ, Department of Labor, Office of Personnel Management, Equal Employment Opportunity Commission, U.S. Office of Special Counsel, Department of Homeland Security, other Federal agencies, to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records.

(24) To the U.S. Department of the Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program in accordance with Executive Order 14249.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in electronic format. Electronic records are stored on FHFA's secured network, the networks of FHFA-authorized cloud service providers, FHFA-authorized contractor networks, or the networks of other Federal agencies (or their authorized contractors) acting as shared service providers for FHFA. All networks are located within the Continental United States. All records for the system that are stored in paper format or on magnetic disk or tape have been moved off-site to Federal Records Centers.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

The records are retrieved by the individual's name, Social Security number, birth date, or other personal identifier.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The records are retained and managed in accordance with FHFA's Comprehensive Records Schedule and the National Archives and Records Administration's General Records Schedule. Records are destroyed or deleted according to the retention schedule associated with the relevant records schedule, but longer retention is authorized for business use and any applicable legal holds. Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic records are safeguarded in a secured environment and protected by controlled access procedures through the use of role-based access controls and other information technology security measures. Buildings where records and computerized systems are stored have security cameras and 24-hour security guard service. Access to records is restricted to only FHFA employees, FHFA contractors, and the employees and contractors of FHFA's shared service providers who require access in the performance of official duties related to the purposes for which the system of records is maintained.

RECORD ACCESS PROCEDURES:

Individuals seeking access to and/or amendment of records about themselves contained in this system of records should follow the ''Notification Procedures'' below.

CONTESTING RECORD PROCEDURES:

Individuals seeking access to and/or amendment of records about themselves contained in this system of records should follow the ''Notification Procedures'' below.

NOTIFICATION PROCEDURES:

Individuals seeking notification of any records about themselves contained in this system of records should address their inquiry to the Privacy Act Officer via email to *privacy@fhfa.gov,* by mail to the Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, or in accordance with the procedures set forth in 12 CFR part 1204. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.*

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The system of records notice was last published in the **Federal Register** at 77 FR 499 on January 5, 2012, 80 FR 60900 on October 8, 2015, and 88 FR 80300 on November 17, 2023.

Clinton Jones,

General Counsel, Federal Housing Finance Agency.

[FR Doc. 2026–17587 Filed 8–27–26; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2026–N–8]

Privacy Act of 1974; System of Records

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, (Privacy Act), the Federal Housing Finance Agency (FHFA or Agency) is proposing to modify an existing system of records titled, ''Financial Management System, FHFA–2.'' This system of records contains documentation pertaining to prospective, present, and former FHFA employees, contractors, and vendors relating to government travel, vendor accounts, employee reimbursements, interagency transactions, aggregated employee pay records, vendor registration data, purchase-card accounts and transactions, and program payment agreements. The purpose of the system is to support the management and administration of FHFA's accounting and financial operations, travel and purchase-card programs, and acquisition and contract management services. FHFA collects and maintains these records to ensure the orderly processing of the Agency's financial transactions and payments, including travel arrangements, reimbursements, employee payroll, and purchase-card payments. The system organizes and

enables the retrieval of these records, which ensures that all financial transactions and payments are processed timely, consistently and in compliance with federal requirements. The proposed modifications include: revising the system security classification, system location, system manager, and legal authorities for maintenance of the system; clarifying the purpose of the system, categories of individuals covered by the system, and categories of records maintained in the system; the revision, removal, and addition of routine uses; removal of the Disclosure to Consumer Reporting Agencies section; updating the policies and practices for storage of records, the policies and practices for retention and disposal of records, and the administrative, technical, and physical safeguards; and minor updates for clarity and consistency.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this modified system of records will go into effect without further notice on August 28, 2026, unless otherwise revised pursuant to comments received. New routine uses will go into effect on September 28, 2026. Comments must be received on or before September 28, 2026. FHFA will publish a new notice if the effective date is delayed for the Agency to review the comments or if changes are made based on comments received.

ADDRESSES: Submit comments to FHFA, identified by ''No. 2026–N–8,'' using any one of the following methods:

- *Agency Website: https://www.fhfa.gov/regulation/federal-register?comments=open.*
- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comments to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Please include ''Comments/No. 2026–N–8'' in the subject line of the message.
- *Hand Delivered/Courier:* The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/No. 2026–N–8, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. The package should be delivered to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m., EST.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/No. 2026–N–8, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.*

See **SUPPLEMENTARY INFORMATION** for additional information on submission and posting of comments.

FOR FURTHER INFORMATION CONTACT: Senior Agency Official for Privacy, *privacy@fhfa.gov* or (202) 649–3803 (not a toll-free number), Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to the contact number above.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA seeks public comments on the revisions to the SORN identified in this notice and will take all comments into consideration. The Agency will post all public comments, including any personally identifiable information such as name and contact information, on the FHFA public website at *https://www.fhfa.gov,* except as described below. Commenters should submit only information that the commenter wishes to make available publicly. FHFA will not redact personally identifiable information once it is submitted. Commenters who do not wish to be identified by their comments may submit their comments anonymously. FHFA may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. FHFA may, in its discretion, redact or refrain from posting all or any portion of any comment that contains content that is obscene, vulgar, profane, or threatens harm. All comments, including those that are redacted or not posted, will be retained in their original form in FHFA's internal file and considered as required by all applicable laws. Commenters who would like FHFA to consider any portion of their comment exempt from disclosure on the basis that it contains trade secrets, or financial, confidential or proprietary data or information, should follow the procedures in section IV.D. of FHFA's *Policy on Communications with Outside Parties in Connection with FHFA Rulemakings,* see *https://www.fhfa.gov/sites/default/files/documents/Ex-Parte-Communications-Public-Policy_3-5-19.pdf.* FHFA cannot guarantee that such data or information will remain confidential if disclosure is sought pursuant to an applicable statute or regulation. See 12 CFR 1202.8, 12 CFR 1214.2, and FHFA's *FOIA Reference Guide* at *https://www.fhfa.gov/about/foia-reference-guide* for additional information.

II. Introduction

This notice informs the public of FHFA's proposed revisions to an existing system of records. This notice satisfies the Privacy Act requirement that an agency publish a system of records notice in the **Federal Register** when there is an addition or change to an agency's system of records. As required by the Privacy Act, 5 U.S.C. 552a(r), and pursuant to section 7 of Office of Management and Budget (OMB) Circular No. A–108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,* prior to publication of this notice, FHFA submitted a report describing the system of records covered by this notice to the OMB, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.

III. Revised System of Records

The revised system of records notice is set out in its entirety and described in detail below. The proposed modification to the ''Financial Management System, FHFA–2'' makes the following substantive and non-substantive changes:

(1) Modifies the system's security classification consistent with OMB guidance;

(2) Revises the Agency's official address and adds references to FHFA-authorized service providers and contractor networks in the system location;

(3) Updates the contact information for the designated system manager;

(4) Revises the legal authorities for maintaining the system;

(5) Clarifies that the purpose of the system is to process the Agency's financial transactions and payments, and identifies the specific categories of transactions and payments maintained in the system;

(6) Clarifies that the categories of individuals covered by the system include individuals who may receive payments or reimbursements from FHFA;

(7) Updates the categories of records maintained in the system and adds data elements;

(8) Removes existing routine use (11), which provides for disclosure to ''[t]he DOJ to determine whether disclosure is required by the Freedom of Information Act (5 U.S.C. 552) (FOIA)'';

(9) Removes existing routine use (12), which provides for disclosure to ''[a]n individual or entity submitting a FOIA request if the information is subject to a FOIA exemption but the FHFA determines not to assert the exemption'';

(10) Removes existing routine use (16), which provides for disclosure to ''FHFA personnel having a need for access to the records to perform their official functions,'' because such disclosures are already covered by 5 U.S.C. 552a(b)(1);

(11) Removes existing routine use (19), which provides for disclosure to ''[t]he U.S. Department of the Treasury to effect issuance of wage payments through electronic funds transfer'';

(12) Removes existing routine use (21), which provides for disclosure to ''Federal, State and local agencies to assist in processing unemployment claims and enforcing child and spousal support obligations'';

(13) Revises existing routine use (1), which provides for disclosure to ''[t]he Administrative Resource Center, Bureau of the Public Debt to complete administrative processing,'' into new routine use (13), which provides for disclosure ''[t]o the U.S. Department of the Treasury, Bureau of the Fiscal Service to provide financial management services and systems, including local and temporary duty travel'';

(14) Revises existing routine use (2), which provides for disclosure ''[t]o the United States Department of Justice (DOJ) or another Federal agency conducting litigation, or any court or adjudicative or administrative body, if: a. FHFA, any employee of FHFA in his/her official capacity or in his/her individual capacity if DOJ has agreed to represent the employee, or the United States or any agency thereof, is a party to or has a significant interest in the litigation or proceeding; and b. FHFA determines that use of the records is relevant and necessary to the litigation or proceeding,'' by dividing that routine use into new routine use (7), which provides for disclosure ''[t]o a court, magistrate, or administrative tribunal, including disclosures to opposing counsel or witnesses, shared in the course of discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction if the requested information is relevant and necessary to the pending judicial or administrative proceeding'' and new routine use (10), which provides for disclosure ''[t]o outside counsel contracted by FHFA, DOJ (including United States Attorney Offices), or other Federal agencies conducting litigation or in proceedings before any court, or adjudicative or administrative body, when it is relevant and necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation or proceeding: (a) FHFA; (b) Any employee of FHFA in his/her official capacity; (c) Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or (d) The United States or any agency thereof that is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation'';

(15) Revises existing routine use (3), which provides for disclosure to ''[t]he appropriate Federal, State, local or foreign agency or authority responsible for auditing, investigating, or prosecuting a violation or potential violation of a criminal or civil law, rule, or regulation or for enforcing or implementing a statute, rule, regulation, or order, if information in the system indicates such a violation,'' by removing the reference to ''auditing'' and restructuring the sentence for clarity;

(16) Revises existing routine use (9), which provides for disclosure to ''[a]uthorized employees of a Federal agency for purposes of an audit,'' into new routine use (12), which provides for disclosure ''[t]o an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is relevant and necessary to such audit or oversight functions'';

(17) Revises and consolidates existing routine use (13), which provides for disclosure to ''State and local taxing authorities if the Secretary of the Treasury has entered into an agreement, and the employee is subject to tax by that authority, whether or not tax is withheld,'' and existing routine use (20), which provides for disclosure to ''[t]he Internal Revenue Service and Social Security Administration,'' into new routine use (19), which provides for disclosure ''[t]o the Internal Revenue Service and appropriate state and local taxing authorities if the employee is subject to tax by that authority and to the extent necessary for that entity to carry out its legally authorized functions, whether or not tax is withheld'';

(18) Revises existing routine use (14), which provides for disclosure to ''[a]ppropriate persons, consultants, contractors, entities or others when: a. FHFA suspects or confirms that the security or confidentiality of information in a system of records has been compromised; b. FHFA determines that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of systems or programs (whether maintained by FHFA or another agency or entity) that rely upon the compromised information; and c. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FHFA's efforts to respond to the suspected or confirmed compromise and prevent, minimize or remedy such harm,'' by dividing that routine use into new routine use (1), which provides for disclosure ''[t]o appropriate agencies, entities, and persons when—(a) FHFA suspects or has confirmed that there has been a breach of the system of records; (b) FHFA has determined that as a result of a suspected or confirmed breach there is a risk of harm to individuals, FHFA (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure is made to agencies, entities, and persons as reasonably necessary to assist with FHFA's efforts to: (i) Respond to a suspected or confirmed breach; or (ii) Prevent, minimize, or remedy harm caused by such breach,'' and new routine use (2), which provides for disclosure ''[t]o a Federal agency or federal entity, when FHFA determines information from the system of records is reasonably necessary to assist the recipient agency or entity in: (a) Responding to a suspected or confirmed breach; or (b) Preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or to national security, resulting from a suspected or confirmed breach'';

(19) Revises existing routine use (15), which provides for disclosures to ''[t]he National Archives and Records Administration and the General Services Administration for records management inspections, surveys, and studies and to determine whether the records have sufficient historical or other value to warrant accessioning into the National Archives of the United States,'' as new routine use (11), which provides for disclosure ''[t]o the National Archives and Records Administration or other Federal agencies pursuant to records

management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906'';

(20) Revises existing routine use (17), which provides for disclosure to ''[a] consultant, person, or entity that contracts or subcontracts with FHFA, to the extent necessary for the performance of the contract or subcontract and consistent with the purpose of the system, provided that the person or entity acknowledges in writing that it is required to maintain Privacy Act safeguards for the information,'' into new routine use (5), which provides for disclosure ''[t]o any contractor, agent, or other authorized individual performing work on a contract, service, cooperative agreement, job, or other activity on behalf of FHFA who has a need to access the information in the performance of their official duties or activities'';

(21) Adds a new routine use (4), which provides for disclosure ''[t]o any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe the individual to whom the record is disclosed may have further information about the matters related thereto, and the record appears to be relevant and necessary at the time to the subject matter of the inquiry'';

(22) Adds a new routine use (8), which provides for disclosure ''[t]o OMB, the Department of Justice (DOJ), Department of Labor, Office of Personnel Management (OPM), the Equal Employment Opportunity Commission, U.S. Office of Special Counsel, Department of Homeland Security, or other Federal agencies, to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records'';

(23) Adds a new routine use (9), which provides for disclosure ''[t]o appropriate third parties contracted by FHFA to facilitate mediation or other dispute resolution procedures or programs, where the record is relevant to the dispute and the dispute is related to the purpose for which the record was collected'';

(24) Adds a new routine use (23), which provides for disclosure ''[t]o the U.S. Department of the Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program in accordance with Executive Order 14249'';

(25) Adds a new routine use (24), which provides for disclosure ''[t]o officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.''

(26) Removes the ''Disclosure to Consumer Reporting Agencies'' category to ensure alignment with OMB guidance;

(27) Updates the policies and practices for storage of records with FHFA's modernized practices, including use of Federal Records Centers;

(28) Revises the policies and practices for the retention and disposal of records to add FHFA's Comprehensive Records Schedule and retention practices related to business uses and legal holds;

(29) Revises the ''Administrative, Technical, and Physical Safeguards'' category to replace ''access codes'' with ''role-based access controls'' to reflect current practices; and

(30) Makes minor corrections and other administrative updates to the remaining sections of the notice in accordance with OMB Circular A–108 and related OMB guidance.

SYSTEM NAME AND NUMBER:

Financial Management System, FHFA–2.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, and any alternate work site used by employees of FHFA, including contractors assisting agency employees, FHFA-authorized service providers, and FHFA-authorized contractor networks located within the Continental United States; Administrative Resource Center, Bureau of Fiscal Service, 200 Third Street, Avery A3–G, Parkersburg, WV 26106.

SYSTEM MANAGER(S):

Assistant Director, Planning, Budget, and Risk Branch, Office of the Chief Financial Officer, Federal Housing Finance Agency, *OCFOBudget@fhfa.gov,* 400 Seventh Street SW, Washington, DC 20219.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 4513(a)(2)(B); 12 U.S.C. 4516; 5 U.S.C. 5701–5709; 31 U.S.C. 3512.

PURPOSE(S) OF THE SYSTEM:

The purpose of the system is to support the management and administration of FHFA's accounting and financial operations, travel and purchase-card programs, and acquisition and contract management services. FHFA collects and maintains these records to ensure the orderly processing of the Agency's financial transactions and payments, including travel arrangements, reimbursements, employee payroll, and purchase-card payments. The system organizes and enables the retrieval of these records, which ensures that all financial transactions and payments are processed timely, consistently and in compliance with federal requirements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records cover prospective, present, and former employees, contractors, and vendors of FHFA as well as other individuals who may receive payments or reimbursements from FHFA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relate to government travel, vendor accounts and payments, other employee reimbursements, interagency transactions, aggregated employee pay records, vendor registration data, purchase card accounts and transactions, and program payment agreements. Records may include, but are not limited to, name, Social Security number, taxpayer identification number, employee identification number, bank account information, address (work and personal), email (work and personal), and phone number (work and personal).

RECORD SOURCE CATEGORIES:

Information is provided by the subject of the record, authorized representatives, supervisors, employers, other employees, other Federal, State or local agencies, and commercial entities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records and information contained therein may specifically be disclosed outside of FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows, to the extent such disclosures are compatible with the purposes for which the information was collected:

(1) To appropriate agencies, entities, and persons when—

(a) FHFA suspects or has confirmed that there has been a breach of the system of records;

(b) FHFA has determined that as a result of a suspected or confirmed breach there is a risk of harm to individuals, FHFA (including its information systems, programs, and operations), the Federal Government, or national security; and

(c) The disclosure is made to agencies, entities, and persons as reasonably necessary to assist with FHFA's efforts to:

(i) Respond to a suspected or confirmed breach; or

(ii) Prevent, minimize, or remedy harm caused by such breach.

(2) To a Federal agency or federal entity, when FHFA determines information from the system of records is reasonably necessary to assist the recipient agency or entity in:

(a) Responding to a suspected or confirmed breach; or

(b) Preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or to national security, resulting from a suspected or confirmed breach.

(3) When there is an indication of a violation or potential violation of law (whether civil, criminal, or regulatory in nature or whether arising by general statute or particular program statute or by regulation, rule, or order issued pursuant thereto), the relevant records in the system of records may be referred, as a routine use, to the appropriate agency (*e.g.,* federal, state, local, tribal, foreign or a financial regulatory organization) charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, rule, regulation or order issued pursuant thereto.

(4) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe the individual to whom the record is disclosed may have further information about the matters related thereto, and the record appears to be relevant and necessary at the time to the subject matter of the inquiry.

(5) To any contractor, agent, or other authorized individual performing work on a contract, service, cooperative agreement, job, or other activity on behalf of FHFA who has a need to access the information in the performance of their official duties or activities.

(6) To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(7) To a court, magistrate, or administrative tribunal, including disclosures to opposing counsel or witnesses, shared in the course of discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction if the requested information is relevant and necessary to the pending judicial or administrative proceeding.

(8) To OMB, the Department of Justice (DOJ), Department of Labor, Office of Personnel Management (OPM), the Equal Employment Opportunity Commission, U.S. Office of Special Counsel, Department of Homeland Security, or other Federal agencies, to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records.

(9) To appropriate third parties contracted by FHFA to facilitate mediation or other dispute resolution procedures or programs, where the record is relevant to the dispute and the dispute is related to the purpose for which the record was collected.

(10) To outside counsel contracted by FHFA, DOJ (including United States Attorney Offices), or other Federal agencies conducting litigation or in proceedings before any court, or adjudicative or administrative body, when it is relevant and necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation or proceeding:

(a) FHFA;

(b) Any employee of FHFA in his/her official capacity;

(c) Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or

(d) The United States or any agency thereof that is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation.

(11) To the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(12) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is relevant and necessary to such audit or oversight functions.

(13) To the U.S. Department of the Treasury, Bureau of the Fiscal Service to provide financial management services and systems, including local and temporary duty travel.

(14) To any source, including a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, but only to the extent necessary for FHFA to obtain information relevant to a decision concerning the hiring or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(15) To another Federal agency if the records are relevant and necessary to carry out that agency's authorized functions and to the decision on a matter, including, but not limited to the hiring or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency.

(16) To OMB in connection with the review of private relief legislation.

(17) To an authorized appeal grievance examiner, a formal complaints examiner, an equal employment opportunity investigator, an arbitrator, or other duly authorized official engaged if the records are relevant and necessary to the investigation or settlement of a grievance, complaint, or appeal filed by an employee.

(18) To OPM in connection with the evaluation and oversight of Federal personnel management concerning wages, benefits, retirement deductions, and other information necessary to carry out government-wide personnel functions, and to other Federal agencies to facilitate employee transfers.

(19) To the Internal Revenue Service and appropriate state and local taxing authorities if the employee is subject to tax by that authority and to the extent necessary for that entity to carry out its legally authorized functions, whether or not tax is withheld.

(20) To the U.S. Department of the Treasury, Federal debt collection centers, other appropriate Federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to FHFA or the Federal government. Disclosure will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status, and history of the debt.

(21) To Federal, State and local government authorities, medical personnel, first responders and other emergency services personnel, and

contractors, agency employees or others as necessary for continuity of operations planning, testing and execution, to ensure personnel accountability, or to respond to medical or other emergency situations.

(22) To Federal agencies as a data source for management information through the production of summary descriptive statistics and analytical studies in support of the functions for which the records are maintained or for related studies.

(23) To the U.S. Department of the Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program in accordance with Executive Order 14249.

(24) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records at FHFA are maintained in electronic format. Electronic records are stored on FHFA's secured network, the networks of FHFA-authorized cloud service providers, FHFA-authorized contractor networks, or the networks of other Federal agencies (or their authorized contractors) acting as shared service providers for FHFA. All networks are located within the Continental United States. All records for the system that were stored in paper format or on magnetic disk or tape at FHFA have been moved off-site to Federal Records Centers.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system are retrieved by name, Social Security number or vendor supplier number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

FHFA records are retained and managed in accordance with FHFA's Comprehensive Records Schedule and the National Archives and Records Administration's General Records Schedule. Records are destroyed or deleted according to the retention schedule associated with the relevant records schedule, but longer retention is authorized for business use and any applicable legal holds. Paper and microform records ready for disposal are destroyed by shredding or maceration. Records in electronic media are electronically erased using accepted techniques.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic records are safeguarded in a secured environment and protected by controlled access procedures through the use of role-based access controls and other information technology security measures. FHFA buildings where records and computerized systems are stored have security cameras and 24-hour security guard service. Access to records is restricted to only FHFA employees, FHFA contractors, and the employees and contractors of FHFA's shared service providers who require access in the performance of official duties related to the purposes for which the system of records is maintained.

RECORD ACCESS PROCEDURES:

Individuals seeking access to and/or amendment of records about themselves contained in this system of records should follow the ''Notification Procedures'' below.

CONTESTING RECORD PROCEDURES:

Individuals seeking access to and/or amendment of records about themselves contained in this system of records should follow the ''Notification Procedures'' below.

NOTIFICATION PROCEDURES:

Individuals seeking notification of any records about themselves contained in this system of records should address their inquiry to the Privacy Act Officer via email to *privacy@fhfa.gov,* by mail to the Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, or in accordance with the procedures set forth in 12 CFR part 1204. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.*

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The system of records notice was previously published in the **Federal Register** at 74 FR 31949 on July 6, 2009, and revised at 80 FR 60900 on October 8, 2015.

Clinton Jones,

General Counsel, Federal Housing Finance Agency.

[FR Doc. 2026–17586 Filed 8–27–26; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–26–1414]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Advancing Violence Epidemiology in Real-Time (AVERT)'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on May 27, 2026 to obtain comments from the public and affected agencies. CDC received one comment for this notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy

of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Advancing Violence Epidemiology in Real-Time (AVERT) (OMB Control No. 0920–1414, Exp. 9/30/2026)—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This Information Collection Request (ICR) for Advancing Violence Epidemiology in Real-Time (AVERT) is submitted as a renewal of previously approved information collection. This request is for continued approval to collect information for AVERT using the existing data collection approach, case definitions, and National Syndromic Surveillance Program (NSSP) infrastructure. The length of data collection requested for OMB approval is three years. AVERT supports data collection efforts that expand and enhance partnerships with public health departments initiated to share emergency department (ED) visit data with CDC. The AVERT program provides funding to 12 jurisdictions to conduct routine monitoring of ED visits related to violence-related injuries and mental health conditions, and to analyze these data in a timely manner and share these data with CDC to support public health surveillance and response. AVERT also ensures that participating jurisdictions use their data to track these violent injury outcomes by providing jurisdictions standardized definitions, which can facilitate rapid identification and tracking of violence and mental health related ED visits.

AVERT leverages existing ED data collection efforts deployed across state health departments through CDC's National ED Syndromic Surveillance program. The Office of Public Health Data, Surveillance, and Technology (OPHDST) in CDC operates the National Syndromic Surveillance Program (NSSP) BioSense Platform (OMB Control No. 0920–0824) through which state and local health departments share preliminary ED visit data from approximately 85% of ED facilities in the U.S. (>7,500 participating EDs). AVERT will continue to establish and maintain local and state information collection of violence-related injuries and mental health conditions and provide public health partners and the public with more timely and useful violence surveillance data than is currently available. All 10 of these jurisdictions provide CDC access to their syndromic surveillance data from EDs in CDC's NSSP system. Health departments have used this data to populate state data dashboards and develop alerts for local communities. In addition, health departments have used this data in concert with other violence data sources, including the National Violent Death Reporting System, to gain a better overall picture of violence-related injuries in their communities.

Health departments sharing syndromic surveillance data with CDC will be required to complete the *ED Violence Data Form* on a bimonthly basis using data from existing state and local ED data collection efforts, described previously. In Year 1, the AVERT program received additional funding to support a total of 12 jurisdictions (instead of 10); accordingly, the Burden Table has been updated to reflect this change. Additionally, through collaboration with NSSP, the AVERT program has developed advanced scripts and standardized data reports. As a result, participating jurisdictions will receive these reports directly and will no longer need to develop their own. This has reduced estimated burden hours.

CDC is requesting continued OMB approval to collect information for AVERT using the existing data collection approach, case definitions, and NSSP infrastructure. The total estimated annual burden is 18 hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Participating health departments sharing case-level ED data with CDC through the NSSP BioSense.	ED form (*ED violence data form*)	12	6	15/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2026–17623 Filed 8–27–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–26–0215; Docket No. CDC–2026–1453]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled the National Death Index (NDI). The NDI allows NCHS to collect mortality data to

support epidemiological research and to furnish mortality information to approved public health and medical investigators.

DATES: CDC must receive written comments on or before October 27, 2026.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2026–1453 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. 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;

2. 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;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. 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 submissions of responses; and

5. Assess information collection costs.

Proposed Project

Application Form and Related Forms for the Operation of the National Death Index (NDI) (OMB Control No. 0920–0215)—Reinstatement—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C.), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States. The National Death Index (NDI) is a database containing identifying death record information submitted annually to NCHS by all the jurisdiction (states and territories) vital statistics offices, beginning with deaths in 1979. Searches against the NDI file provide the jurisdictions and dates of death, and the death certificate numbers of deceased study subjects.

Using the NDI Plus service, researchers have the option of also receiving cause of death information for deceased subjects, thus reducing the need to request copies of death certificates from the jurisdictions. The NDI Plus option currently provides the International Classification of Disease (ICD) codes for the underlying and multiple causes of death. Health researchers must complete administrative forms in order to apply for NDI services and submit records of study subjects for computer matching against the NDI file. A three-year approval is requested to continue the use of the two administrative forms (the application form and transmittal form) utilized in the operation of the NDI program, along with worksheets used to calculate related fees, the NDI Data Use Agreement, the Supplemental NDI Data Use Agreement (only needed by some NDI Users), and the Data Destruction Form. These forms are submitted by NDI users when applying for use of the NDI, when actually using the service and when completing the service. In addition, this request includes the electronic versions that replace paper documents, one of which will include a minor reduction in the number of data collection items.

The total estimated annual burden hours requested by CDC are 1,374. This represents an increase of 308 hours from 1,066, due primarily to the increase in applications, and transmittal forms. There is no cost to respondents other than their time.

ESTIMATES OF ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Researcher	Application Form—electronic	282	1	2.5	705
Researcher	Transmittal Form—Paper/Electronic	400	3	18/60	360
Researcher	Early Transmittal Form—Paper/Electronic	100	3	18/60	90
Researcher	Fee Worksheet	450	1	15/60	113
Researcher	Early Release Fee Worksheet	100	1	5/60	8
Researcher	Data Destruction Form	282	1	2/60	9
Researcher	NDI Data Use Agreement	282	1	5/60	24
Researcher	Supplemental NDI Data Use Agreement	130	1	30/60	65
Total					1,374

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2026–17624 Filed 8–27–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Office of Management and Budget #: 0970–0202]

Submission for Office of Management and Budget Review; National and State Survey of Child and Adolescent Well-Being (NSSCAW): Site Recruitment and Baseline Data Collection

AGENCY: Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services, intends to collect data on a new cohort of children and families for the National and State Survey of Child and Adolescent Well-Being (NSSCAW). Previous data collections have been approved by OMB under OMB #0970–0202. This request is for data collection with a new cohort.

DATES: *Comments due* September 28, 2026.

ADDRESSES: The public may view and comment on this information collection request at: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202608-0970-007*. You can also obtain copies of the proposed collection of information by emailing *infocollection@acf.hhs.gov*. Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: NSSCAW will provide state and national estimates on the well-being, experiences, and service needs and receipt of children and families involved with the child welfare system. Data are collected to provide states with information to support decision-making about practice and policy improvements intended to strengthen child and family well-being, prevent the need for foster care, and promote the recruitment and retention of safe and stable foster homes. NSSCAW instruments will collect firsthand information about child and family health and well-being, as well as family needs and contextual factors. Instruments will also collect information about the safety and stability of the child's home environment, including information about the motivators and challenges of foster and kin caregivers. This information request seeks approval to (1) recruit a purposively selected set of states and randomly selected set of county child welfare agencies within those states for participation in NSSCAW; (2) sample child cases from participating states and child welfare agencies; and (3) conduct interviews with sampled children and their caregivers, including foster and kin caregivers. Deidentified data will be archived for research use.

Respondents: Child welfare agency data systems staff will submit monthly sample files. Caregivers of children ages 0 to 17 and children ages 6 to 17 will complete an in-person or online survey. Caregivers will complete a telephone verification interview. Caregivers and young adults ages 18 and older will complete a panel maintenance contact card.

Annual Burden Estimates

This request is for 3 years of approval to allow sufficient time for baseline data collection efforts. As such, the burden has been annualized over 3 years.

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Specifications for Monthly Sample File Submissions	100	15	1.0	1,500	500
Caregiver Baseline Survey	6,273	1	1.0	6,273	2,091
Child Baseline Survey	4,160	1	0.75	3,120	1,040
Telephone Verification Interview	627	1	0.13	82	27
Panel Maintenance Contact Card	900	1	0.05	45	15
Estimated Total Annual Burden Hours:					3,673

Authority: 42 U.S.C. 628b; Continuing Appropriations Act of 2025.

Mary C. Jones,

ACF Certifying Officer.

[FR Doc. 2026–17545 Filed 8–27–26; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–8087]

Agency Information Collection Activities; Proposed Collection; Comment Request; Focus Groups and Interviews as Used by the Food and Drug Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the generic collection of focus group information as used by FDA for all FDA-regulated products.

DATES: Either electronic or written comments on the collection of information must be submitted by October 27, 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 27, 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–8087 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Focus Groups and Interviews as Used by the Food and Drug Administration.'' 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.

Focus Groups and Interviews Used by the Food and Drug Administration

OMB Control Number 0910–0497—Extension

FDA conducts focus groups and in-depth individual interviews on a variety of topics involving FDA-regulated products, including drugs, biologics, devices, food, tobacco products, and veterinary medicine.

Focus groups are an important role in gathering information because they allow for a better understanding of consumers' attitudes, beliefs, motivations, and feelings than do quantitative studies and encourage interaction between participants.

Individual interviews allow for a more comprehensive, in-depth information exchange where more insights are likely to be collected.

Both focus groups and in-depth individual interviews serve the narrowly defined need for direct and informal opinions on a specific topic. As qualitative research tools, they are used to obtain consumer information that can inform the development of variables and measures for quantitative studies, better understand consumers' attitudes and emotions in response to topics and concepts, and further explore findings from quantitative studies. FDA

will use the findings to test and refine ideas but will generally conduct additional research before making important decisions, such as adopting new policies or allocating or redirecting significant resources to support those policies.

Respondents to this collection of information will include members of the general public, healthcare professionals, the industry, and other stakeholders who are related to a product under FDA's jurisdiction. Inclusion and exclusion criteria will vary depending on the research topic.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Focus groups and individual in-depth interviews	12,000	1	12,000	1.75	21,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–17598 Filed 8–27–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–8691]

Agency Information Collection Activities; Proposed Collection; Comment Request; Food Canning Establishment Registration, Process Filing, and Recordkeeping for Acidified Foods and Thermally Processed Low-Acid Foods in Hermetically Sealed Containers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of reporting and recordkeeping requirements for firms that process acidified foods and thermally processed low-acid foods in hermetically sealed containers.

DATES: Either electronic or written comments on the collection of information must be submitted by October 27, 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 27, 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–8691 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Food Canning Establishment Registration, Process Filing, and Recordkeeping for Acidified Foods and Thermally Processed Low-Acid Foods in Hermetically Sealed Containers.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this

information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Christopher Colburn, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8758, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Food Canning Establishment Registration, Process Filing, and Recordkeeping for Acidified Foods and Thermally Processed Low-Acid Foods in Hermetically Sealed Containers—21 CFR 108.25 and 108.35, and 21 CFR Parts 113 and 114

OMB Control Number 0910–0037—Extension

Section 402 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 342) deems a food to be adulterated, in part, if the food bears or contains any poisonous or deleterious substance that may render it injurious to health. Section 301(a) of the FD&C Act (21 U.S.C. 331(a)) prohibits the introduction or delivery for introduction into interstate commerce of adulterated food. Under section 404 of the FD&C Act (21 U.S.C. 344), our regulations require registration of food processing establishments, filing of process or other data, and maintenance of processing and production records for acidified foods and thermally processed low-acid foods in hermetically sealed containers. These requirements are intended to ensure safe manufacturing, processing, and packing procedures and to permit us to verify that these procedures are being followed. Improperly processed low-acid foods present life-threatening hazards if contaminated with foodborne microorganisms, especially *Clostridium botulinum.* The spores of *C. botulinum* need to be destroyed or inhibited to avoid production of the deadly toxin that causes botulism. This is accomplished with good manufacturing procedures, which must include the use of adequate heat processes or other means of preservation.

To protect the public health, our regulations require that each firm that manufactures, processes, or packs acidified foods or thermally processed low-acid foods in hermetically sealed containers for introduction into interstate commerce register the establishment with us using Form FDA 2541 (§§ 108.25(c)(1) and 108.35(c)(1) (21 CFR 108.25(c)(1) and 108.35(c)(1)). In addition to registering the plant, each firm is required to provide data on the processes used to produce these foods, using Forms FDA 2541d, FDA 2541e, FDA 2541f for all methods except aseptic processing, or Form FDA 2541g for aseptic processing of low-acid foods in hermetically sealed containers (§§ 108.25(c)(2) and 108.35(c)(2)). Plant registration and process filing may be accomplished simultaneously. Process data must be filed prior to packing any new product, and operating processes and procedures must be posted near the processing equipment or made available to the operator (21 CFR 113.87(a)).

Regulations in parts 108, 113, and 114 (21 CFR parts 108, 113, and 114) require firms to maintain records showing adherence to the substantive requirements of the regulations. These records must be made available to FDA on request. Firms also must document corrective actions when process controls and procedures do not fall within specified limits (§§ 113.89, 114.89, and 114.100(c)); to report any instance of potential health-endangering spoilage, process deviation, or contamination with microorganisms where any lot of the food has entered distribution in commerce (§§ 108.25(d) and 108.35(d) and (e)); and to develop and keep on file plans for recalling products that may endanger the public health (§§ 108.25(e) and 108.35(f)). To permit lots to be traced after distribution, acidified foods and thermally processed low-acid foods in hermetically sealed containers must be marked with an identifying code (§ 113.60(c) (thermally processed low-acid foods) and § 114.80(b) (acidified foods)).

The records of processing information are periodically reviewed during factory inspections by FDA to verify fulfillment of the requirements in parts 113 or 114. Scheduled thermal processes are examined and reviewed to determine their adequacy to protect public health. In the event of a public health emergency, records are used to pinpoint potentially hazardous foods rapidly and thus limit recall activity to affected lots.

As described in our regulations, processors may obtain the paper version of Forms FDA 2541, FDA 2541d, FDA 2541e, FDA 2541f, and FDA 2541g at *https://www.fda.gov/Food/GuidanceRegulation/FoodFacilityRegistration/AcidifiedLACFRegistration/ucm2007436.htm.* Processors mail completed paper forms to us. However, processors who are subject to § 108.25 and/or § 108.35 have an option to submit Forms FDA 2541, FDA 2541d, FDA 2541e, FDA 2541f, and FDA 2541g electronically.

Although we encourage commercial processors to use the electronic submission system for plant registration and process filing, we will continue to make paper-based forms available. To standardize the burden associated with process filing, regardless of whether the

process filing is submitted electronically or using a paper form, we are offering the public the opportunity to use four forms, each of which pertains to a specific type of commercial processing and is available both on the electronic submission system and as a paper-based form. The electronic submission system and paper-based form ''mirror'' each other to the extent practicable. The four process filing forms are as follows:

- Form FDA 2541d (Food Process Filing for Low-Acid Retorted Method);
- Form FDA 2541e (Food Process Filing for Acidified Method);
- Form FDA 2541f (Food Process Filing for Water Activity/Formulation Control Method); and
- Form FDA 2541g (Food Process Filing for Low-Acid Aseptic Systems).

Description of Respondents: The respondents to this information collection are commercial processors and packers of acidified foods and thermally processed low-acid foods in hermetically sealed containers.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Form FDA No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
108.25(c)(1) and 108.35(c)(2); Food canning establishment registration.	2541	1,218	1	1,218	0.17 (10 minutes)	207
108.25(c)(2); Food process filing for acidified method	2541e	2,078	7	14,546	0.33 (20 minutes)	4,800
108.35(c)(2); Food process filing for low-acid retorted method.	2541d	842	7	5,894	0.33 (20 minutes)	1,945
108.35(c)(2); Food process filing for water activity/formulation control method.	2541f	111	4	444	0.33 (20 minutes)	147
108.35(c)(2); Food process filing for low-acid aseptic systems.	2541g	168	11	1,848	0.75 (45 minutes)	1,386
108.25(d), 108.35(d) and (e); Report of any instance of potential health-endangering spoilage, process deviation, or contamination with microorganisms where any lot of the food has entered distribution in commerce.	N/A	1	1	1	4	4
Total						8,489

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We base our estimates in table 1 on registrations, process filings, and reports received. The estimates for hours per response are based on our experience with similar programs and information received from industry.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total Hours
113.100 and 114.100	10,392	1	10,392	250	2,598,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our regulations require that processors mark thermally processed low-acid foods in hermetically sealed containers (§ 113.60(c)) and acidified foods (§ 114.80(b)) with an identifying code to permit lots to be traced after distribution. No burden has been estimated for the third-party disclosure requirements in §§ 113.60(c) and 114.80(b) because the coding process is done as a usual and customary part of normal business activities. Coding is a business practice in foods for liability purposes, inventory control, and process control in the event of a problem. Under 5 CFR 1320.3(b)(2), the time, effort, and financial resources necessary to comply with a collection of information are excluded from the burden estimate if the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary because they would occur in the normal course of activities.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–17599 Filed 8–27–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–8898]

Agency Information Collection Activities; Proposed Collection; Comment Request; Qualitative Feedback on Agency Service Delivery

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 a generic collection of information through which we intend to seek 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.

DATES: Either electronic or written comments on the collection of information must be submitted by October 27, 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 27, 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–8898 for '' Agency Information Collection Activities; Proposed Collection; Comment Request; Qualitative Feedback on Agency Service Delivery.'' 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.

Qualitative Feedback on Agency Service Delivery

OMB Control Number 0910–0697—Extension

FDA will collect qualitative customer and stakeholder feedback using a variety of methods to gain useful 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 the delivery of products or services. These collections will allow for ongoing, collaborative, and actionable communications between the Agency and its customers and stakeholders. They will also allow feedback to contribute directly to the improvement of program management.

Information collected under this generic clearance will provide valuable

qualitative insights but will 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 collection designed to produce reliably actionable results, such as monitoring trends over time or documenting program performance.

Respondents to this collection of information represent a broad range of customers and stakeholders who have specific characteristics related to certain products or services regulated by FDA. These stakeholders include members of the general public, healthcare professionals, industry, and others who have experience with a product under FDA's jurisdiction.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Focus groups	3,000	1	3,000	1.75	5,250
Customer comment cards/forms	1,500	1	1,500	0.25 (15 minutes)	375
Small discussion groups	800	1	800	1.75	1,400
Customer satisfaction surveys	20,000	1	20,000	0.33 (20 minutes)	6,600
Usability studies	1,100	1	1,100	1	1,100
Total					14,725

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–17605 Filed 8–27–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–4533]

Compounding Animal Drugs From Bulk Drug Substances: Compounding Under CGMP in Federally-Registered Facilities; Draft Guidance for Industry; Availability; Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing the availability of a draft guidance for industry (GFI) #256B entitled ''Compounding Animal Drugs from Bulk Drug Substances: Compounding under CGMP in Federally-Registered Facilities.'' This draft guidance, when finalized, will describe FDA's current thinking regarding the circumstances under which we generally do not intend to take action against the compounding of animal drug products from bulk drug substances (BDS) when done in accordance with Current Good Manufacturing Practice (CGMP) at drug production facilities that are registered with FDA.

DATES: Submit either electronic or written comments on the draft guidance by November 27, 2026 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2018–D–4533 for ''Compounding Animal Drugs from Bulk Drug Substances: Compounding under CGMP in Federally-Registered Facilities.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' 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.

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

Submit written requests for single copies of the guidance to the Policy and Regulations Staff, Center for Veterinary Medicine, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

With regard to the draft guidance: Cindy L. Burnsteel, Center for Veterinary Medicine, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–0817, *Cindy.Burnsteel@fda.hhs.gov.*

With regard to the collection of information: Kelly Covington, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 240–402–5661, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry #256B entitled ''Compounding Animal Drugs from Bulk Drug Substances: Compounding under CGMP in Federally-Registered Facilities.''

FDA has generally exercised enforcement discretion with regard to animal drug compounding from BDS under certain circumstances when no other medically appropriate treatment options exist. In the **Federal Register** of April 14, 2022 (87 FR 22212), we announced the availability of final GFI #256, entitled ''Compounding Animal Drugs from Bulk Drug Substances.'' GFI #256 describes circumstances under which FDA generally does not intend to take enforcement action for violations of the FD&C Act against either veterinarians or pharmacists who compound certain types of animal drugs from BDS in either State-licensed pharmacies or Federal facilities. The enforcement discretion in GFI #256 applies to State-licensed pharmacies as well as federal government facilities.

GFI #256B is intended to provide recommendations for an additional type of compounder, federally-registered facilities that operate in compliance with state laws and regulations governing drugs, pharmacy, and veterinary medicine but that may not be State-licensed pharmacies (*e.g.,* the state has a different license for outsourcing facilities). ''Federally-registered facilities'' are defined in draft GFI #256B as facilities that are registered with FDA under section 503B(b) (21 U.S.C. 353b(b)) or section 510(b) (21 U.S.C. 360(b)) of the FD&C Act.

Draft GFI #256B, when finalized, will describe the circumstances with respect to federally-registered facilities under which FDA does not intend to take enforcement action against the compounding of animal drug products from BDS for nonfood-producing animals, either with or without patient-specific prescriptions, and for the use of certain BDS for compounding animal drugs for use as antidotes for food-producing animals or as sedatives and anesthetics for free-ranging wildlife species, provided that certain circumstances are present. We will combine this draft guidance, when finalized, with our final GFI #256, ''Compounding Animal Drugs from Bulk Drug Substances.'' In draft GFI #256B, we have made minor changes and clarifications to recommendations that were originally in GFI #256. If any of these are adopted when GFI #256B is finalized, we consider them level 2 changes to GFI #256, and we will make conforming changes as appropriate.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Compounding Animal Drugs from Bulk Drug Substances: Compounding under CGMP in Federally-Registered Facilities.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

As we develop final guidance on this topic, FDA will consider comments on costs or cost savings the guidance may generate, relevant for Executive Order 14192.

II. Paperwork Reduction Act of 1995

This draft guidance contains information collection provisions that are subject to review by the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). A description of these provisions is given in the *Description* section of this document with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each 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.

Title: Compounding Animal Drugs from Bulk Substances; OMB control number 0910–0904–Revision.

Description of Respondents: The respondents are pharmacists in State-licensed pharmacies, pharmacists in Federal government facilities, veterinarians, and pharmacists at federally-registered facilities who compound animal drugs from BDS.

Description: This information collection supports recommendations discussed in Food and Drug Administration guidance. In the **Federal Register** of April 14, 2022 (87 FR 22212), we announced the availability of final GFI #256, entitled ''Compounding Animal Drugs from Bulk Drug Substances.'' GFI #256 describes circumstances under which FDA generally does not intend to take enforcement action against veterinarians or pharmacists who compound certain types of animal drugs from BDS in either State-licensed pharmacies or Federal facilities for violations of the FD&C Act.

Draft GFI #256B, when finalized, will describe the circumstances with respect to federally-registered facilities under which FDA does not intend to take enforcement action against the compounding of animal drugs from BDS for nonfood-producing animals, either with or without patient-specific prescriptions, and for the use of certain BDS for compounding animal drugs for use as antidotes for food-producing animals or as sedatives and anesthetics for free-ranging wildlife species, provided that certain conditions are met. We will incorporate this draft guidance, when finalized, into our final GFI #256, ''Compounding Animal Drugs from Bulk Drug Substances.''

We note also related reporting, recordkeeping, and disclosure requirements applicable under the Controlled Substances Act, for which currently active information collection approvals are maintained by the Department of Justice's Drug Enforcement Administration. For purposes of this information collection request, however, we have characterized the burden that may be associated with recommendations discussed in the guidance document as recordkeeping burden.

Our exercise of discretion depends on our ability to assess whether the circumstances under which FDA would intend to exercise such discretion, as described in this draft guidance, exist. FDA staff may use pharmacy and veterinary records, among other things, to determine the circumstances surrounding the compounding activity. Except with regard to one proposed item, the routine business records kept by pharmacists who compound animal drugs from BDS who compound animal drugs from BDS, as well as veterinarians prescribing compounded animal drugs within a valid veterinarian-client-patient relationship, should be adequate to ascertain if the circumstances described in the draft guidance exist.

The draft guidance provides recommendations for the compounding of animal drugs from bulk drug substances at ''federally-registered facilities,'' that is, facilities that are registered with FDA under section 503B(b) (21 U.S.C. 353b(b)) or section 510(b) (21 U.S.C. 360(b)) of the FD&C Act. Section III.A.4 of the draft guidance explains that when the compounded drug is a copy of a marketed FDA-approved, conditionally approved, or indexed animal drug or an FDA-approved human drug, there should be a difference between the compounded drug and the FDA-approved, conditionally approved, or indexed animal drug or the FDA-approved human drug that will produce a clinical difference in the identified patient. We tentatively conclude that it is usual and customary for veterinarians to document their medical rationale for using such a compounded product as a matter of maintaining an adequate medical record in routine practice; therefore, no burden has been estimated for the time it would take for a veterinarian to make this record.

Section III.A.5 of the draft guidance explains that when the compounded drug contains the same active moiety as a marketed FDA-approved, conditionally approved, or indexed animal drug or an FDA-approved human drug (which includes drugs containing the same active ingredient and those with a different salt, ester, or other noncovalent derivative), there should be a difference between the compounded drug and the marketed FDA-approved, conditionally approved, or indexed animal drug or FDA-approved human drug that will produce a clinical difference in the identified patient. In such a case, the medical rationale is documented in the prescription or noted in the patient's medical record. We tentatively conclude that it is usual and customary for veterinarians to document their medical rationale for using such a compounded product as a matter of maintaining an adequate medical record in routine practice; therefore, no burden has been estimated for the time it would take for a veterinarian to make this record.

Sections III.A.5 and III.A.6 of the draft guidance describe circumstances under which FDA recommends pharmacist compounders document the prescribing veterinarian's medical rationale and the reason that a BDS is being used as the source of the active ingredient. Based on our evaluation, we believe it is usual and customary business practice for veterinarians to document the medical rationale, as recommended in the guidance. However, we believe pharmacist compounders may not document the information recommended in the guidance as a usual and customary business practice.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1] [2]

Recommended information collection activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Documenting rationales by licensed veterinarian/pharmacist compounders in state-licensed pharmacies or Federal Facilities.	7,500	741	5,556,306	0.02 (1 minute)	111,126
Documenting rationales by facilities registered under section 503B(b) or section 510(b) (21 U.S.C. 360(b)(2) of the FD&C Act.	8	741	5,928	0.02 (1 minute)	119
Total	7,508	.....	5,562,234	.....	111,245

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Sums may not total due to rounding.

Our estimated burden for the information collection reflects an overall decrease of 58,855 hours and a corresponding decrease of 393 records/recordkeeper. We attribute this adjustment to a decrease in our estimate of the percentage of prescriptions that are subject to the recommendation related to medical rationale, plus the inclusion of federally-registered facilities. Of the approximately 98 federally-registered facilities that perform any compounding in the United States, about 8 specialize in both human and animal compounding. We do not have data on the number of patient-specific prescriptions filled at these facilities and therefore use the same assumptions we use for other compounders. We seek information about percentage of patient specific animal drug prescriptions sold by these facilities, and the percentage of those prescriptions that meet the guidance's definition of copy. GFI 256B makes recommendations that apply not only to outsourcing facilities registered under

section 503B(b), but also to ''traditional'' animal drug manufacturers registered under section 510(b). At present, to our knowledge, no facilities registered under section 510(b) compound patient-specific prescriptions. Therefore, we do not count them in our estimated number of recordkeepers and estimate 0 recordkeeping burden for those firms at this time.

At the time of its initial publication, we originally assumed the guidance's recommendations regarding medical rationales would apply to 50 to 75 percent of all prescriptions. However, since the publication of GFI 256, FDA has conducted additional inspections of animal drug compounders and has a better understanding of current industry practices. Based on our additional experience with the regulation of compounded animal drugs, we now estimate that 49% of all prescriptions for compounded animal drugs would fall within the medical rationale recommendation. We note that our medical rationale recommendation does not apply to several significant categories of compounded animal drugs, namely, all drugs not compounded from BDS, all drugs sold as office stock, and all drugs which do not meet the guidance's definition of a copy (such as compounded drugs with a different active moiety and/or route of administration). We do not have additional information about our other estimates (*e.g.,* the estimated number of recordkeepers) and therefore continue to use our original estimates for those values. Therefore, recalculating using 49% as the number of prescriptions that fall within the medical rationale recommendation, we estimate the total number of recordkeeping hours for veterinarians, pharmacies and federal government facilities under GFI 256 to be 111,126.

With respect to draft GFI #256B, we estimate it will take 1 minute (0.02 hours) per record for federally-registered facilities to document the rationales described in the draft guidance, for a total of 119 hours attributable to the new respondents in draft GFI 256B, as reported in Table 1.

Under 5 CFR 1320.3(b)(2), the time, effort, and financial resources to comply with a collection of information are excluded from the burden estimate if the reporting, recordkeeping, or disclosure activities are usual and customary because they would occur in the normal course of activities. If the compounded drug is compounded for use as an antidote for food-producing animals or for use as a sedative or anesthetic for free-ranging wildlife species, section III.C.3 of the guidance recommends that the veterinarian establishes and documents a scientifically based withdrawal time that ensures residues of the: (1) Antidote and the underlying toxin or (2) sedative or anesthetic are not present in the animal at the time of slaughter or harvest or the veterinarian ensures the animal does not enter the food supply. We believe that it is usual and customary for veterinarians to establish and document a scientifically based withdrawal time as a matter of maintaining an adequate medical record in routine practice and, therefore, estimate no burden for the time it would take for a veterinarian to make this record. See 5 CFR 1320.3(b)(2).

We believe any information collection pertaining to enforcement activities would involve administrative actions to which the Federal government is a party or that occur after an administrative case file has been opened regarding a particular individual or entity and would be exempt from OMB review and approval under the PRA. See 44 U.S.C. 3518(c)(1)(B); 5 CFR 1320.4(a)(2), (c).

In addition, the guidance makes a number of recommendations regarding the labeling of animal drugs compounded from bulk drug substances. In sections III.A.8, III.B.6, and III.C.8, the guidance recommends basic information that pharmacists should include on the label of the compounded drug, such as the name and strength of the drug, species, directions for use, and the name, address, and contact information for the compounder. We believe that it is usual and customary for pharmacists to include such information on the labels of compounded animal drugs in the normal course of their activities, and therefore, estimate no burden for the time it would take to prepare such labeling. See 5 CFR 1320.3(b)(2). Sections III.A.8, III.B.6, and III.C.6 of GFI #256 and III.A.9, III.B.7, and III.C.9 of GFI #256 also recommend compounders include several specific statements on the label of animal drugs compounded from bulk drug substances (*e.g.,* ''This is a compounded drug. Not an FDA approved or indexed drug''). Because these recommended labeling statements are public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public (5 CFR 1320.3(c)(2)), they are exempt from OMB review and approval under the PRA.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/animal-veterinary/guidance-regulations/guidance-industry, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

IV. Other Issues for Consideration

Although this draft guidance proposes to extend a similar enforcement policy to all federally-registered facilities as is currently applicable to State licensed pharmacies and Federal government facilities, FDA is interested in which, if any, alterations should be made to better tailor this policy to account for the quality advantages of drugs that are produced in accordance with CGMP, as opposed to those compounded under the enforcement discretion policy of GFI #256, which are not made under CGMP conditions. FDA therefore requests the following additional information and comments on the options. FDA may adopt any of these changes in the final document without reissuance of a new draft guidance. For all data provided in response to these questions, we request the respondent do its best to identify the source of the data (*e.g.,* data from 503B facilities vs. data from other non-federally registered compounders vs. combined data).

1. FDA seeks comment on whether it should expand the recommendations in this guidance to additional drugs that are not currently on ''The List of Bulk Drug Substances for Compounding Office Stock Drugs for Use in Nonfood-Producing Animals'' (available at *https://www.fda.gov/animal-veterinary/animal-drug-compounding/list-bulk-drug-substances-compounding-office-stock-drugs-use-nonfood-producing-animals*). FDA remains concerned that compounded office stock potentially exposes large numbers of animals to drugs of unproven safety and effectiveness but notes that production in accordance with CGMP would present fewer quality concerns than drugs compounding under non-CGMP conditions per GFI #256. Unapproved drugs made in accordance with CGMP can still present additional quality risks compared to approved products because, while both are made according to CGMP, the latter undergo a product-specific Chemistry Manufacturing and Controls review during their application review. FDA is interested in the effects of extending the enforcement discretion policy related to office stock made in federally-registered establishments to additional categories of drugs, such as all office stock that does not meet the definition of a copy (*i.e.,* the enforcement discretion policy would include compounding office stock on ''The List of Bulk Drug Substances for

Compounding Office Stock Drugs for Use in Nonfood-Producing Animals'' *and* any other animal drug from a bulk drug substance, provided there is no marketed approved/indexed human or animals drugs with the same active moiety and route of administration). We invite comment on this or other options.

2. FDA seeks information on the relative percentages of drugs being compounded from bulk drug substances that meet the definition of a copy under this guidance (same active moiety and route of administration as FDA-approved/indexed drug) compared with those that do not meet the definition of a copy.

3. FDA seeks general comment on whether any parts of GFI #256 negatively affect the market incentives to produce these same drugs under CGMP as described in this guidance.

4. FDA seeks information on how many/which of the drugs on ''The List of Bulk Drug Substances for Compounding Office Stock Drugs for Use in Nonfood-Producing Animals'' are presently being produced according to CGMP. We are specifically interested in understanding whether federally-registered facilities are able to meet veterinarians' needs with respect to these drugs.

5. FDA seeks information from conventional animal drug manufacturers (federally-registered facilities under FD&C Act section 510) as to whether they are likely to compound under this guidance and which, if any, barriers exist (*e.g.,* pharmacist supervision).

6. FDA seeks comment from conventional animal drug manufacturers who make approved products whether any aspects of this guidance should be specifically tailored to better accommodate manufacturers who wish to compound copies of their own approved products (*i.e.,* to meet the medical needs of individual animal patients who are not suitable candidates for the approved version). We recognize these registered facilities have particular expertise in these BDS, as well as access to various stages of in-process materials for the approved product, and request comment on how this should be addressed in GFI #256B.

7. FDA seeks comment/information as to the impact of recent United States Pharmacopeia (USP) changes to chapters <795> and <797> for State-licensed compounding pharmacies and whether animal patients would benefit from state-licensed pharmacies (*e.g.,* non-compounding, retail/dispensing-only pharmacies) being able to obtain compounded animal drugs made under CGMP in federally-registered facilities under GFI #256B, which they would dispense. FDA has preliminarily considered this change, but FDA has concerns about our ability to control the inappropriate distribution of copies if the compounding of animal drugs from BDS is conducted in a separate facility and/or by parties who are unrelated to the pharmacist/facility who obtains and maintains the medical rationale, particularly given there are tens of thousands of non-compounding retail/dispensing pharmacies that could distribute these drugs. We seek comment on any challenges posed by this option, such as:

- Difficulties in taking action against a federally-registered facility if adequate medical rationale is not collected by 3rd party pharmacies that distribute the federally-registered facility's drugs;
- Ability to assess medical rationale (including asking standard inspectional questions about a firm's process for collecting rationale) if a single compounder's drugs are distributed by (and medical rationale collected by) numerous, potentially unrelated pharmacies; and
- Ability to assess a federally-registered facility's decision to use BDS as opposed to approved products as the source of active ingredients when some of the justifications for using BDS are inherently patient or species specific (*e.g.,* patient or species allergic to specific ingredient) and the federally-registered facility may not know the identity or needs of the animal patient to whom a state licensed pharmacy may subsequently dispense a drug;
- Practical and legal limitations on FDA's ability to conduct a full inspection and review all records recommended by this guidance (including reviewing original records of medical rationale for patient-specific prescriptions) if they are created and maintained by a pharmacy that did not manufacture, produce, or otherwise compound the drug (*i.e.,* a non-compounding retail pharmacy that only fills patient-specific prescriptions from drugs it obtained from a federally-registered facility);
- Changes that might mitigate the practical and legal constraints related to inspecting countless retail/dispensing-only pharmacies, including:
  - recommending the federally-registered facility maintain copies of all medical rationale (even the medical rationale obtained elsewhere);
  - limiting the recommendation to a federally-registered facility that distributes to pharmacies under common ownership and control; and/or
  - limiting the recommendation only to drugs that do not meet the definition of a copy.

8. FDA seeks information from federally-licensed facilities, particularly outsourcing facilities, as to their current practices and future ability/willingness to dispense patient-specific prescriptions. We note that the guidance treats prescriptions for groups of animals as patient-specific in certain circumstances.

9. FDA seeks information about the impact any changes or proposals above in this guidance have on zoos, as well as any unique factors that distinguish zoos from other consumers of, or markets for, animal drugs.

10. FDA is concerned that ''groups of animals,'' as described in GFI #256, is being misused as a means of dispensing office stock. We have made minor changes and clarifications in draft GFI #256B to address this issue (*e.g.,* clarifying what constitutes a group and how groups should be described), but we seek comment on whether it is appropriate to further revise our recommendations on prescribing to groups of animals, such as treating prescriptions for groups of animals as patient-specific only when every animal in the group is treated simultaneously for the same indication (*e.g.,* contagious disease threatening entire group due to its presence in a specific, identified location, or entire group exposed to toxin) or where it is impractical to not treat all animals simultaneously. FDA requests comment on both specific situations (''contagious disease,'' ''toxic exposure,'' etc.) and general recommendations (''when necessary to treat simultaneously'') where prescriptions should be written for groups of animals.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–17580 Filed 8–27–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–2365]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Reporting Associated With Animal Drug and Animal Generic Drug User Fees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by September 28, 2026.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0540. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Kelly Covington, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 240–402–5661, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Animal Drug and Animal Generic Drug User Fee Programs

OMB Control Number 0910–0540—Extension

This information collection helps support implementation of the Animal Drug User Fee Act of 2003 (ADUFA) (Pub. L. 108–130) and Animal Generic Drug User Fee Act of 2008 (AGDUFA) (Pub. L. 110–316), established in sections 740 and 741 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 379j–12 and 21 U.S.C. 379j–21), respectively. Under ADUFA, FDA assesses and collects user fees for certain new animal drug applications and supplements, products, establishments, and sponsors of new animal drug applications and/or investigational new animal drug files. The ADUFA program is currently reauthorized through September 30, 2028, and FDA efforts to engage interested stakeholders in the 2028 reauthorization is ongoing. More information regarding the ADUFA program can be found at *https://www.fda.gov/industry/fda-user-fee-programs/animal-drug-user-fee-act-adufa,* including current user fee rates applicable to animal drug submissions. Under AGDUFA, FDA assesses and collects user fees for certain abbreviated (generic) new animal drug applications, supplements, and generic investigational new animal drug file submissions, products, and sponsors of generic new animal drug applications and/or generic investigational new animal drug files. The AGDUFA program is currently reauthorized through September 30, 2028, and FDA efforts to engage interested stakeholders in the 2028 reauthorization is ongoing. More information regarding the AGDUFA program can be found at *https://www.fda.gov/industry/fda-user-fee-programs/animal-generic-drug-user-fee-act-agdufa,* including current user fee rates applicable to generic animal drug submissions.

These user fee program resources support FDA's responsibilities to ensure that new animal drugs are safe and effective for the animals, as well as ensuring the safety of food from treated animals.

Sponsors of new animal drug applications complete a user fee cover sheet and submit it through FDA's Center for Veterinary Medicine's (CVM, the Center) eSubmitter. The Animal Drug User Fee cover sheet (Form FDA 3546) is designed to collect the minimum necessary information to determine whether a fee is required for the review of an application or supplement or whether an application fee waiver was granted, to determine the amount of the fee required, and to ensure that each animal drug user fee payment is appropriately linked to the animal drug application for which payment is made. The form, when completed electronically, results in the generation of a unique payment identification number used by FDA to track the payment. The information collected is used by CVM to initiate the administrative screening of new animal drug applications and supplements.

Similarly, sponsors of abbreviated new animal drug applications and certain generic investigational new animal drug file submissions also complete a user fee cover sheet and submit it through CVM's eSubmitter. The AGDUFA cover sheet (Form FDA 3728) is also designed to collect the minimum necessary information to determine whether a fee is required for review of an application or submission to an investigational file, to determine the amount of the fee required, and to ensure that each animal generic drug user fee payment is appropriately linked to the abbreviated new animal drug application or generic investigational new animal drug file submission for which payment is made. The form, when completed electronically, results in the generation of a unique payment identification number used by FDA to track the payment. The information collected is used by CVM to initiate the administrative screening of abbreviated new animal drug applications and certain generic investigational new animal drug file submissions.

Both sections 740 and 741 of the FD&C Act provide for waivers, reductions, and exemptions of fees. To assist respondents with submitting requests for waivers or reductions of ADUFA user fees, we developed guidance for industry (GFI) #170 entitled ''Animal Drug User Fees and Fee Waivers and Reductions'' (April 2023), available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/cvm-gfi-170-animal-drug-user-fees-and-fee-waivers-and-reductions.* This document discusses the types of fees FDA is authorized to collect under section 740 of the FD&C Act, and how to request waivers or reductions from these fees. Further, this guidance also describes what information FDA recommends be submitted in support of a request for a fee waiver or reduction, a request for reconsideration of denial of a fee waiver or reduction request, or an appeal of the denial decision in accordance with 21 CFR 10.75; how to submit such a request or appeal; and FDA's process for reviewing such requests or appeals.

Similarly, we developed guidance for industry (GFI) #199 entitled ''Animal Generic Drug User Fees and Fee Waivers and Reductions'' (May 2009), available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/cvm-gfi-199-animal-generic-drug-user-fees-and-fee-waivers-and-reductions.* This document discusses the types of fees FDA is authorized to collect under section 741(a)(1) of the FD&C Act, and how to request waivers or reductions from these fees. Further, this guidance also describes what information FDA recommends be submitted in support of a request for a fee waiver or reduction, a request for reconsideration of denial of a fee waiver or reduction request, or an appeal of the denial decision in accordance with 21 CFR 10.75; how to submit such a request or appeal; and FDA's process for reviewing such requests or appeals.

We use the information submitted by respondents to determine whether requests for waiver or reduction of user fees, reconsideration requests, or appeals may be granted.

In the **Federal Register** of March 23, 2026 (91 FR 13854), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

FD&C act section; activity	FDA Form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
User fee cover sheets, by type						
740(a)(1); Animal Drug User Fee cover sheet	FDA 3546	7	2	14	0.5 (30 minutes)	7
741(a)(1); Animal Generic Drug User Fee cover sheet	FDA 3728	22	2.4	53	0.5 (30 minutes)	26.5
Waiver and other requests, by type						
740(d)(1)(A); significant barrier to innovation	N/A	65	1	65	2	130
740(d)(1)(B); fees exceed cost	N/A	4	2	8	0.5 (30 minutes)	4
740(d)(1)(C); free choice feeds	N/A	4	1	4	2	8
740(d)(1)(D); minor use or minor species	N/A	78	1	78	2	156
740(d)(1)(E); small business	N/A	4	1	4	2	8
741(d)(1); minor use or minor species	N/A	3	1	3	2	6
Request for reconsideration of a decision	N/A	1	1	1	2	2
21 CFR 10.75; Appeal of a decision	N/A	1	1	1	2	2
Total						349.5

[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. We attribute this adjustment to an increase in the number of submissions we have received since our last evaluation. The total number of annual responses is based on the average number of submissions received by FDA in fiscal years 2022 to 2024. The estimated time we attribute to the hours per response is based on our experience with the various submissions and reflects the average burden we attribute to all respondents.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–17601 Filed 8–27–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–3240]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Importation of Prescription Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by September 28, 2026.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0888. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–1244, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Importation of Prescription Drugs—21 CFR Part 251

OMB Control Number 0910–0888—Extension

This information collection supports implementation of section 804 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 384), and applicable regulations in part 251 (21 CFR part 251). The purpose of section 804 of the FD&C Act is to reduce the cost of covered products to American consumers without imposing additional risk to public health and safety. The regulations in part 251 set forth procedures Section 804 Importation Program sponsors (SIP Sponsors) must follow when submitting plans to implement time-limited programs to begin importation of drugs from Canada. The regulations also establish criteria for FDA review and authorization of a SIP proposal or supplemental proposal. Additionally, the regulations set forth requirements for eligible prescription drugs and requirements for entities that engage in importation of eligible prescription drugs. Finally, the regulations provide for exempt eligible prescription drugs that meet certain requirements from section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)).

Description of Respondents: Respondents to the collection of information are SIP Sponsors (States or Indian Tribes, or in certain future circumstances, pharmacists or wholesale distributors, and any cosponsor(s)), importers (pharmacists or wholesaler distributors), and manufacturers of eligible prescription drugs.

In the **Federal Register** of April 16, 2026 (91 FR 20462) FDA published a 60-day notice soliciting comment on the proposed collection of information. We received one comment containing several topics. These issues included cost savings, patient risks, continuity of care, and product labeling. Because these topics are outside the scope of the 60-day notice, we decline to address

them here. The submitter also raised an issue regarding whether FDA had overestimated the burden associated with individual provisions established by part 251 (21 CFR part 251) (Section 804 Importation Program) although no alternative figures were given by the commenter. The commenter questions the number of recordkeepers and how FDA derived its count. In this regard, we note that the scope of the information collection is set forth in § 251.1 (21 CFR 251.1) and that our estimate of the number of recordkeepers is forward-looking and its baseline is based on historical experience. Consistent with Executive Order 14273, FDA is taking steps to streamline and improve the section 804 importation program to make it easier for States to obtain authorization without sacrificing safety or quality in accordance with section 804 of the FD&C Act and FDA's implementing regulations. Additionally, in June 2026, FDA authorized another state's drug importation program proposal under section 804 of the FD&C Act. Consequently, we recognize that the number of respondents may fluctuate, especially during the initial phases of the program's implementation. Because of this, the number of recordkeepers is based on our current best estimate of state involvement and interest.

We appreciate all comments on this information collection but refrain from making further modifications to our estimate until we gain more experience with its implementation. Upon receipt of such information FDA will revise our burden estimate accordingly in our next submission to OMB.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section 251; information collection activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Subpart B; SIP proposals and pre-import requests	40	1.5	60	72	4,320
Subpart C; Certain requirements for importation programs	40	1	40	43	1,720
Total			100		6,040

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We have established a web page at *https://www.fda.gov/drugs/importation-program-under-section-804-fdc-act/section-804-importation-program-policies-and-authorizations* to communicate news and information about FDA efforts to implement the SIP. We assume the burden attributable to the required retention, reporting, and disclosure of records pertaining to these information collection activities will be distributed among respondents at an average of 100 responses and 6,040 hours annually. Based on a review of the information collection since our last request for OMB approval we have made no adjustments to our burden estimate.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–17603 Filed 8–27–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: The National Health Service Corps Loan Repayment Programs OMB No. 0915–0127—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than October 27, 2026.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 13N82, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Samantha Miller, the HRSA Information Collection Clearance Officer, at (301) 443–9094.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: The National Health Service Corps Loan Repayment Programs, OMB No. 0915–0127—Revision.

Abstract: The National Health Service Corps (NHSC) Loan Repayment Program (LRP) was established to assure an adequate supply of trained primary care health professionals to provide services in Health Professional Shortage Areas (HPSAs) of the United States with the greatest need. The NHSC Substance Use Disorder Workforce LRP and the NHSC Rural Community LRP were established to recruit and retain a health professional workforce with specific training and credentials to provide evidence-based substance use disorder treatment in HPSAs. Under these programs, HHS agrees to repay the qualifying educational loans of selected primary care health professionals. In return, the health professionals agree to serve for a specified period of time in an NHSC-approved site located in a federally-designated HPSA approved by the Secretary of HHS for NHSC LRP participants.

The forms used by each NHSC LRP include the following: (1) the NHSC LRP Application; (2) the Authorization for Disclosure of Loan Information Form; (3) the Privacy Act Release Authorization Form, and, if applicable; (4) the Certification of Vulnerable Background Form; (5) the Private Practice Option Form; (6) the NHSC Comprehensive Behavioral Health Services Checklist; (7) the NHSC Spanish Language Assessment Proficiency Test Form; and (8) the NHSC Site Application. The first four of these NHSC LRP forms collect information that is needed for selecting participants and repaying qualifying educational loans. The Private Practice Option and Spanish Language Assessment forms are needed to collect information from applicants who wish to be considered for those options. The NHSC Comprehensive Behavioral Health Services Checklist collects information to ascertain whether behavioral health providers are practicing in a community-based setting that provides access to comprehensive behavioral health services. The NHSC Site Application collects information used for determining the eligibility of sites for the assignment of NHSC health professionals and to verify the need for NHSC clinicians.

In this revision, the NHSC seeks to update the terminology with respect to Disadvantaged Background and accompanying definitions. More specifically, the Verification of Disadvantaged Background Form, which is used to determine whether an applicant qualifies for a funding priority on the basis that the applicant is from a disadvantaged background (42 U.S.C. 254l–1(d)(2)(C)), has been changed in the following ways: updated the name to ''Certification of Vulnerable Background'', updated ''disadvantaged'' to ''vulnerable'', and updated ''educational/environmental and or economic factors'' to ''educationally/geographically vulnerable background'' and ''economically vulnerable background.'' These changes are being made to align with the Administration's priority of reinforcing programs that direct resources to areas of greatest need to improve health outcomes.

Previously, the NHSC used the same definition of ''disadvantaged background'' as that used by the Scholarships for Disadvantaged Students Program, which is authorized by Sec. 737 of the Public Health Service Act (42 U.S.C. 293a). HRSA's use of ''vulnerable background'' operationalizes the statutory term by identifying individuals whose geographic or economic circumstances inhibited them from obtaining the knowledge, skills, and abilities required to enroll in and graduate from an eligible health profession school. This approach remains consistent with the statute's intent while incorporating more current terminology. These updates were made throughout the revised Certification of Vulnerable Background Form to improve consistency and help ensure that applicants and reviewers understand the criteria using current terminology.

NHSC will define ''vulnerable background'' as ''coming from an educationally/geographically vulnerable background or an economically vulnerable background that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a health profession school.''

NHSC will define ''educationally/geographically vulnerable background'' as ''a background that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a health profession school, or from a program providing education or training in an allied health profession.'' Examples of indicators that an individual comes from an educationally/geographically vulnerable background include, but are not limited to:

- Attending/graduating from a high school with low average SAT/ACT scores or below the average state test results.
- Having lived in a school district where 50 percent or less of graduates go to college.
- Diagnosed with a physical or mental impairment that substantially limits participation in educational experiences.
- Having a primary language other than English and for whom language is still a barrier to academic performance.
- Being the first generation to attend college.
- Attending/graduating from a high school where at least 30 percent of enrolled students are eligible for free or reduced-price lunches.
- Being from a rural, remote, or geographically isolated community where access to quality education, health care, transportation, or broadband is limited.

NHSC will define ''economically vulnerable background'' as:

- Coming from a family with an annual income that does not exceed 200 percent of the HHS Poverty Guidelines. A family is a group of two or more individuals related by birth, marriage, or adoption who live together, or an individual who is not living together with any relatives.

Need and Proposed Use of the Information: The need and proposed use of this information collection is to assess an NHSC LRP applicant's eligibility and qualifications for the NHSC LRP, and to determine NHSC LRP applicants' Spanish language proficiency if relevant to their application, and to obtain information for NHSC site applicants. The NHSC LRP application asks for personal, professional, and financial/loan information.

Likely Respondents: Likely respondents include licensed primary care medical, dental, and behavioral health providers who are employed or seeking employment and are interested in serving in HPSAs.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
NHSC LRP Application	9,020	1	9,020	1.00	9,020

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Authorization for Disclosure of Loan Information Form.	7,150	1	7,150	0.10	715
Privacy Act Release Authorization Form.	303	1	303	0.10	30
Certification of Vulnerable Background Form.	660	1	660	0.50	330
Private Practice Option Form.	330	1	330	0.10	33
NHSC Comprehensive Behavioral Health Services Checklist.	4,400	1	4,400	0.13	572
NHSC Spanish Language Assessment Proficiency Test Form.	3,006	1	3,006	0.50	1,503
NHSC Site Application (including recertification)	4,070	1	4,070	0.50	2,035
Total	28,939		28,939		14,238

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2026–17625 Filed 8–27–26; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7107–N–21; OMB Control No.: 2577–0230]

30-Day Notice of Proposed Information Collection: Public Housing Reform; Change in Admission and Occupancy Requirements

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comments from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* September 28, 2026.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Anna Guido, PRA Compliance Officer, Paperwork Reduction Act Division, PRAD, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410; email at *PaperworkReductionActOffice@hud.gov,* ATTN: Anna Guido, telephone (202) 402–5535. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.* Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on February 18, 2026 at 91 FR 7508.

A. Overview of Information Collection

Title of Information Collection: Public Housing Reform; Change in Admission and Occupancy Requirements.

OMB Approval Number: 2577–0230.

Type of Request: Revision of currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: This information collection continues the requirement that public housing agencies (PHAs) make their admission and occupancy policies available upon request to the public and to HUD. PHAs must maintain and provide, for inspection, written policies related to admission and continued occupancy, including eligibility, local preferences, and rent determination, to respond to inquiries from tenants, legal-aid organizations, HUD, and other interested parties, whether informally or through the Freedom of Information Act.

The Quality Housing and Work Responsibility Act of 1998 (QHWRA) (Title V of the FY 1999 HUD Appropriations Act, Public Law 105–276), requires PHAs to maintain and make available written documentation of their admission and occupancy policies. QHWRA made comprehensive changes to the Public Housing program, including updates to choice of rent, community service and self-sufficiency requirements, admission preferences, and the determination of income and rent. This information collection reflects these QHWRA-related admission and occupancy requirements.

Section 103 of the Housing Opportunity Through Modernization

Act of 2016 (HOTMA), which amends the United States Housing Act of 1937, introduced additional requirements that further modified PHA policies. HOTMA required a one-time update of PHA written policies to address ''over-income families,'' defined as households with annual incomes at least 120 percent of the area median income for 2 consecutive years, and established new annual reporting requirements on the number of over-income families in public housing and the number of families on public housing waiting lists.

HUD is revising this collection to reflect updated calculations based on the current number of active PHAs. Since the last approved information collection, the number of active PHAs has changed from 2,774 to 2,667. This number fluctuates over time due to factors such as PHA mergers or the termination of public housing programs through the Rental Assistance Demonstration.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Written policies on admission and continued occupancy	2,667	1	2,667	24	64,008	$28.65	$1,833,829

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Anna Guido,

Department PRA Compliance Officer, Office of Policy Development and Research, Chief Data Officer.

[FR Doc. 2026–17558 Filed 8–27–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7109–N–11; OMB Control No.: 2577–0157]

60-Day Notice of Proposed Information Collection: Public Housing Capital Fund Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing (PIH), HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comments from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: Comments Due Date: October 27, 2026.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to *www.regulations.gov.* Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Dawn Martin, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Dawn Martin, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email *PRA-PublicComments@hud.gov;* telephone (202) 402–6488. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

Copies of available documents submitted to OMB may be obtained from Ms. Martin.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Public Housing Capital Fund Program.

OMB Approval Number: 2577–0157.

Type of Request: Extension of currently approved collection.

Form Numbers: HUD–5084 Contract for Inspection Services, HUD–5087 Outline Specification, HUD–5370 General Contract for Construction Contracts Public Housing Programs, HUD–5370–C1 General Conditions for Non-Construction Contracts Part 1, HUD–5370–C2 General Conditions for Non-Construction Contracts Part 2, HUD–5370–EZ General Contract Conditions for Smal Construction Development Contracts, HUD–5372 Construction Progress Schedule, HUD–5378 Public Housing Construction Report, HUD–5460 Insurance Information, HUD–50071 Certification of Payments to Influence Federal Transactions, HUD–50075.1 Annual Statement Performance and Evaluation Report, HUD–51000 Schedule of Contract Payments, HUD–51001 Periodic Estimate for Partial Payments, HUD–51002 Schedule of Change Orders, HUD–51003 Schedule of Materials Stored, HUD–51004 Summary of Materials Stored, HUD–51915 Model Form Agreement Between Owner and Design Professional, HUD–51915–A Contract Provisions Required by Federal Law or Owner Contract with HUD, HUD–51971–I Offer of Sale of Real Property and Purchase Agreement Part1, HUD–51971–II Offer of Sale of Real Property and Purchase Agreement Part 2, HUD–52396 Analysis of Proposed Main Construction Contract, HUD–52482 Guide Form of Turnkey Developers Packet, HUD–52483–A Proposal for a Public Housing Project, HUD–52484 Development Cost Budget Cost Statement, HUD–52485Demonstration of Financial Feasibility, HUD–52651–A Site Design and Cost Report, HUD–52828 Green Physical Needs Assessment, HUD–52829 Physical Needs Assessment

Capital Fund Financing, HUD–52830 Schedule for Capital Fund Financing Proposal, HUD–52833 Management Needs Assessment Capital Fund Program, HUD–52836 HA Board Resolution Approving Comprehensive Plan or Annual Statement, HUD–52845 Demonstration of Financial Feasibility, HUD–52846 Periodic Payment Debt Service Schedule, HUD–52847 Monthly Debt Service Schedule Pt. A Annual Summary, HUD–52849 Capital Fund Financing Program Pooled Transaction List of Participating PHAs, HUD–53015 Turnkey Contract of Sale.

Description of the need for the information and proposed use: Congress appropriates funds to Public Housing Agencies (PHAs) for modernization, development, financing, and management improvements. The funds are allocated based on a complex formula. The forms in this collection are used to appropriately disburse and utilize the funds provided to PHAs. Additionally, these forms provide the information necessary to approve a financing transaction in addition to any Capital Fund financing transactions. Respondents include approximately 2,771 PHAs receiving Capital Funds and other PHAs wishing to pursue financing. All PHAs with Public Housing units receive Capital Fund formula funds. For financing, PHA must submit a Capital Fund Financing Program (CFFP) application and receive approval to issue CFFP bonds or take out a CFFP loan.

Respondents: Public Housing Agencies.

Estimated Number of Responses: 2,771.

Frequency of Response: Average 2.1 forms.

Average Hours per Response: Average 4.8 hours.

Total Estimated Burdens: 274,599 hours and $10,270,233.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
1. HUD–5084	2,771	1	2,771	1.5	4,156	$35	$145,478
2. HUD–5087	50	1	50	3	150	50	7,500
3. HUD–50071	10	1	10	0.5	5	50	250
4. HUD–50075.1	300	1	300	2.2	660	35	23,100
5. HUD–51000	590	1	590	1	590	35	20,650
6. HUD–51001	2,550	12	30,600	3.5	107,100	35	3,748,500
7. HUD–51002	1,600	5	8,000	1	8,000	35	280,000
8. HUD–51003	500	2	1,000	1.5	1,500	35	52,500
9. HUD–51004	500	2	1,000	2.5	2,500	35	87,500
10. HUD–51915	1,315	1	1,315	3	3,945	35	138,075
11. HUD–51915–A	1,315	1	1,315	3	3,945	35	138,075
12. HUD–51971–I	40	1	40	1.5	60	35	2,100
13. HUD–51971–II	40	1	40	1.5	60	35	2,100
14. HUD–52396	96	1	96	2	192	35	6,720
15. HUD–52482	40	1	40	2	80	35	2,800
16. HUD–52483–A	40	1	40	2	80	35	2,800
17. HUD–52484	532	4	2,128	10	21,280	35	744,800
18. HUD–52485	40	1	40	1	40	35	1,400
19. HUD–52651–A	40	1	40	2.5	100	35	3,500
20. HUD–52829	25	1	25	40	1000	50	50,000
21. HUD–52830	25	1	25	16	400	50	20,000
22. HUD–52833	2,771	1	2,771	13	36,023	35	1,260,805
23. HUD–52836	10	1	10	0.5	5	50	250
24. HUD–52845	25	1	25	8	200	50	10,000
25. HUD–52846	25	1	25	16	400	50	20,000
26. HUD–52847	25	1	25	8	200	50	10,000
27. HUD–52849	25	1	25	1	25	50	1,250
28. HUD–53015	40	1	40	3	120	35	4,200
29. HUD–5370	1,347	1	1,347	1	1,347	35	47,145
30. HUD–5370EZ	1,347	1	1,347	1	1,347	35	47,145
31. HUD–5370C1	1,347	1	1,347	1	1,347	35	47,145
32. HUD–5370C2	1,347	1	1,347	1	1,347	35	47,145
33. HUD–5372	590	1	590	1	590	35	20,650
34. HUD–5378	158	24	3,792	0.25	948	35	33,180
35. HUD–5460	40	1	40	1	40	35	1,400
36. Public Housing Information Center Certification of Accuracy	2,771	1	2,771	2	5,542	35	193,970
37. Form HUD–52828 Green Physical Needs Assessment	2,771	1	2,771	15	41,565	50	2,078,250
38. Broadband Feasibility Determination	2,771	1	2,771	10	27,710	35	969,850
39. SF–424 *	2,771	1	2,771	0	0	0	0
Totals					274,599		10,270,233

* HUD does not calculate hours for standard forms.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Laura Kunkel,

Acting Director, Office of Policy, Program, and Legislative Initiatives.

[FR Doc. 2026–17557 Filed 8–27–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRSS–NPS0042984; OMB Control Number 1024–0236; PPWONRADD0, PPMRSNR1Y.NM0000, 266P10360]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Research Permit and Reporting System Applications and Reports

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) are proposing to renew an information collection without change.

DATES: Interested persons are invited to submit comments, which NPS must receive on or before September 28, 2026.

ADDRESSES: Written comments and suggestions on the information collection requirements should be submitted by the date specified above in **DATES** to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. 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 1024–0236 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Bryan Faehner, Stewardship and Science Coordinator, *bryan_faehner@nps.gov* (email); or 202–816–0857 (phone). Please reference OMB Control Number 1024–0236 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. You may also view the Information Collection Request (ICR) at *http://www.reginfo.gov/public/do/PRAMain.*

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), all information collections require approval under the PRA. 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.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on April 29, 2026 (91 FR 23111). No comments were received.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected.

(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 OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you 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: NPS policy requires anyone conducting research or collecting specimens in a national park—other than NPS employees working on official duties—to obtain an NPS scientific research and collecting permit. These permits are required because federal regulations (36 CFR 2.1 and 36 CFR 2.5) protect park resources and govern how research and specimen collection may occur.

To manage this process, NPS uses a permitting system for scientific research and collecting. People who want to conduct natural or social science research in a park submit either Form 10–741A (Scientific Research and Collecting Permit Application) or Form 10–741B (Science Education Permit Application). Permit holders must then report their work using the Investigator's Annual Report (Form 10–226), the Field Work Check-in Report (Form 10–741C), and the Field Work Check-out Report (Form 10–741D).

The information collected through this process helps the NPS protect park resources and monitor research activities. Applicants and permittees are encouraged to use the online Research Permit and Reporting System (RPRS) to submit their applications and required reports. Additional information, forms, and guidance are available on the RPRS website (*https://irma.nps.gov/RPRS/*).

Title of Collection: Research Permit and Reporting System Applications and Reports, 36 CFR 2.1 and 2.5.

OMB Control Number: 1024–0236.

Form Number: NPS Forms 10–226, 10–741A, 10–741B, 10–741C, and 10–741D.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals; businesses; academic and research institutions; and Federal, State, local, and tribal governments.

Total Estimated Number of Annual Responses: 8,590.

Estimated Completion Time per Response: Varies. From 10 minutes to 90 minutes, depending on activity.

Total Estimated Number of Annual Burden Hours: 6,884.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for applications; annually for reports.

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. 2026–17546 Filed 8–27–26; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–521 and 731–TA–1252–1255 and 1257 (Second Review)]

Certain Steel Nails From Malaysia, Oman, South Korea, Taiwan, and Vietnam; Scheduling of an Expedited Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty orders on Malaysia, Oman, South Korea, Taiwan, and Vietnam, and a countervailing duty order on steel nails from Vietnam would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: August 4, 2026.

FOR FURTHER INFORMATION CONTACT: Gregory Gutierrez (202–205–1999), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On August 4, 2026, the Commission determined that the domestic interested party group response to its notice of institution (91 FR 23454, May 1, 2026) of the subject five-year reviews was adequate and that the domestic interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the reviews has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for these reviews on October 30, 2026. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the reviews may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before 5:15 p.m. on November 6, 2026, and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by November 6, 2026. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: August 25, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–17555 Filed 8–27–26; 8:45 am]

BILLING CODE 7020–02–P

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

[2] The Commission has found the responses submitted on behalf of Mid Continent Steel & Wire, Inc, to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Leila Kump, M.D.; Decision and Order

On December 10, 2025, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause and Immediate Suspension of Registration (OSC/ISO) to Leila Kump, M.D., of Great Falls, Virginia (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 9. The OSC/ISO informed Registrant of the immediate suspension of her DEA registration, No. FK6611013, pursuant to 21 U.S.C. 824(d), alleging that her continued registration is ''an imminent danger to the public health or safety.'' *Id.* at 1. The OSC/ISO also proposed the revocation of her DEA registration, alleging that she currently lacks state authority to handle controlled substances in Virginia and that her continued registration is inconsistent with the public interest.[1] *Id.* (citing 21 U.S.C. 823(g)(1), 824(a)(3)–(4)).

[1] According to the OSC/ISO and Agency records, Registrant's registration expired on December 31, 2025. RFAAX 1, at 3. The Agency has previously held that it is within its jurisdiction and discretion to adjudicate a matter to finality where a registration expired after issuance of an OSC and before issuance of a final order. *See Jeffrey D. Olsen, M.D.,* 84 FR 68474, 68475–79 (2019); *see also Abdul Naushad, M.D.,* 89 FR 54059, 54060 (2024) (applying the same principle and adjudicating a matter to finality where a registration expired before issuance of the OSC). Here, adjudicating the matter to finality will achieve similar goals as in *Olsen;* it will support future interactions between the Agency

Continued

More specifically, the OSC/ISO alleged that Registrant currently lacks the requisite state authority to practice as a physician or prescribe controlled substances in Virginia, the state in which she is registered with DEA. RFAAX 1, at 4. The OSC/ISO further alleged that Registrant improperly prescribed opioids and benzodiazepines simultaneously to two patients, both of whom died of acute intoxication caused by the combination of controlled substances prescribed by Registrant.[2] *Id.* at 4–7.

On February 20, 2026, the Government submitted an RFAA requesting that the Agency issue a default final order revoking Registrant's registration. RFAA, at 1, 3. After carefully reviewing the entire record and conducting the analysis as set forth in detail below, the Agency grants the Government's request for final agency action and revokes Registrant's registration.

I. Default Determination

Under 21 CFR 1301.43, a registrant entitled to a hearing who fails to file a timely hearing request ''within 30 days after the date of receipt of the [OSC] . . . shall be deemed to have waived their right to a hearing and to be in default'' unless ''good cause'' is established for the failure. 21 CFR 1301.43(a), (c)(1). In the absence of a demonstration of good cause, a registrant who fails to timely file an answer also is ''deemed to have waived their right to a hearing and to be in default.'' 21 CFR 1301.43(c)(2). Unless excused, a default is deemed to constitute ''an admission of the factual allegations of the [OSC].'' 21 CFR 1301.43(e).

The OSC notified Registrant of her right to file a written request for hearing and answer, and that if she failed to file such a request and answer, she would be deemed to have waived her right to a hearing and be in default.[3] RFAAX 1, at 9 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing, file an answer, or respond to the OSC/ISO in any way. RFAA, at 1–2. Thus, the Agency finds that Registrant is in default and therefore has admitted to the factual allegations in the OSC/ISO. 21 CFR 1301.43(c)(1), (e), (f)(1).

II. Lack of State Authority

A. Findings of Fact

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC/ISO are deemed admitted. 21 CFR 1301.43(e). Accordingly, Registrant is deemed to have admitted, in accordance with the OSC/ISO, that on September 24, 2025, the Virginia Board of Medicine (Board) suspended Registrant's Virginia state medical license. RFAAX 1, at 4. Specifically, the Board suspended Registrant's state medical license based on findings that her ''continued practice would pose a substantial danger to public health or safety.'' *Id.*

According to Virginia online records, of which the Agency takes official notice, the status of Registrant's medical license is currently listed as ''Revoked.'' [4] Virginia Department of Health Professions License Lookup, *https://dhp.virginiainteractive.org/Lookup/Index* (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice medicine in Virginia, the state in which she is registered with DEA.[5]

B. Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General may suspend or revoke a registration issued under 21 U.S.C. 823 ''upon a finding that the registrant . . . has had his [or her] State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *Gonzales* v. *Oregon,* 546 U.S. 243, 270 (2006) (''The Attorney General can register a physician to dispense controlled substances 'if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.' . . . The very definition of a 'practitioner' eligible to prescribe includes physicians 'licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices' to dispense controlled substances. [21 U.S.C.] 802(21).''). The Agency has applied these principles consistently. *See, e.g., James L. Hooper, M.D.,* 76 FR 71371, 71372 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27616, 27617 (1978).[6]

According to Virginia statute, ''dispense'' means ''to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing

and Registrant, inform current and prospective members of the registrant community about the Agency's expectations, provide continuing education to all DEA personnel, help coordinate law enforcement efforts, and inform stakeholders, such as legislators and the public, about the Agency's work. *Olsen,* 84 FR at 68479.

[2] The Government also alleged that Registrant ''practiced medicine in Maryland . . . while [her] Maryland medical license was suspended,'' and that she issued concurrent prescriptions for opioids and benzodiazepines to eight additional patients between June and September 2025. RFAAX 1, at 4, 7. The OSC/ISO, however, does not indicate the state or federal laws that these actions allegedly violated. *Id.; see Henry Emery, M.D.,* 90 FR 46927, 46929 (2025) (holding that in a public interest case alleging state law violations, ''[i]t is the burden of the Government to provide . . . notice of the state law [Registrant is] alleged to have violated''). Accordingly, the Agency will not adjudicate those allegations. Nevertheless, even without those allegations, as discussed herein, the record contains substantial evidence establishing bases for revocation under 21 U.S.C. 824(a)(3) (lack of state authority), and 21 U.S.C. 824(a)(4) (danger to public interest), to support granting the Government's RFAA.

[3] Based on the Government's submissions in its RFAA, the Agency finds that service of the OSC/ISO on Registrant was adequate. Specifically, the Declaration from a DEA Diversion Investigator (DI) indicates that on December 18, 2025, DI personally served the OSC/ISO on Registrant at her registered address. RFAAX 2, at 1.

[4] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979).

[5] Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' The material fact here is that Registrant, as of the date of this Decision and Order, is not licensed to practice as a physician in Virginia. Accordingly, Registrant may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to the Office of the Administrator, Drug Enforcement Administration, at *dea.addo.attorneys@dea.gov.*

[6] This rule derives from the text of two provisions of the Controlled Substances Act. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he or she is no longer authorized to dispense controlled substances under the laws of the state in which he or she practices. *See, e.g., Hooper,* 76 FR at 71371–72; *Sheran Arden Yeats, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.,* 53 FR 11919, 11920 (1988); *Blanton,* 43 FR at 27617.

and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.'' Va. Code § 54.1–3401 (2026). Additionally, Virginia law defines ''practitioner'' as ''a physician . . . or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in [Virginia].'' *Id.* Virginia law further defines a ''physician'' as ''a person licensed to practice medicine in [Virginia] or in the jurisdiction where the health care is to be rendered.'' Va. Code § 54.1–2982 (2026).

Here, the undisputed evidence in the record is that Registrant lacks authority to practice as a physician in Virginia. As discussed above, an individual must be a licensed practitioner to dispense a controlled substance in Virginia. Thus, because Registrant lacks authority to practice as a physician in Virginia and, therefore, is not authorized to handle controlled substances in Virginia, Registrant is not eligible to maintain a DEA registration in that state. Accordingly, the Agency will order that Registrant's DEA registration be revoked.

Registrant's lack of state authority to handle controlled substances in Virginia is sufficient by itself to support revoking Registrant's DEA registration. *Infra* n.12. The following public interest ground provides an additional, independent basis for revoking Registrant's DEA registration.

III. Public Interest Determination

A. Overview of Law

Congress enacted the Controlled Substances Act (CSA) ''to conquer drug abuse and control the legitimate and illegitimate traffic in controlled substances.'' *Gonzales* v. *Raich,* 545 U.S. 1, 12 (2005). A particular concern of Congress was ''the need to prevent the diversion of drugs from legitimate to illicit channels,'' and it ''devised a closed regulatory system making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA.'' *Id.* at 12–13.

The CSA's requirements under this closed regulatory system include that ''[e]very person who dispenses, or who proposes to dispense, any controlled substance, shall obtain from the [DEA] a registration.'' 21 U.S.C. 822(a)(2); *see Gonzales* v. *Raich,* 545 U.S. at 27–28. To protect the American people and ensure compliance with the CSA, Congress empowered the Agency to deny, suspend, or revoke a registration if granting or continuing a registration would be inconsistent with the public interest. 21 U.S.C. 823(g)(1), 824(a)(4); *Gonzales* v. *Oregon,* 546 U.S. at 251.

In determining whether a registrant's registration is inconsistent with the public interest, the Agency analyzes five statutorily established ''public interest factors.'' *Gonzales* v. *Oregon,* 546 U.S. at 251; 21 U.S.C. 823(g)(1)(A)–(E). The five factors are:

> (A) The recommendation of the appropriate State licensing board or professional disciplinary authority.
>
> (B) The [registrant]'s experience in dispensing, or conducting research with respect to controlled substances.
>
> (C) The [registrant]'s conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.
>
> (D) Compliance with applicable State, Federal, or local laws relating to controlled substances.
>
> (E) Such other conduct which may threaten the public health and safety.

21 U.S.C. 823(g)(1).

These five public interest factors are considered in the disjunctive. *Gonzales* v. *Oregon,* 546 U.S. at 292–93 (Scalia, J., dissenting); *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003). Each factor is weighed on a case-by-case basis. *David H. Gillis, M.D.,* 58 FR 37507, 37508 (1993). Any one factor, or combination of factors, may be decisive, *Gillis,* 58 FR at 37508, and the Agency '' 'may give each factor the weight . . . deem[ed] appropriate in determining whether a registration should be revoked or an application for registration denied.' '' *Morall* v. *Drug Enf't Admin.,* 412 F.3d 165, 185 n.2 (D.C. Cir. 2005) (Henderson, J., concurring) (quoting *Robert A. Smith, M.D.,* 70 FR 33207, 33208 (2005)); *see Penick Corp., Inc.* v. *Drug Enf't Admin.,* 491 F.3d 483, 490 (D.C. Cir. 2007). The Agency has taken this approach for decades. *See Henry J. Schwarz, Jr., M.D.,* 54 FR 16422, 16424 (1989) (holding, in 1989, that ''[t]he [Agency] need not make findings as to all of the factors . . . [and that the Agency] may give each factor the weight [it] deems appropriate,'' and basing denial on only two factors); *Neveille H. Williams, D.D.S.,* 53 FR 23465, 23466 (1988) (holding, in 1988, and citing a 1986 case, that ''[a]ll factors need not be present for the [Agency] to'' issue a sanction and that the Agency ''may accord each factor the weight [it] deems appropriate in determining the public interest'' (citing *Paul Stepak, M.D.,* 51 FR 17556 (1986))).

While the Agency is required to consider each of the factors, it ''need not make explicit findings as to each one.'' *MacKay* v. *Drug Enf't Admin.,* 664 F.3d 808, 816 (10th Cir. 2011) (quoting *Volkman* v. *U. S. Drug Enf't Admin.,* 567 F.3d 215, 222 (6th Cir. 2009)); *Jones Total Health Care Pharmacy, LLC* v. *Drug Enf't Admin.,* 881 F.3d 823, 830 (11th Cir. 2018); *Hoxie* v. *Drug Enf't Admin.,* 419 F.3d 477, 482 (6th Cir. 2005). ''In short, . . . the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant's misconduct.'' *Jayam Krishna-Iyer, M.D.,* 74 FR 459, 462 (2009). Accordingly, Agency decisions have explained that findings under a single factor can support the revocation of a registration. *MacKay,* 664 F.3d at 821.

The Government has the burden of proof in this proceeding, 21 CFR 1301.44(e), and the Agency must make its findings based on ''substantial [record] evidence.'' 5 U.S.C. 556(d); *see* 5 U.S.C. 706(2); 21 U.S.C. 877. If the Government meets its burden of establishing a *prima facie* case that Registrant's registration is not in the public interest, then the burden shifts to Registrant to rebut the Government's case. *Pharmacy Doctor Enters., Inc.* v. *Drug Enf't Admin.,* 789 Fed. Appx. 724, 729 (11th Cir. 2019) (citing *Jones Total Health Care Pharmacy,* 881 F.3d at 830).

In this matter, the Government's evidence is confined to Factors B and D. RFAA, at 2–3; RFAAX 1, at 3–4. Evidence is considered under Factors B and D when it reflects experience dispensing controlled substances and compliance or non-compliance with laws related to controlled substances. *Kareem Hubbard, M.D.,* 87 FR 21156, 21162 (2022). To determine whether Registrant's continued registration is in the public interest, the Agency has evaluated the Government's allegations of Registrant's experience dispensing controlled substances and her non-compliance with applicable federal and state laws.

Registrant is registered in Virginia, and the OSC/ISO has alleged violations of state laws in Virginia. Accordingly, the Agency must evaluate the Government's evidence under Virginia's laws. *See Emery,* 90 FR at 46929 (explaining the Agency analyzes public interest allegations according to the laws in the state where registrant is registered with DEA).

B. Applicable Law and Standard of Care

According to the CSA's implementing regulations, a lawful controlled substance prescription is one that is ''issued for a legitimate medical purpose

by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a); *see Gonzales* v. *Oregon,* 546 U.S. at 274; *United States* v. *Hayes,* 595 F.2d 258, 260 (5th Cir. 1979), *rehearing den.,* 598 F.2d 620 (5th Cir. 1979), *cert. denied,* 444 U.S. 866 (1979). ''A practitioner must establish and maintain a *bona fide* doctor-patient relationship in order to act 'in the usual course of . . . professional practice' and to issue a prescription for a 'legitimate medical purpose.' '' *Dewey C. MacKay, M.D.,* 75 FR 49956, 49973 (2010).

Similarly, Virginia law provides that ''[a] prescription shall be issued only to persons . . . with whom the practitioner has a bona fide practitioner-patient relationship.'' Va. Code § 54.1–3303(B). Virginia law further provides that ''[a] practitioner who has established a bona fide practitioner-patient relationship with a patient in accordance with the provisions of this subsection may prescribe Schedule II through VI controlled substances to that patient.'' [7] RFAAX 1, at 2; Va. Code § 54.1–3303(B). To establish a bona fide practitioner-patient relationship, Virginia law requires the practitioner to take a medical history, examine the patient, inform the patient of the risks of the treatment, initiate follow-up intervention in the event of ''serious side effects,'' and prescribe the controlled substance in good faith for a ''medicinal or therapeutic purpose within the course of [the practitioner's] professional practice.'' RFAAX 1, at 2; Va. Code § 54.1–3303(B) & (D).

Before prescribing an opioid for pain lasting less than a month, Virginia law requires a physician to consider non-opioid medication, check the Prescription Drug Monitoring Program (PDMP), take a patient history, assess the patient's risk of substance abuse, and perform a physical examination. RFAAX 1, at 2–3; 18 Va. Admin. Code § 85–21–30(A) (B); *see* 18 Va. Admin. Code § 85–21–20 (defining ''acute pain'' as ''pain of any origin that has existed less than one month''). If the physician determines that opioid therapy is necessary, Virginia law requires the physician to prescribe the opioid at the lowest effective dose for the fewest days possible. RFAAX 1, at 3; 18 Va. Admin. Code § 85–21–30(A).

Virginia law acknowledges the increased risk of overdose for patients who take an opioid concurrently with a benzodiazepine: ''[d]ue to a higher risk of fatal overdose when opioids are prescribed with benzodiazepines . . . , the prescriber shall only co-prescribe these substances when there are extenuating circumstances and shall document in the medical record a tapering plan to achieve the lowest possible effective doses if these medications are prescribed.'' RFAAX 1, at 3 (quoting 18 Va. Admin. Code § 85–21–40(C)). When a physician prescribes an opioid and benzodiazepine concurrently, Virginia law requires the physician to also prescribe an ''opioid reversal agent.'' RFAAX 1, at 3 (quoting 18 Va. Admin. Code § 85–21–40(B)(3)).

Virginia law allows for the discipline of a physician who engages in ''unprofessional conduct,'' including revocation of the physician's medical license. RFAAX 1, at 3; Va. Code § 54.1–2915(A). Virginia law defines examples of unprofessional conduct to include: ''[c]onducting [the physician's] practice in such a manner as to be a danger to the health and welfare of [her] patients or to the public,'' and ''[v]iolating any provision of statute or regulation, state or federal, relating to the manufacture, distribution, dispensing, or administration of drugs.'' RFAAX 1, at 3 (quoting Va. Code § 54.1–2915(A)(13) & (17)).

C. Findings of Fact

In light of Registrant's default, the factual allegations in the OSC/ISO are deemed admitted. 21 CFR 1301.43(e). Accordingly, Registrant is deemed to have admitted that between March 2025 and April 2025, Registrant issued numerous concurrent prescriptions for opioids and benzodiazepines to individuals J.S. and D.S., and that both individuals died of acute intoxication caused by the concurrent prescriptions for opioids and benzodiazepines issued by Registrant. RFAAX 1, at 3–7.

i. March 2025: Individual J.S.

On March 4, 2025, Registrant issued a prescription for oxycodone/acetaminophen [8] 10 mg/325 mg (12 count) and diazepam [9] 5 mg (10 count) to J.S. RFAAX 1, at 4. Each prescription had the instruction to ''[t]ake 1 tablet orally every 12 hours[.] Take as needed.'' *Id.*

On March 21, 2025, Registrant directed J.S. to take three tablets of oxycodone/acetaminophen 10 mg/325 mg and three tablets of diazepam 5 mg shortly before undergoing an outpatient procedure in Registrant's office. *Id.* At the beginning of the procedure, Registrant administered lidocaine, an unscheduled local anesthetic, to J.S. at the site of the procedure. *Id.* at 5.

Registrant concurrently prescribed, and directed the use of, the opioids and benzodiazepines on March 4 and 21, 2025, as described above, without maintaining sufficient clinical documentation, without conducting an appropriate medical evaluation, and without mitigating the risks of concurrent prescribing of an opioid and benzodiazepine. *Id.* Specifically, Registrant prescribed J.S. an opioid treatment for pain concurrently with a local anesthetic, demonstrating that Registrant failed to meaningfully consider ''non-opioid treatment for pain'' as an alternative. *Id.* Registrant further failed to inform J.S. of the risks of taking oxycodone, diazepam, and combining both substances. *Id.* Registrant failed to document any ''extenuating circumstances'' justifying the concurrent prescribing of an opioid and a benzodiazepine to J.S. *Id.* Registrant failed to prescribe J.S. oxycodone in the ''lowest effective dose.'' *Id.* Registrant failed to mitigate the risks to J.S. of concurrently using an opioid and benzodiazepine, such as prescribing or administering an opioid reversal agent. *Id.* Registrant practiced medicine ''in such a manner as to be a danger to the health and welfare of [her] patients.'' *Id.*

On March 21, 2025, J.S. developed respiratory distress while in Registrant's office after ingesting the opioids and benzodiazepines issued by Registrant, and died of acute intoxication due to the combined effects of oxycodone, diazepam, and lidocaine issued concurrently by Registrant. *Id.*

ii. April 2025: Individual D.S.

On April 10, 2025, Registrant issued prescriptions for oxycodone/acetaminophen 10 mg/325 mg (12 tablets) and diazepam 5 mg (10 tablets) to D.S. RFAAX 1, at 5. Each prescription had the instruction to ''[t]ake 1 tablet orally every 12 hours[.] Take as needed.'' *Id.*

On April 12, 2025, Registrant directed D.S. to take two tablets of oxycodone/acetaminophen 10 mg/325 mg and two tablets of diazepam 5 mg before undergoing an outpatient procedure in Registrant's office. *Id.* at 6. At the beginning of the procedure, Registrant administered lidocaine to D.S. at the site of the procedure. *Id.*

Registrant concurrently prescribed, and directed the use of, the opioids and benzodiazepines on April 10 and 12, 2025, as described above, without maintaining sufficient clinical

[7] As opposed to the CSA, which categorizes controlled substances in five schedules, I through V, Virginia law categorizes controlled substances in six schedules, I through VI. Va. Code §§ 54.1–3446, 3448, 3450, 3452, 3454, 3455.

[8] Oxycodone is a Schedule II opioid. 21 CFR 1308.12(b)(1)(xiv).

[9] Diazepam is a Schedule IV benzodiazepine. 21 CFR 1308.14(c)(18).

documentation, without conducting an appropriate medical evaluation, and without mitigating the risks to the patient of concurrent prescribing of an opioid and benzodiazepine. *Id.* Specifically, Registrant prescribed to D.S. an opioid treatment for pain concurrently with a local anesthetic, demonstrating that she failed to meaningfully consider ''non-opioid treatment for pain'' as an alternative. *Id.* Registrant further failed to inform D.S. of the risks of taking oxycodone, diazepam, and combining the two controlled substances. *Id.* Registrant also failed to document any ''extenuating circumstances'' justifying the concurrent prescribing of an opioid and a benzodiazepine to D.S. *Id.* Registrant failed to prescribe D.S. oxycodone in the ''lowest effective dose.'' *Id.* Registrant failed to mitigate the risks to D.S. of concurrently taking an opioid and benzodiazepine, such as prescribing or administering an opioid reversal agent. *Id.* Registrant practiced medicine ''in such a manner as to be a danger to the health and welfare of [her] patients.'' *Id.*

On April 12, 2025, D.S. developed respiratory distress while in Registrant's office after ingesting the opioid and benzodiazepine issued by Registrant. *Id.* On April 15, 2025, D.S. died of acute intoxication due to the combined effects of oxycodone, diazepam, and lidocaine issued concurrently by Registrant. *Id.*

iii. Expert Review

DEA retained an independent medical expert to review materials, including Registrant's medical records for J.S. and D.S. and the controlled substance prescriptions Registrant issued to J.S. and D.S. RFAAX 1, at 8. Based upon Registrant's deviations from the standard of care, the medical expert concluded that the prescriptions for controlled substances that Registrant issued to J.S. and D.S., as described herein, *supra* Sections III.C.i–ii., violated minimal medical standards applicable to the practice of medicine in Virginia. *Id.*

D. Conclusions of Law

The Agency has found above that between March 2025 and April 2025, Registrant issued numerous concurrent prescriptions for opioids and benzodiazepines to individuals J.S. and D.S., and that both individuals died of acute intoxication caused by the concurrent use of opioids and benzodiazepines issued by Registrant. *Supra* Sections III.C.i–ii.

Specifically, the Agency found, with respect to individuals J.S. and D.S., that Registrant failed to meaningfully consider ''non-opioid treatment for pain'' as an alternative, in violation of 18 Va. Admin. Code § 85–21–30(A); failed to inform them of the risks of taking oxycodone, diazepam, and combining both substances, in violation of Va. Code § 54.1–3303(B); failed to document any ''extenuating circumstances'' justifying the concurrent prescribing of an opioid and a benzodiazepine, in violation of 18 Va. Admin. Code § 85–21–40(B)(2); failed to prescribe oxycodone in the ''lowest effective dose,'' in violation of 18 Va. Admin. Code § 85–21–30(A); failed to mitigate the risks of concurrently using an opioid and benzodiazepine, such as prescribing or administering an opioid reversal agent, in violation of 18 Va. Admin. Code § 85–21–40(B)(3); and practiced medicine ''in such a manner as to be a danger to the health and welfare of [her] patients,'' in violation of Va. Code. § 54.1–2915(A)(13).

The Agency has further found that these concurrent opioid and benzodiazepine prescriptions issued to J.S. and D.S., that caused their deaths, were not for a legitimate medical purpose, were issued outside the usual course of professional practice, violated minimal medical standards applicable to the practice of medicine in Virginia, and violated federal and Virginia law.[10] *See* 21 CFR 1306.04(a); Va. Code. § 54.1–2915(A)(13); Va. Code § 54.1–3303(B); 18 Va. Admin. Code § 85–21–30(A); 18 Va. Admin. Code § 85–21–40(B)(2), (3); RFAAX 1, at 8; *supra* Section III.C.iii.

E. Public Interest Conclusion

While the Agency considered all the public interest factors of 21 U.S.C. 823(g)(1), its findings are relevant to Factor B (experience dispensing controlled substances) and Factor D (compliance or non-compliance with laws related to controlled substances).[11] 21 U.S.C. 823(g)(1); *Hubbard,* 87 FR at 21162. Accordingly, the Agency finds that after considering the public interest factors, and the facts deemed admitted by virtue of Registrant's default, the Government satisfied its *prima facie* burden of showing that Registrant's continued registration would be ''inconsistent with the public interest.'' 21 U.S.C. 824(a)(4). The Agency further finds that there is insufficient mitigating evidence to rebut the Government's *prima facie* case. Thus, the only remaining issue is whether revocation of Registrant's registration is the appropriate sanction.

IV. Sanction

Where, as here, the Government has met its burden of showing that Registrant's continued registration is inconsistent with the public interest, the burden shifts to Registrant to show why she can be entrusted with a registration. *Morall,* 412 F.3d at 174; *Jones Total Health Care Pharmacy,* 881 F.3d at 830; *Garrett Howard Smith, M.D.,* 83 FR 18882, 18904 (2018). The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual registrant. *Jones Total Health Care Pharmacy,* 881 F.3d at 833; *Jeffrey Stein, M.D.,* 84 FR 46968, 46972 (2019). Moreover, as ''past performance is the best predictor of future performance,'' the Agency requires that a registrant

[10] The Agency finds that, when viewed in totality, Registrant's conduct was egregious and strayed so far outside the bounds of conduct resembling legitimate medical practice that it constituted drug pushing. *United States* v. *Moore,* 423 U.S. 122, 143 (1975); *United States* v. *Collier,* 478 F.2d 268, 274 (5th Cir. 1973). Specifically, Registrant's egregious misconduct, which caused the deaths of two individuals, included the failure to: meaningfully consider non-opioid treatment alternatives; inform the individuals of the risks of taking oxycodone, diazepam, and combining both substances; document ''extenuating circumstances'' justifying the concurrent prescribing of an opioid and a benzodiazepine; prescribe oxycodone in the ''lowest effective dose;'' and mitigate the risks of concurrently using an opioid and benzodiazepine. RFAAX 1, at 4–8. Further, an independent medical expert opined that Registrant's practice of combining oxycodone and a benzodiazepine was ''dangerous.'' *Id.* at 8.

[11] Although the Agency has frequently analyzed Factors B and D together, Congress must have intended Factor B to encompass conduct that is not captured under Factor D. *See Kungys* v. *United States,* 485 U.S. 759, 778 (1988) (referencing the ''cardinal rule of statutory interpretation that no provision should be construed to be entirely redundant''); *see also Syed Jawed Akhtar-Zaidi, M.D.,* 80 FR 42962, 42969 n.17 (2015) (holding that ''[p]roof that a physician knowingly diverted controlled substances is the best evidence for assessing his experience in dispensing controlled substances [Factor B], although it is also relevant in assessing his compliance with applicable laws related to controlled substances [Factor D]''). Thus, even though the Agency has made findings under Factors B and D in this case, and both factors together support revocation, the findings under Factor B or D alone are sufficient to support the Agency's sanction. *See MacKay* v. *Drug Enf't Admin.,* 664 F.3d 808, 821 (10th Cir. 2011) (holding that ''findings under a single factor . . . are sufficient to support the revocation of a registration'' (quoting *Jayam Krishna-Iyer, M.D.,* 74 FR 459, 462 (2006))); *see also supra* Section III.A. A registrant's failure to adhere to the state's standard of care (*i.e.,* Factor B), as Registrant did here, creates an environment that encourages the abuse or diversion of controlled substances. As the opioid epidemic surges and other controlled substances, such as amphetamines, ketamine, and benzodiazepines, are increasingly abused, DEA must remain vigilant to protect the public against registrants who fail to employ adequate safeguards against abuse and diversion. Accordingly, basing revocation on findings under a single factor, such as Factor B, is consistent with the CSA's core purpose of protecting the public from the dangers of drug abuse and diversion. *Gonzales* v. *Raich,* 545 U.S. at 12–14.

who has committed acts inconsistent with the public interest accepts responsibility for those acts, understands the gravity and seriousness of the misconduct, and demonstrates that the registrant will not engage in future misconduct. *ALRA Labs., Inc.* v. *Drug Enf't Admin.,* 54 F.3d 450, 452 (7th Cir. 1995); *Jones Total Health Care Pharmacy,* 881 F.3d at 831–33. The Agency requires a registrant's unequivocal acceptance of responsibility. *Janet S. Pettyjohn, D.O.,* 89 FR 82639, 82641 (2024); *Mohammed Asgar, M.D.,* 83 FR 29569, 29573 (2018); *Jones Total Health Care Pharmacy,* 881 F.3d at 830–31. In addition, a registrant's candor during the investigation and hearing, if one is requested, is an important factor in determining acceptance of responsibility and the appropriate sanction. *Jones Total Health Care Pharmacy,* 881 F.3d at 830–31; *Hoxie,* 419 F.3d at 483–84. Further, the Agency considers the egregiousness and extent of the misconduct as significant factors in determining the appropriate sanction. *Jones Total Health Care Pharmacy,* 881 F.3d at 834 & n.4. The Agency also considers the need to deter similar acts by a registrant and by the community of registrants. *Stein,* 84 FR at 46972–73.

Here, Registrant did not timely request a hearing, or timely answer the allegations, and was therefore deemed to be in default. 21 CFR 1301.43(c)(1), (e), (f)(1); RFAA, at 1–2. Thus, there is no record evidence that Registrant takes responsibility, let alone unequivocal responsibility, for the misconduct. Accordingly, she has not convinced the Agency that her future controlled-substance-related actions will comply with the CSA such that she can be entrusted with the responsibilities of holding a registration.

Further, the interests of specific and general deterrence weigh in favor of revocation. Registrant's misconduct in this matter concerns the CSA's ''strict requirements regarding registration'' and, therefore, goes to the heart of the CSA's ''closed regulatory system'' specifically designed ''to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances.'' *Gonzales* v. *Raich,* 545 U.S. at 12–14. Registrant's egregious misconduct involved using her registration to issue dangerous concurrent combinations of controlled substances that led to acute intoxication and death for two individuals. If the Agency were to allow Registrant to maintain her registration under these circumstances, it would send a dangerous message that prescribing controlled substances in accord with minimal state standards and compliance with state and federal law is not essential to maintaining a registration.

In sum, Registrant has not offered any evidence on the record that rebuts the Government's case for revocation of her registration, and Registrant has not demonstrated that she can be entrusted with the responsibility of holding a DEA registration.

Accordingly, the Agency will order the revocation of Registrant's registration.[12]

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FK6611013 issued to Leila Kump, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Leila Kump, M.D., to renew or modify this registration, as well as any other pending application of Leila Kump, M.D., for additional registration in Virginia. This Order is effective September 28, 2026.

Signing Authority

This document of the Drug Enforcement Administration was signed on August 25, 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.

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BILLING CODE 4410–09–P

[12] In this matter there are two separate and distinct grounds by which the Government proposed revocation, Registrant's lack of state authority and her registration being inconsistent with the public interest; each ground, standing alone, supports the Agency's decision to revoke.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Atlantic Treatment Center, LLC; Decision and Order

On December 17, 2025, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause and Immediate Suspension of Registration (OSC/ISO) to Atlantic Treatment Center, LLC, of Pompano Beach, Florida (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 2, at 1, 7. The OSC/ISO informed Registrant of the immediate suspension of its DEA registration, No. RA0645400, pursuant to 21 U.S.C. 824(d), alleging that its continued registration is ''an imminent danger to the public health or safety.'' *Id.* at 1. The OSC/ISO also proposed the revocation of its DEA registration, alleging that it lacks state authority and federal certification to continue operating as a provider of substance use disorder treatment services. *Id.* (citing 21 U.S.C. 823(h), 824(a), 824(a)(3)).[1]

More specifically, the OSC/ISO alleged that Registrant, a detoxification treatment center providing substance use disorder treatment services, had its state license to provide such services revoked and was instructed by the applicable state governing body to ''immediately cease and desist any and all services which require licensure for treatment.'' RFAAX 2, at 3–4. The OSC/ISO also alleged that Registrant's federal certification to provide such services was withdrawn by the Substance Abuse and Mental Health Services Administration (SAMHSA).[2] *Id.* at 1, 5.

On April 8, 2026, the Government submitted an RFAA to the

[1] According to the OSC/ISO and Agency records, Registrant's registration expired on June 30, 2026. RFAAX 2, at 3. The Agency has previously held that it is within its jurisdiction and discretion to adjudicate a matter to finality where a registration expired after issuance of an OSC and before issuance of a final order. *Jeffrey D. Olsen, M.D.,* 84 FR 68474, 68475–79 (2019); *see Abdul Naushad, M.D.,* 89 FR 54059, 54060 (2024) (applying the same principle and adjudicating a matter to finality where a registration expired before issuance of the OSC). Here, adjudicating the matter to finality will achieve similar goals as in *Olsen;* it will support future interactions between the Agency and Registrant, inform current and prospective members of the registrant community about the Agency's expectations, provide continuing education to all DEA personnel, help coordinate law enforcement efforts, and inform stakeholders, such as legislators and the public, about the Agency's work. *Olsen,* 84 FR at 68479.

[2] SAMHSA, an agency of the U.S. Department of Health and Human Services (HHS), has been delegated by statute the authority to ''establish and implement . . . a comprehensive program to improve the provision of treatment and related services to individuals with respect to substance use disorders.'' 42 U.S.C. 290aa(a), (d)(2).

Administrator requesting that the Agency [3] issue a default final order revoking Registrant's registration. RFAA, at 1, 10. After carefully reviewing the entire record and conducting the analysis as set forth in detail below, the Agency grants the Government's RFAA and revokes Registrant's registration.

I. Service of the OSC/ISO Satisfied Constitutional Due Process

Based on the Government's submissions in its RFAA, the Agency finds that service of the OSC/ISO on Registrant was adequate. Specifically, the Declaration from a DEA Diversion Investigator (DI) recounts in detail, under penalty of perjury, the multiple attempts and methods to serve the OSC/ISO on Registrant's owner and its attorney. RFAA, at 2–3; RFAAX 3 & Attachments.

On December 18, 2025, the day after the OSC/ISO was issued, DI and other DEA personnel traveled to Registrant's registered location and the residence of Registrant's owner to attempt personal service of the OSC/ISO. RFAAX 3, at 4–5. On the same day, DI emailed a copy of the OSC/ISO to Registrant's attorney. RFAAX 3, at 5 & Attachment G.

On December 19, 2025, DI and other DEA personnel again attempted personal service of the OSC/ISO at Registrant's registered location. RFAAX 3, at 5. On the same day, DI emailed Registrant, asking that Registrant ''[p]lease call or respon[d] to [the] email as soon as possible . . . regarding the DEA Registration for ATLANTIC TREATMENT CENTER, LLC.'' *Id.* & Attachment H.

On December 22, 2025, DI mailed a copy of the OSC/ISO by United States Postal Service (USPS) certified mail to Registrant's registered address. RFAAX 3, at 5. The certified mail receipt and USPS tracking data show that the OSC/ISO was successfully delivered on December 26, 2025. RFAAX 3, at 5 & Attachment I (signed receipt) & Attachment J (tracking data).

On December 22, 2025, DI mailed a copy of the OSC/ISO by USPS certified mail to Registrant's attorney. RFAAX 3, at 5–6. The certified mail receipt and USPS tracking data show that the OSC/ISO was successfully delivered on December 29, 2025. RFAAX 3, at 6 & Attachment I (signed receipt) & Attachment K (tracking data).

On December 22, 2025, DI mailed a copy of the OSC/ISO by USPS certified mail to the residential address of Registrant's owner. RFAAX 3, at 6. The USPS tracking data shows that the OSC/ISO was successfully delivered on December 26, 2025. *Id.* & Attachment L (tracking data).

On January 5, 2026, DI personally served the OSC/ISO on an individual at the office of Registrant's attorney. RFAAX 3, at 6 & Attachment M (a signed Form DEA–12, Receipt for Cash or Other Items, confirming service).

In sum, DI attempted to serve the OSC/ISO in-person at Registrant's registered location and residence. DI also attempted to serve the OSC/ISO by mail, and USPS certified mail receipts and tracking data show that the OSC/ISO was delivered to Registrant's registered location, residence, and its attorney's office. DI also emailed Registrant about its registration and did not receive a response. DI also successfully served the OSC/ISO in-person at Registrant's attorney's office. Accordingly, due to the multiple attempts and methods to serve the OSC/ISO on Registrant and its attorney, and the evidence showing that the OSC/ISO was received by certified mail at multiple locations and by an individual at Registrant's attorney's office, the Agency finds that constitutional due process notice requirements have been satisfied. *See Jones* v. *Flowers,* 547 U.S. 220, 226 (2006) (due process does not require actual notice but only '''notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action''' (quoting *Mullane* v. *Cent. Hanover Bank & Trust Co.,* 339 U.S. 306, 314 (1950))); *Dusenbery* v. *United States,* 534 U.S. 161, 170 (2002) (holding that the government is not required to undertake ''heroic efforts'' to ensure notice is delivered).

II. Registrant is in Default for Failure To Request a Hearing

Under 21 CFR 1301.43, a registrant entitled to a hearing who fails to file a timely hearing request ''within 30 days after the date of receipt of the [OSC] . . . shall be deemed to have waived their right to a hearing and to be in default'' unless ''good cause'' is established for the failure. 21 CFR 1301.43(a), (c)(1). In the absence of a demonstration of good cause, a registrant who fails to timely file an answer also is ''deemed to have waived their right to a hearing and to be in default.'' 21 CFR 1301.43(c)(2). Unless excused, a default is deemed to constitute ''an admission of the factual allegations of the [OSC].'' 21 CFR 1301.43(e).

The OSC/ISO notified Registrant of its right to file a written request for hearing and answer, and that if it failed to file such a request and answer, it would be deemed to have waived its right to a hearing and be in default. RFAAX 2, at 6 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing, file an answer, or respond to the OSC/ISO in any way. RFAA, at 1, 3–5. Thus, the Agency finds that Registrant is in default and therefore has admitted to the factual allegations in the OSC/ISO. 21 CFR 1301.43(c)(1), (e), (f)(1).

III. Applicable Law

Congress enacted the Controlled Substances Act (CSA) ''to conquer drug abuse and control the legitimate and illegitimate traffic in controlled substances.'' *Gonzales* v. *Raich,* 545 U.S. 1, 12 (2005). A particular concern of Congress was ''the need to prevent the diversion of drugs from legitimate to illicit channels,'' and it ''devised a closed regulatory system making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA.'' *Id.* at 12–13.

The CSA's requirements under this closed regulatory system include that ''[e]very person who dispenses, or who proposes to dispense, any controlled substance, shall obtain from the [DEA] a registration.'' 21 U.S.C. 822(a)(2); *see Gonzales* v. *Raich,* 545 U.S. at 27–28. DEA regulations require a specific registration ''as a narcotic treatment program'' for an entity, such as Registrant, to administer or dispense controlled substances ''for the purpose of . . . detoxification treatment.'' 21 CFR 1306.07(a); RFAAX 2, at 2. To obtain a DEA registration for this activity requires the registrant to possess state authority and certification from SAMHSA. 21 U.S.C. 823(g)(1), (h)(1); 21 CFR 1306.07(a); 42 CFR 8.11(c).

State licensure to handle controlled substances is a prerequisite to obtaining and maintaining a DEA registration. 21 U.S.C. 824(a)(3). Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 ''upon a finding that the registrant . . . has had [its] State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' [4]

[3] The Controlled Substances Act delegates authority to the Attorney General, who has delegated it to the Administrator of DEA (the Agency). 28 CFR 0.100.

[4] With respect to a practitioner, DEA has long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining

Continued

To conduct activities in Florida as a detoxification treatment facility, Registrant is required to comply with applicable Florida law, to include state law making it a felony to operate as a substance abuse service provider without a license. Fla. Stat. § 397.401(2); RFAAX 2, at 2; *see* Fla. Stat. § 397.401(1) (Florida law making it ''unlawful for any person or agency to act as a substance abuse service provider unless it is licensed or exempt from licensure . . .''). Further, a pharmacy must maintain a state pharmacy license to operate as a pharmacy in Florida. Fla. Stat. § 465.015(1). Florida law defines ''[t]he practice of the profession of pharmacy'' to include ''compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of any medicinal drug.'' Fla. Stat. § 465.003(22); *see* Fla. Stat. § 465.003(15) (defining ''[m]edicinal drugs'' or ''drugs'' as ''those substances or preparations commonly known as 'prescription' or 'legend' drugs which are required by federal or state law to be dispensed only on a prescription'').

The CSA also authorizes DEA to revoke a detoxification treatment registration ''upon a finding that the registrant has failed to comply with any standard referred to in section 823(h).'' 21 U.S.C. 824(a) (paragraph below subsection (5));[5] *Hollywood Med. Rehab. Care, Inc.,* 90 FR 47827, 47830–31 & n.7 (2025). One of the ''standard[s] referred to in section 823(h)'' requires a detoxification treatment facility, such as Registrant, to possess a current and valid federal certification from SAMHSA. 21 U.S.C. 823(h)(1), 824(a); 42 CFR 8.11(a)(1). Specifically, the CSA provides that DEA ''shall register an applicant to dispense narcotic drugs to individuals for . . . detoxification treatment'' if, among other things, the Secretary of HHS, acting through SAMHSA, determines that the applicant is ''qualified . . . to engage in'' detoxification treatment. 21 U.S.C. 823(h)(1); RFAAX 2, at 2. To be qualified to engage in detoxification treatment, an opioid treatment program, such as Registrant, is required to ''comply with all pertinent Federal and State laws and regulations,'' and is required to hold ''a current, valid certification from the Secretary [of HHS] to be considered qualified'' under 21 U.S.C. 823(h)(1). 42 CFR 8.11(a)(1), (e)(1); RFAAX 2, at 2. Failure to maintain a current and valid certification from SAMHSA is grounds for revocation of a DEA detoxification treatment registration. 21 U.S.C. 823(h)(1), 824(a) (paragraph below subsection (5)); 42 CFR 8.11(a)(1), (e)(1).

IV. Findings of Fact

In light of Registrant's default, the factual allegations in the OSC/ISO are deemed admitted. 21 CFR 1301.43(e). According to the OSC/ISO, Registrant is registered with DEA as a detoxification treatment center and authorized to handle controlled substances in Schedules II and III. RFAAX 2, at 3; *see* RFAAX 1, at 1. As discussed in greater detail below, this matter concerns the revocation of Registrant's state license to operate as a substance abuse outpatient methadone detoxification treatment facility in Florida (number LIC–1048046), the loss of Registrant's state pharmacy license (number PH34389), and the withdrawal of its federal certification from SAMHSA to operate an opioid treatment program (number FL10218M). RFAAX 2, at 3–5.

A. Registrant's State Licenses

On or about April 18, 2025, the State of Florida Department of Children and Families (Department) issued an Administrative Complaint for License Revocation (Administrative Complaint) to Registrant providing notice of the revocation of Registrant's license, number LIC–1048046, to operate a substance abuse outpatient methadone detoxification treatment facility in Florida.[6] RFAAX 2, at 4; *see* RFAAX 3, Attachment B.

and maintaining a practitioner's registration. *Gonzales* v. *Oregon,* 546 U.S. 243, 270 (2006) (''The Attorney General can register a physician to dispense controlled substances 'if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.' . . . The very definition of a 'practitioner' eligible to prescribe includes physicians 'licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices' to dispense controlled substances. 802(21).'').

This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Thus, Registrant, as a facility that dispenses controlled substances for the purpose of detoxification treatment, meets the definition of ''practitioner'' under the CSA. *See* 21 CFR 1306.07(a) (providing that registration ''as a narcotic treatment program'' authorizes the registrant to administer or dispense controlled substances ''for the purpose of . . . detoxification treatment'').

Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever it is no longer authorized to dispense controlled substances under the laws of the state in which it practices. *See, e.g., Elias Garcia Garcia, P.A.,* 90 FR 31242 (2025); *Jason Weakley, R.N., A.P.R.N.,* 90 FR 10085 (2025); *Khursheed Haider, M.D.,* 90 FR 21950 (2025). The Agency has applied this principle consistently. *See, e.g., Henry-Norbert O. Ndekwe, M.D.,* 90 FR 15990 (2025); *Benson Sergiles, P.A.,* 90 FR 32016 (2025); *Lawrence Rudolph, D.M.D.,* 89 FR 79310 (2024).

[5] As the Agency previously discussed in *Hollywood Medical Rehabilitation Care, Inc.,* 90 FR at 47830–31 & n.7, the subsection of 21 U.S.C. 823 applicable to narcotic treatment programs was modified on December 2, 2022, and again on December 28, 2022. Prior to the modifications, the relevant subsection applicable to narcotic treatment programs was designated as 21 U.S.C. 823(g)(1), and it had three subparts, A–B, which outlined the prerequisites for registration as a narcotic treatment program. On December 2, 2022, the subsection was redesignated as 21 U.S.C. 823(h)(1), and it retained the same three subparts as the previous version, A–B. On December 28, 2022, the subsection was again redesignated as 21 U.S.C. 823(h), and the three subparts outlining the registration prerequisites were redesignated as 1–3. The December 28, 2022, citation is used throughout this decision.

21 U.S.C. 824(a), which authorizes the Attorney General to suspend or revoke the registration of a narcotic treatment program if the registration prerequisites are not met, references back to the relevant subsections of 21 U.S.C. 823. Prior to December 2, 2022, the revocation provisions of 824(a) referred to the registration prerequisites in 823(g)(1)(A–B). On December 2, 2022, 21 U.S.C. 824(a) was modified to reference the registration prerequisites in 823(h)(1)(A–B). However, 21 U.S.C. 824(a) was not modified again to reflect the December 28, 2022 redesignation from 823(h)(1) to 823(h). As explained below, this was clearly an unintentional technical error.

As currently written, 21 U.S.C. 824(a) would only authorize the Attorney General to revoke a registration if the applicant is not ''qualified . . . to engage in the treatment with respect to which registration is sought,'' because it only references 823(h)(1), and not (h)(2) or (h)(3). However, there have not been any substantive changes to 823 or 824 that reflect an intent to limit the Attorney General's authority to revoke or suspend. Section 823(h) continues to clearly state that a registrant is not qualified to possess a registration unless all three subparts are met. Therefore, the Agency concludes that the failure to modify 824(a) on December 22, 2022, was an oversight, and that Congress intended for the Attorney General to retain authority to suspend or revoke a registration if a registrant fails to adhere to any of the three registration prerequisites or standards referred to in section 823(h). *See Dept. of Def., Army Air Force Exchange Serv.* v. *Fed. Labor Relations Auth.,* 659 F.2d 1140, 1160 (D.C. Cir. 1981), cert. denied, 455 U.S. 945 (1982) (stating a statute should be read in a ''manner which effectuates rather than frustrates the major purpose of the legislative draftsmen'').

[6] The Department's Administrative Complaint provides that Registrant's license to operate a substance abuse outpatient methadone detoxification treatment facility in Florida was revoked due to Registrant's lack of accreditation by an accrediting organization and providing medication assisted treatment maintenance services for which Registrant is not licensed by the State of Florida. RFAAX 2, at 4; *see* RFAAX 3, Attachment B, at 1, 5. The Administrative Complaint further found that Registrant ''blatantly disregard[ed] Florida Statute and Florida Administrative Code requirements set forth for licensure of substance use disorder treatment as evidenced by continued non-compliance,'' therefore, ''the Department is hereby revoking the current license.'' RFAAX 3, Attachment B, at 5.

According to Florida online records, of which the Agency takes official notice,[7] Registrant's Florida outpatient methadone detoxification treatment facility license is currently in an inactive status.[8] Florida Department of Children and Families, Provider Substance Use Disorder Licensing and Designation Search, *sudprovidersearch.myflfamilies.com* (last visited date of signature of this Order).[9]

Accordingly, Registrant is currently without authority to provide substance use disorder treatment services in Florida. RFAAX 2, at 5. Due to the lack of state authority to provide substance use disorder treatment services, Registrant is unable to dispense controlled substances for such purposes in Florida, the state in which Registrant is registered with DEA as a detoxification treatment facility.[10] *Id.*

Further, Registrant also lacks state authority to handle controlled substances as a pharmacy in Florida. The Agency takes official notice, *supra* nn.7 & 9, that Registrant's Florida state pharmacy license, number PH34389, is listed in ''disciplinary relinquish'' status, meaning Registrant was disciplined by the state regulatory body and Registrant ''offered to give up [its] license to practice in the state of Florida to avoid further prosecution in a disciplinary case,'' and that Registrant ''is not authorized to practice in the state of Florida.'' Florida Department of Health License Verification, *https://mqa-internet.doh.state.fl.us/mqasearchservices/healthcareproviders* (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not currently licensed to engage in the practice of pharmacy in Florida, the state in which Registrant is registered with DEA.

B. Registrant's Federal Certification

On or about July 23, 2025, Florida's Substance Use Disorders & State Opioid Treatment Authority notified SAMHSA of Registrant's involuntary discontinuation of opioid treatment. RFAAX 2, at 5; RFAAX 3, Attachment E, at 1. Therefore, on or about July 24, 2025, SAMHSA notified Registrant that, in accordance with 42 CFR 8.l l(c)(2), it was withdrawing Registrant's opioid treatment program certification. *Id.*

V. Discussion

Here, the undisputed evidence in the record is that Registrant currently lacks state authority and federal certification to handle controlled substances for detoxification treatment in Florida. RFAAX 2, at 4–5. Specifically, Registrant's Florida state license was revoked, and its federal certification was withdrawn. *Id.* As discussed above, a registrant must maintain state licensure and federal certification to provide substance abuse treatment services in order to maintain a DEA registration as a detoxification treatment facility. Thus, because Registrant currently lacks such state authority and federal certification, and, therefore, is not currently authorized to handle controlled substances as a detoxification treatment facility in Florida, Registrant is not eligible to maintain a DEA detoxification treatment facility registration in Florida. Accordingly, the Agency will order that Registrant's DEA registration be revoked.[11] 21 U.S.C. 823(g)(1), 823(h)(1), 824(a); 21 CFR 1306.07(a); 42 CFR 8.11(a)(1), (c), (e)(1); Fla. Stat. § 397.401(1)–(2); *see Serenity Café,* 77 FR 35027, 35028 (2012) (denying application for narcotic treatment program registration because applicant lacked state authority and, therefore, did not meet the CSA's definition of a practitioner); *Habit Mgmt. Inst., Inc.,* 60 FR 41900, 41900 (1995) (denying application for narcotic treatment program registration because applicant lacked the requisite authorization from the Food and Drug Administration).

In addition, publicly available state government evidence, of which the Agency takes official notice, *supra* nn.7 & 9, establishes that Registrant currently lacks authority to operate a pharmacy in Florida. As already discussed, a pharmacy must be licensed to dispense a medicinal drug, including a controlled substance, in Florida. Thus, because Registrant lacks authority to practice pharmacy in Florida and, therefore, is not authorized to dispense controlled substances in Florida, Registrant is not eligible to maintain DEA registration in that state. Accordingly, the Agency finds that lack of state authority to practice pharmacy in Florida provides an additional, independent basis for revocation of Registrant's DEA registration. 21 U.S.C. 824(a)(3); Fla. Stat. §§ 465.015(1), 465.003(15), (22).

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g), 823(h), 824(a), and 824(a)(3), I hereby revoke DEA Certificate of Registration No. RA0645400 issued to Atlantic Treatment Center, LLC. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g), 823(h), 824(a), and 824(a)(3), I hereby deny any pending

[7] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979).

[8] After the Administrative Complaint notified Registrant of the revocation of its license, on or about April 30, 2025, Registrant sought to renew its revoked Florida license number LIC–1048046 to continue operating as an outpatient methadone detoxification treatment facility in Florida. RFAAX 2, at 4. Following continuous requests for further information and unannounced site visits conducted by the Department, on or about May 30, 2025—the date the license was set to expire—the Department issued an Administrative Complaint Notice of Denial of License Renewal Application (Notice of Denial), denying Registrant's application to renew its revoked license. *Id.; see* RFAAX 3, Attachment C, at 1, 5, 15. Thus, in addition to being revoked, effective May 30, 2025, Registrant's Florida license to provide outpatient methadone detoxification treatment expired and remained expired following denial of the renewal application. *Id.*

[9] Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' The material facts here are that Registrant, as of the date of this Order, lacks the requisite state authority and federal certification to handle controlled substances for detoxification treatment services in Florida, and also lacks state authority to operate a pharmacy in Florida. Accordingly, Registrant may dispute the Agency's findings by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to the Office of the Administrator, Drug Enforcement Administration, at *dea.addo.attorneys@dea.gov*.

[10] On or about June 6, 2025, the Department issued a Notification of the Operation of Unlicensed Treatment Services (Notification of Unlicensed Treatment) to Registrant. RFAAX 2, at 4; RFAAX 3, Attachment D. The Department's Notification of Unlicensed Treatment reiterates that Registrant's Florida license to provide outpatient methadone detoxification treatment was revoked on April 18, 2025, and renewal was denied on May 30, 2025. RFAAX 2, at 4; RFAAX 3, Attachment D, at 1.

The Department's Notification of Unlicensed Treatment also noted that Registrant was operating unlicensed substance use disorder treatment services at its location in Pompano Beach, Florida. RFAAX 2, at 4; RFAAX 3, Attachment D, at 1–2. The Department's Notification of Unlicensed Treatment stated that it was evident that clients were receiving methadone maintenance for which Registrant is not licensed. *Id.* Therefore, in the Department's Notification of Unlicensed Treatment, the Department issued a notification that Registrant must ''immediately cease and desist any and all services which require licensure for treatment.'' *Id.*

[11] The OSC/ISO also alleged that a March 2025 on-site inspection revealed recordkeeping inadequacies and that an August 2025 on-site inspection revealed unlicensed dispensing of controlled substances for substance abuse treatment. RFAAX 2, at 3–4. The OSC/ISO, however, does not establish a factual basis for the recordkeeping inadequacies or specify the specific laws the unlicensed dispensing allegedly violated. Further, the RFAA bases the request for revocation on ''lack of state authorization and SAMHSA certification,'' and does not mention the recordkeeping or dispensing allegations. RFAA, at 6. Accordingly, this Decision does not adjudicate the recordkeeping or dispensing allegations. Regardless, Registrant's lack of state authority and federal certification are sufficient by themselves to support revocation of its registration.

applications of Atlantic Treatment Center, LLC, to renew or modify this registration, as well as any other pending application of Atlantic Treatment Center, LLC, for additional registration in Florida. This Order is effective September 28, 2026.

Signing Authority

This document of the Drug Enforcement Administration was signed on August 21, 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. 2026–17594 Filed 8–27–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Thomas Earley, D.D.S.; Decision and Order

On April 7, 2026, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Thomas Earley, D.D.S., of Englewood, Ohio (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 2, at 1, 3. The OSC proposed the revocation of Registrant's Certificate of Registration No. AE2384636, alleging that Registrant is ''currently without authority to prescribe, administer, dispense, or otherwise handle controlled substances in the State of Ohio, the state in which [he is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

The OSC notified Registrant of his right to file a written request for hearing, and that if he failed to file such a request, he would be deemed to have waived his right to a hearing and be in default. *Id.* at 2 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing, and the Agency finds him to be in default. RFAA, at 3.[1] ''A default, unless excused, shall be deemed to constitute a waiver of the registrant's/applicant's right to a hearing and an admission of the factual allegations of the [OSC].'' 21 CFR 1301.43(e).

Further, ''[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] 1316.67.'' *Id.* 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant's default pursuant to 21 CFR 1301.43(c)(1), (f)(1), and 1301.46. RFAA, at 1; *see also* 21 CFR 1316.67.

Findings of Fact

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC are deemed admitted. 21 CFR 1301.43(e). According to the OSC, Registrant's dental license expired on December 31, 2025. RFAAX 2, at 1. According to Ohio online records, of which the Agency takes official notice, Registrant's Ohio dental license status remains expired.[2] eLicense Ohio Professional Licensure License Lookup, *https://elicense.ohio./oh_verifylicense* (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice dentistry in Ohio, the state in which he is registered with DEA.[3]

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.''

With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *Gonzales* v. *Oregon,* 546 U.S. 243, 270 (2006) (''The Attorney General can register a physician to dispense controlled substances 'if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.' . . . The very definition of a 'practitioner' eligible to prescribe includes physicians 'licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices' to dispense controlled substances. 802(21).'').[4] The Agency has applied these principles consistently. *See, e.g., Lawrence Rudolph, D.M.D.,* 89 FR 79310 (2024); *Henry-Norbert O. Ndekwe, M.D.,* 90 FR 15990 (2025); *Benson Sergiles, P.A.,* 90 FR 32016 (2025).

According to Ohio statute, ''[n]o person shall knowingly obtain, possess, or use a controlled substance or a

[1] Based on the Government's submissions in its RFAA dated June 8, 2026, the Agency finds that service of the OSC on Registrant was adequate. The included declaration from a DEA Diversion Investigator (DI) indicates that on April 13, 2026, the DI unsuccessfully attempted to serve Registrant at his registered location. RFAAX 5, at 2. The same day, the DI emailed Registrant a copy of the OSC to three different email addresses linked to Registrant. *Id.* There is no evidence indicating that the emails were undeliverable. The DI additionally mailed a copy of the OSC to Registrant's potential home address and registered address. *Id.* Here, the Agency finds that Registrant was successfully served the OSC by email and that the DI's efforts to serve Registrant by other means were 'reasonably calculated, under all the circumstances, to apprise [Registrant] of the pendency of the action.' *Jones* v. *Flowers,* 547 U.S. 220, 226 (2006) (quoting *Mullane* v. *Central Hanover Bank & Trust Co.,* 339 U.S. 306, 314 (1950)); *see also Mohammed S. Aljanaby, M.D.,* 82 FR 34552, 34552 (2017) (finding that service by email satisfies due process where the email is not returned as undeliverable and other methods have been unsuccessful).

[2] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979).

[3] Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' The material fact here is that Registrant, as of the date of this Order, is not licensed to practice dentistry in Ohio. Accordingly, Registrant may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to the Office of the Administrator, Drug Enforcement Administration, at *dea.addo.attorneys@dea.gov.*

[4] This rule derives from the text of two provisions of the Controlled Substances Act (CSA). First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., Elias Garcia Garcia, P.A.,* 90 FR 31242 (2025); *Jason Weakley, R.N., A.P.R.N.,* 90 FR 10085 (2025); *Khursheed Haider, M.D.,* 90 FR 21950 (2025).

controlled substance analog,'' except pursuant to a ''prescription issued by a licensed health professional authorized to prescribe drugs if the prescription was issued for a legitimate medical purpose.'' Ohio Rev. Code § 2925.11(A), (B)(1)(d) (2025). Further, a '''[l]icensed health professional authorized to prescribe drugs' or 'prescriber' means an individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice.'' *Id.* § 4729.01(I). The Ohio statute further defines an authorized prescriber as ''[a] dentist licensed under Chapter 4715. of the Revised Code.'' *Id.* § 4729.01(I)(1). Additionally, Ohio law permits ''[a] licensed health professional authorized to prescribe drugs, if acting in the course of professional practice, in accordance with the laws regulating the professional's practice'' to prescribe or administer schedule II, III, IV, and V controlled substances to patients. *Id.* § 3719.06(A)(1)(a)–(b).

Here, the undisputed evidence in the record is that Registrant lacks a license to practice dentistry in Ohio. As discussed above, an individual must be a licensed health professional authorized to prescribe drugs, which includes a dentist, in order to handle controlled substances in Ohio. Thus, because Registrant lacks a license to practice dentistry in Ohio and, therefore, is not authorized to handle controlled substances in Ohio, Registrant is not eligible to maintain a DEA registration in Ohio. Accordingly, the Agency will order that Registrant's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. AE2384636 issued to Thomas Earley, D.D.S. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Thomas Earley, D.D.S., to renew or modify this registration, as well as any other pending application of Thomas Earley, D.D.S., for additional registration in Ohio. This Order is effective September 28, 2026.

Signing Authority

This document of the Drug Enforcement Administration was signed on August 23, 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. 2026–17592 Filed 8–27–26; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Reinstate Information Collection

AGENCY: U.S. National Science Foundation, National Center for Science and Engineering Statistics.

ACTION: Notice of information collection, request for comments.

SUMMARY: The National Center for Science and Engineering Statistics (NCSES) within the U.S. National Science Foundation (NSF) is announcing plans to request reinstatement of the National Training, Education, and Workforce Survey (NTEWS) (OMB Control Number 3145–0264). In accordance with the requirements of the Paperwork Reduction Act of 1995, NSF is providing an opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that Office of Management and Budget (OMB) approve clearance of this collection for three years.

DATES: Written comments on this notice must be received by October 27, 2026 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to the address below.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, U.S. National Science Foundation, Randolph Building, 401 Dulany Street, Alexandria, Virginia 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 between 8:00 a.m. and 8:00 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title of Collection: 2027 National Training, Education, and Workforce Survey.

OMB Control Number: 3145–0264.

Expiration Date: 12/13/2024.

Type of Request: Intent to seek approval to reinstate an information collection for three years.

Abstract: Established within the U.S. National Science Foundation (NSF) by the America COMPETES Reauthorization Act of 2010 § 505, codified in the National Science Foundation Act of 1950, as amended, the National Center for Science and Engineering Statistics (NCSES) serves as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development for use by practitioners, researchers, policymakers, and the public.

The 2027 National Training, Education, and Workforce Survey (NTEWS) is designed to comply with these mandates by improving the measurement of the science and engineering (S&E) workforce in the United States. The NTEWS will integrate three previous NCSES workforce surveys—the NTEWS, the National Survey of College Graduates (NSCG), and the Survey of Doctorate Recipients (SDR)—to provide national estimates on the employment, education, and training of non-institutionalized U.S. adults (18–75 years old) with a special focus on S&E occupations and degrees, the skilled technical workforce, and the U.S.-trained doctoral S&E workforce (see Table 1).

TABLE 1—MERGING THREE NCSES SURVEYS INTO ONE OMB CONTROL NUMBER

Survey	OMB Control No.	Merging into one OMB Control No.
National Training, Education, and Workforce Survey (NTEWS)	3145–0264	3145–0264
National Survey of College Graduates (NSCG)	3145–0141	

TABLE 1—MERGING THREE NCSES SURVEYS INTO ONE OMB CONTROL NUMBER—Continued

Survey	OMB Control No.	Merging into one OMB Control No.
Survey of Doctorate Recipients (SDR)	3145–0020	

This integration comes as an effort to reduce respondent burden and streamline collections while continuing to uphold statutory requirements. The consolidated questionnaire has undergone cognitive testing.

The 2027 NTEWS production sample will select new sample members from the U.S. Census Bureau's 2025 American Community Survey (ACS) and the NCSES's 2022–2025 Survey of Earned Doctorates (SED), an annual census of research doctorate recipients from U.S. academic institutions. Returning sample members will be selected from the 2022 NTEWS Pilot, 2025 NSCG, and 2023 SDR, which will provide the needed coverage of and estimation reliability for the U.S. adult workforce across all education levels. The U.S. Census Bureau will serve as the data collection contractor for the ACS-based sample, which includes new sample members from the 2025 ACS and returning sample members from the 2022 NTEWS Pilot and the 2025 NSCG. The new sample based on the SED and the returning 2023 SDR sample will be collected under a separate contractual mechanism.

The Census Bureau also will serve as the data collection contractor for a non-production sample included within this information collection request, the SED Bridge Panel. The bridge panel sample will be selected from the SED. It is considered a non-production sample because its data will not be used to generate official statistics. The purpose of the SED Bridge Panel is to examine the feasibility of a single data collection contractor managing the full set of sample components within the integrated design and to explore potential linkages to supplement and complement the survey data collection with the goal of reduced respondent burden.

The survey data collection for both the production sample and non-production bridge panel sample is expected to begin in May 2027 and continue for approximately six months. Respondents will be able to complete the survey in English or Spanish, either by web or paper. Response to the survey will be voluntary. The ACS-based sample portion of the survey, administered by the Census Bureau, will be conducted in conformance with Census Bureau statistical quality standards and will be afforded confidentiality protection under the applicable Census Bureau confidentiality statutes. The sample based on the SED and the returning sample members from the SDR will be afforded confidentiality protection under the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2018.

Use of the Information: As was done with data from the prior three workforce surveys, NCSES intends to use information from the NTEWS for its two congressionally mandated reports: *Science and Engineering Indicators (https://ncses.nsf.gov/indicators)* and *Characteristics of Scientists and Engineers.* Public release files of collected data, designed to protect respondent confidentiality, will be made available on the NCSES website (*https://ncses.nsf.gov/*) and will be accessible through NCSES online data tools (*https://ncses.nsf.gov/explore-data*).

Expected Respondents: For the 2027 NTEWS production sample, a statistical sample of approximately 341,000 individuals will be contacted. There will be approximately 145,000 returning sample members from the 2022 NTEWS Pilot, 2025 NSCG, and 2023 SDR and approximately 196,000 new sample members from the 2025 ACS and the 2022–2025 SED. For the non-production SED Bridge Panel sample, a statistical sample of approximately 15,000 individuals will be contacted. NCSES expects the overall response rate to be 60–65 percent.

Estimate of Burden: The amount of time to complete the 2027 NTEWS questionnaire will vary depending on an individual's educational history and employment status, but NCSES estimates a median completion time of 35 minutes across both web and paper modes. For the production sample, NCSES estimates that the average annual burden for the 2027 NTEWS over the course of the three-year OMB clearance period will be no more than 43,099 hours [(341,000 individuals × 65% response rate × 35 minutes)/3 years]. For the non-production SED Bridge Panel, NCSES estimates that the average annual burden for the 2027 NTEWS over the course of the three-year OMB clearance period will be no more than 1,896 hours [(15,000 individuals × 65% response rate × 35 minutes)/3 years].

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of NCSES, including whether the information shall have practical utility; (b) the accuracy of NCSES'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, 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.

Dated: August 25, 2026.

Suzanne H. Plimpton,

Reports Clearance Officer, U.S. National Science Foundation.

[FR Doc. 2026–17556 Filed 8–27–26; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 11006249; NRC–2017–0054]

UniTech Services Group LLC; Export License Renewal Application

AGENCY: Nuclear Regulatory Commission.

ACTION: Opportunity to provide comments, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering approval of an export application received on April 9, 2026, from UniTech Services Group LLC (UniTech). In the application, UniTech seeks to renew an existing license, XW023/01, authorizing the export of radioactive waste to Canada. The NRC is providing notice of the opportunity to comment, request a hearing, and petition for leave to intervene on UniTech's application. This action will renew the existing export license for an additional 10 years to expire on April 30, 2036.

DATES: Submit comments by September 28, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date. A request for a hearing or petition for leave to intervene must be filed by September 28, 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–2017–0054. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to:Hearing.Docket@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. eastern time (ET) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Shannon Doane, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7000; email: *Shannon.Doane@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0054 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–2017–0054.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. 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–2017–0054 in your comment submission.

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

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

II. Discussion

UniTech was issued export license XW023 on April 30, 2018 (ADAMS Accession No. ML18121A326), which expired on April 30, 2026. Export license XW023 authorized the export to Canada of up to 10,000 metric tons of tools, metals, and other solid materials contaminated with byproduct materials. Following the license's expiration, an administrative amendment was issued to amend the licensee's name and consent to the indirect transfer of control of UniTech's ultimate parent company, UniFirst Corporation, to Cintas Corporation. The administrative amendment, XW023/01, preserved the original expiration date of April 30, 2026, and did not modify the license's period of validity (ADAMS Accession No. ML26182A188). Following issuance of XW023/01, on July 7, 2026, the NRC accepted UniTech's export license application XW023/02, requesting to renew the former export license authorizing the export of Canadian-origin radioactive waste from UniTech facilities in the State of Massachusetts to Canada (ADAMS Accession No. ML26182A182).

III. Opportunity To Comment

The NRC is providing notice of the receipt of the application; providing the opportunity to submit written comments concerning the application; and providing the opportunity to request a hearing or petition for leave to intervene, for a period of 30 days after publication of this notice in the **Federal Register**. Within 30 days from the date of publication of this notice, persons may submit written comments concerning actions in this notice, as provided in section 110.81 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Written comments.'' The NRC will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this notice.

IV. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 30 days after the date of publication of this notice any person may file a request for a hearing or petition for leave to intervene with respect to the actions in this notice. A hearing request or petition for leave to intervene must include the information specified in 10 CFR 110.82(b). Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner in accordance with 10 CFR 110.89(a), either by delivery, by mail, or filed with the NRC electronically in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). Detailed guidance on electronic submissions may be found in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website

(*https://www.nrc.gov/site-help/e-submittals.html*).

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

The information concerning this application for an export license follows.

NRC EXPORT LICENSE APPLICATION

Application Information	
Name of Applicant	UniTech Services Group LLC.
Date of Application	April 9, 2026.
Date Accepted	July 7, 2026.
Application No	XW023/02.
Docket No	11006249.
ADAMS Accession No	ML26182A182.
Description of Material	
Material Type	Tools, metals, and other solid materials contaminated with byproduct materials.
Total Quantity	10,000 tons.
End Use	Disposal in Canada.
Country of Destination	Canada.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: August 26, 2026.

For the Nuclear Regulatory Commission.

David Skeen,

Director, Office of International Programs.

[FR Doc. 2026–17646 Filed 8–27–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–616 and 50–617; NRC–2026–0265]

SMR, LLC; Palisades SMR, LLC; Pioneer Units 1 and 2; Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued an exemption in response to a request dated December 31, 2025, from SMR, LLC, on behalf of Palisades SMR, LLC, a wholly-owned subsidiary of Holtec International (collectively, Holtec) for approval to allow construction of permanent support of excavation walls prior to the issuance of a limited work authorization for Pioneer Units 1 and 2. The support of excavation walls will remain in place after construction is complete.

DATES: The exemption was issued on August 28, 2026.

ADDRESSES: Please refer to Docket ID NRC–2026–0265 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–0265. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual(s) listed in the For **FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS Accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Victoria Huckabay, telephone: 301–415–5183, email: *Victoria.Huckabay@nrc.gov* and Jason Lising, telephone 301–415–1119; email: *Jason.Lising@nrc.gov.* Both are staff of the Office of Advanced Reactors at the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

(Authority: 42 U.S.C. 2011 *et seq.*)

Dated: August 26, 2026.

For the Nuclear Regulatory Commission.

Victoria Huckabay,

Senior Project Manager, Advanced Reactor Licensing Branch 2, Division of Advanced Reactor Licensing, Office of Advanced Reactors.

Attachment—Exemption

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–616 and 50–617; NRC–2026–0265] SMR, LLC; Palisades SMR, LLC; Pioneer Units 1 and 2; Exemption

1.0 Background

By letter dated December 31, 2025 (Agency wide Documents Access and Management System (ADAMS) Accession Number ML25365A983), SMR, LLC, on behalf of Palisades SMR, LLC, a wholly-owned subsidiary of Holtec International (collectively, Holtec) submitted to the U.S. Nuclear Regulatory Commission (NRC) the first part of a phased construction permit (CP) application, including a limited work authorization (LWA) request, for a dual-unit

SMR–300 plant located at the Palisades Energy Center (PEC) in Covert, Michigan. The units are individually named Pioneer Unit 1 and Pioneer Unit 2. Part 1 of the phased CP application included a request for an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Section 50.10(c). The NRC staff has reviewed this request for an exemption, pursuant to 10 CFR 50.12, as it relates to Holtec's request to allow for construction of support of excavation (SOE) walls, which will remain in place after construction is complete, during the excavation for the Pioneer Units 1 and 2 plant and prior to issuance of an LWA, which is currently under review by the NRC.

The NRC staff reviewed relevant information provided in the application to support the LWA request and the exemption request to determine whether the requested exemption meets the criteria of 10 CFR 50.12(a) and (b). Granting this exemption would not constitute a commitment by the NRC to issue an LWA or CP for Pioneer Units 1 and 2. Holtec would construct SOE walls, assuming the risk that its LWA request or Part 2 of the phased CP application (not yet submitted) may later be denied.

2.0 Request/Action

The proposed action, as described in Holtec's request for an exemption from 10 CFR 50.10(c), would allow Holtec to construct permanent retaining walls within an excavation at the Pioneer Units 1 and 2 site which would otherwise be prohibited prior to issuance of an LWA or a CP. This exemption would authorize Holtec to install and abandon in place SOE walls including diaphragm walls, soldier pile soil-mix walls, and perimeter cutoff walls needed to maintain excavation stability, protect adjacent structures and utilities, manage groundwater pressures, and ensure personnel safety and constructability during deep excavations. According to Holtec, these SOE walls will serve no function in the completed SMR–300 plant and, because removal would be unnecessary and costly, the SOE walls will be retired in place and the space between the SOE walls and the permanent structures will be backfilled to bring the area to grade.

3.0 Discussion

Pursuant to 10 CFR 50.12(a), the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemption is authorized by law, will not present an undue risk to public health or safety, and is consistent with the common defense and security; and (2) when special circumstances are present.

Under 10 CFR 50.12(b), to issue an exemption from 10 CFR 50.10 that would allow for construction of permanent SOE walls prior to the issuance of an LWA, the Commission may grant such an exemption upon considering and balancing the following factors: (1) whether conduct of the proposed activities will give rise to a significant adverse impact on the environment and the nature and extent of such impact, if any; (2) whether redress of any adverse environmental impact from conduct of the proposed activities can reasonably be effected should such redress be necessary; (3) whether conduct of the proposed activities would foreclose subsequent adoption of alternatives; and (4) the effect of delay in conducting such activities on the public interest, including the power needs to be used by the proposed facility, the availability of alternative sources, if any, to meet those needs on a timely basis, and delay costs to the applicant and to consumers.

10 CFR 50.12(a)(1): Authorized by Law

This exemption would authorize the Holtec to construct and abandon in place permanent SOE walls prior to issuance of an LWA for Pioneer Units 1 and 2. Granting Holtec's proposed exemption will not otherwise result in a violation of the Atomic Energy Act of 1954, as amended, the Commission's regulations, or any other law. Therefore, the NRC staff finds that the exemption is authorized by law.

10 CFR 50.12(a)(1): No Undue Risk to Public Health and Safety

To determine whether the proposed exemption would pose an undue risk to public health and safety, the NRC staff identified specific portions from its ongoing safety review of Part 1 of the phased CP application that could be impacted if the exemption is granted. The NRC staff identified that Holtec would need to perform certain actions and gather data related to Geologic Mapping and Geotechnical Engineering prior to and during the construction of SOE walls, such that its ability to demonstrate compliance with NRC regulations in the technically relevant portions of its phased CP application or a future Operating License (OL) application, would not be foreclosed. Therefore, the NRC staff evaluated Holtec's proposed methods relating to these technical areas.

Geologic Mapping

The excavation support structures that Holtec proposes to leave in place would cover the excavation walls and floor. The NRC staff reviewed the exemption request to determine whether the proposed activities would affect Holtec's ability to meet the relevant regulatory requirements in 10 CFR 50.34 (as referenced in 10 CFR 50.10(d)(3)), 10 CFR 100.21, and 10 CFR 100.23, in its phased CP application or a future OL application, specifically with respect to geologic mapping of the foundation-bearing rock unit, including the floor and walls of the open excavation. Once the excavation support activities described in the exemption request are completed, direct geologic mapping of the foundation-bearing rock unit within the open excavation would no longer be possible. Therefore, the NRC staff evaluated how Holtec proposes to conduct its activities under the requested exemption, such that it would not foreclose Holtec's ability to demonstrate that it meets the technically relevant NRC requirements in its phased CP application or a future OL application.

In Section 1.3.4 of Enclosure IV of Part 1 of the phased CP application (ML25365A989), Holtec stated that geologic mapping of the excavation is required and acknowledged the need to notify the NRC staff when the excavation is open for inspection. In a supplement to the application submitted by letter dated July 23, 2026 (ML26204A398), Holtec further clarified that the statement in Section 2.5.4.5.1, Excavation, of the Preliminary Safety Analysis Report (PSAR or LWA PSAR) provided in Enclosure II to the application (ML25365A987), regarding geologic mapping of exposed surfaces within the excavation lifts, as well as geologic mapping conducted when final grades of various excavation areas have been reached, applies to the activities covered by this exemption request.

The NRC staff reviewed Holtec's explanation of how geologic mapping will be performed on exposed surfaces within each excavation lift and at final grades, consistent with Regulatory Guide (RG) 1.132, ''Geologic and Geotechnical Site Characterization Investigations for Nuclear Power Plants.'' Based on this review, the NRC staff concludes that Holtec's approach to conducting geologic mapping during the progression of excavation activities provides reasonable assurance that the activities conducted under this exemption will not foreclose Holtec's ability to demonstrate that the requirements of 10 CFR 50.34, 10 CFR 100.21, and 10 CFR 100.23 related to geologic mapping would be met for the technically relevant potions of the NRC staff's review of the phased CP application, or a future OL application. As a result, the NRC staff determined that, regarding geologic mapping, approving this exemption request would not pose an undue risk to public health and safety.

Geotechnical Engineering

The NRC staff evaluated the geotechnical engineering aspects of Holtec's exemption request using the criteria in NUREG–0800, Section 2.5.4, ''Stability of Subsurface Materials and Foundations,'' and the guidance in RG 1.132, and RG 1.138, ''Laboratory Investigations of Soils and Rocks for Engineering Analysis and Design of Nuclear Power Plants.'' In performing this evaluation, the NRC staff reviewed information relevant to this exemption provided in the application, to determine whether the proposed excavation support activities would pose an undue risk to public health and safety.

This exemption request describes the installation of SOE walls to maintain excavation stability, protect adjacent structures and utilities, control groundwater pressures, and ensure personnel safety and constructability during excavation. Holtec stated that the SOE walls will serve no function in the completed SMR–300 plant. The NRC staff evaluated PSAR Figures 2.532 through 2.537, which depict the SOE walls relative to safety related structures, and determined that based on the preliminary design presented in Part 1 of the phased CP application, following backfilling to plant grade, the SOE walls will remain structurally isolated from safety related structures and will serve no function after construction is complete. Further, Holtec stated that the

presence of retired SOE wall elements will be included in future soil–structure interaction (SSI) analyses to ensure a conservative and technically justified representation of subsurface conditions in the design of safety related structures, systems and components (SSCs).

As part of its review, the NRC staff examined the LWA PSAR Section 2.5.4.10.3, ''Lateral Earth Pressures,'' and Table 2.553, ''Lateral Earth Pressure Design Parameters,'' which describe the development of at rest (K_0), active (K_a), and passive (K_p) lateral earth pressure coefficients for each soil stratum. These coefficients were derived from site specific laboratory and field data, including effective friction angle (ø′), unit weight, and, where applicable, undrained shear strength. These parameters form the basis for calculating lateral forces acting on the SOE walls and are directly incorporated into the stability analyses. The NRC staff found that the coefficients were developed using state of the practice geotechnical engineering methods, are consistent with the site's stratigraphy, and are technically justified based on measured soil parameters and validated against industry standards and regulatory guidance. In validating these coefficients, the NRC staff confirmed that (1) the coefficients were developed from site specific, measured soil parameters obtained through standard laboratory and field investigation methods; (2) the analytical methods used to compute K_0, K_a, and K_p, were applied in accordance with the applicable NRC regulatory guidance including NUREG–0800, Section 2.5.4; RGs 1.132; and RG 1.138; and (3) the resulting values were evaluated for consistency with the site's stratigraphy and found to be technically justified through comparison with published data and accepted geotechnical practice.

The NRC staff also reviewed Holtec's proposed SOE system design description, which includes diaphragm walls, soldier pile soil mix walls, and perimeter cutoff walls. The NRC staff noted that the design incorporates groundwater conditions (including hydrostatic pressures below the water table), construction surcharges, and staged excavation using tiebacks or struts as necessary. As described in the LWA PSAR Section 2.5.4.5, the construction sequence specifies staged excavation with the installation of bracing elements at successive levels, consistent with accepted engineering practice for deep excavations. The NRC staff also noted that Holtec developed the lateral pressures through layer-by-layer analysis using site specific geotechnical parameters, ensuring that the SOE walls are designed to resist all anticipated loading scenarios.

Section 2.5.4.10.3 of the LWA PSAR specifies the monitoring and quality control measures to be used during excavation, including inclinometers, piezometers, load cells, and extensometers. The NRC staff determined that these measures provide reasonable assurance that deviations from design assumptions will be promptly detected and addressed.

Conclusion

Based on the evaluation of the exemption request and supporting technical information in the application, the NRC staff finds that there is reasonable assurance that the proposed exemption to allow installation and retirement in place of the SOE walls prior to issuance of an LWA would not pose an undue risk to public health and safety and would not adversely affect the safe design or siting of the plant. This determination is supported by the following:

1. The SOE walls are designed to provide support for the excavation during construction and will serve no safety related design function after construction is complete.

2. The area between the SOE walls and safety related structures will be backfilled to plant grade, providing structural and functional separation.

3. Holtec stated that it will include the presence of retired SOE walls in future SSI analyses, ensuring a conservative representation of subsurface conditions in safety related design, in the OL application.

4. Holtec stated it will perform comprehensive geologic mapping and data collection during excavation and will use this information to demonstrate the structural integrity of the Reactor Building in the OL application.

For these reasons, the NRC staff has reasonable assurance that construction of permanent SOE walls prior to issuance of LWA, if approved, will not adversely affect the performance or safety function of Pioneer Units 1 and 2 safety related structures and therefore, the exemption request does not pose an undue risk to public health and safety in accordance with the criteria of 10 CFR 50.12(a)(1). The NRC staff notes that in order to demonstrate that Holtec has met the regulatory requirements for the technically relevant portions of the phased CP application, or future OL application, Holtec must provide the information provided by this geologic mapping, and the presence of the retired SOE walls must be included in future SSI analyses, as technically relevant. Deviations from the commitments described in this exemption request or failure to notify the NRC when the excavations are open for inspection could result the NRC staff being unable to make its required safety findings pursuant to the Atomic Energy Act to issue an LWA, CP, or OL.

10 CFR 50.12(a): Consistent With Common Defense and Security

The proposed exemption would allow Holtec to install and abandon in place SOE walls needed to maintain excavation stability, protect adjacent structures and utilities, manage groundwater pressures, and ensure personnel safety and constructability during deep excavations and prior to issuance of an LWA. Because the exemption would allow for excavation wall support only, the exemption has no relation to defense and security issues. Therefore, the common defense and security is not impacted by this exemption.

10 CFR 50.12(a)(2): Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(iii), are present whenever ''compliance [with a regulation] would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted''. Holtec cited undue hardship or other costs as a special circumstance that would warrant granting this exemption. Holtec stated that removal of the excavation supports, which would make them temporary and therefore not ''construction'' as defined in 10 CFR 50.10(a), would not be practical because of the high unnecessary cost associated with removal that would be added to the project. Holtec stated that the delaying of the SOE walls construction and associated excavation activities until LWA approval would result in substantial costs by negatively impacting the construction schedule for the Pioneer Units 1 and 2.

In 2007, the NRC issued a final rule to allow certain construction activities on production and utilization facilities to commence before a construction permit or combined license is issued and modified the scope of activities that are considered construction for which a construction permit, combined license or LWA is necessary (2007 LWA rule) (72 FR 57416). The Commission issued a regulatory analysis associated with the 2007 LWA rule (ML071870012). In Section 3.2.2 of the regulatory analysis, the Commission noted that ''[a]pplicants' ability to perform pre-construction site preparation activities without obtaining prior permission from the NRC will lower the cost of construction by reducing the time interval between the outlay of capital for new plant construction and cost recovery realized through plant operation. The definition of construction in the final rule will minimize the time interval by allowing pre-construction, site preparation activities to proceed in parallel with the NRC's licensing process.'' The staff noted in the associated SECY to the 2007 LWA rule, SECY–07–0030, that the LWA process allows for certain construction activities to proceed after a safety review is performed for the requested foundation activities, including related site characteristics, and an environmental review is conducted (ML070310298). The Commission further explained in the preamble to the 2007 LWA rule, that retaining walls fall within the definition of construction if they are permanent, but do not if they are temporary and are removed from the excavation before fuel load (72 FR at 57429).

The NRC staff has conducted safety (Section 3.0 of this exemption) and environmental (Section 4.0 of this exemption) reviews for the limited exemption request to install SOE walls and abandon them in place instead of removing them as temporary retaining walls. The staff notes that the SOE walls are not intended to serve a structural purpose in the SMR–300 design and are designed to support the excavation during construction. Further, the space between the SOE walls and the SSCs are intended to be backfilled to bring the area back to planned grade and the SOE walls are planned to be abandoned in place. Based on the staff's analysis of the preliminary design for the Pioneer Units 1 and 2, the staff found that the SOE walls will remain structurally isolated from safety-related structures and will serve no function after construction is complete. In the staff's analysis of this

exemption request, the staff concluded that it has reasonable assurance that the exemption to allow installation and retirement in place of the SOE walls prior to issuance of an LWA would not adversely affect the safe design or siting of the plant. However, removal of the SOE walls, which would cause the SOE walls to therefore not be defined as ''construction,'' is not practical for Holtec to complete for Pioneer Units 1 and 2 because of the high unnecessary cost and schedule delays that removal would add to the project. Furthermore, delaying SOE wall construction would also delay the associated pre-construction excavation activities until LWA approval, negatively impacting Holtec's construction schedule and potentially delaying plant operations. Therefore, removal of the SOE walls or delaying installation of permanent SOE walls until a LWA is issued, if approved, would not result in the cost benefits associated with allowing pre-construction and site preparation to proceed in parallel with the NRC's review of the phased CP application because it would either delay excavation activities or require costly removal of the SOE walls at a later date.

Therefore, the NRC staff has determined that special circumstances exist in this case because compliance with a regulation, 10 CFR 50.12(a)(2)(iii), would result in undue hardship and other costs that are significantly in excess of those contemplated when the regulation was adopted.

10 CFR 50.12(b): Balancing Factors

Pursuant to 10 CFR 50.12(b), the Commission may grant the exemption upon considering and balancing the following four factors: (1) whether conduct of the proposed activities will give rise to a significant adverse impact on the environment and the nature and extent of such impact, if any; (2) whether redress of any adverse environment impact from conduct of the proposed activities can reasonably be effected should such redress be necessary; (3) whether conduct of the proposed activities would foreclose subsequent adoption of alternatives; and (4) the effect of delay in conducting such activities on the public interest, including the power needs to be used by the proposed facility, the availability of alternative sources, if any, to meet those needs on a timely basis and delay costs to the applicant and to consumers. With respect to factor (1), the NRC staff has prepared an environmental assessment (EA) (ML26230A249) as discussed in Section 4.0 below and determined that the proposed action of granting of this exemption will not have a significant effect on the quality of the human environment.

With respect to factor (2), Holtec stated that should redress be necessary, the below-grade SOE walls will be retired in place, backfilled, and graded to conform to the adjacent land surface, allow stormwater runoff, and prevent soil erosion. The NRC staff reviewed the redress plan to the extent it discusses construction of the SOE walls included as Enclosure VIII and found that redress of the SOE walls can reasonably be effected. Therefore, the NRC staff determined that redress of any adverse environment impact from conduct of the proposed activities can reasonably be effected should redress be necessary.

Additionally, the NRC staff determined that issuance of an LWA will not foreclose subsequent adoption of alternatives as identified in factor (3). According to Holtec, retiring the SOE walls in place includes grading the impacted areas to conform to the adjacent land surface which will support adoption of subsequent alternatives. Also, although not anticipated to be necessary for adoption of subsequent alternatives, Holtec states that the removal of the SOE walls could be performed but would be costly.

Finally, the NRC staff considered factor (4) and the effect of delay in conducting construction activities authorized by the exemption on the public interest and finds that without the requested exemption, a significant time delay and increased construction costs could delay construction of Pioneer Units 1 and 2, which could delay 680 mega-watts of clean energy and a reliable lower cost energy supply for working families and small businesses in the state of Michigan. Further, the NRC staff reviewed the exemption request and Holtec's discussion of alternative energy sources in Chapter 9 of the Environmental Report (ER), (Enclosure III of the application), as a preliminary assessment of the information provided, and did not identify any alternative sources available that would outweigh the potential costs and time delay from not granting the exemption. Upon consideration and balancing of the four factors described above, the Commission has determined that the exemption should be granted.

4.0 Environmental Considerations

In accordance with 10 CFR 51.30, 51.31, and 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment as discussed in the NRC staff's Environmental Assessment and Finding of No Significant Impact issued on August 25, 2026 (91 FR 54890). The ADAMS Accession number for the associated EA is ML26230A249.

5.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Further, the Commission considered and balanced the factors of 10 CFR 50.12(b) and determined that the exemption should be granted. Therefore, the Commission hereby grants Palisades SMR, LLC, and SMR, LLC an exemption from the requirements in 10 CFR 50.10(c) for the construction of permanent SOE walls during excavation activities and prior to issuance of an LWA. Issuance of this exemption shall not be deemed to constitute a commitment to issue a construction permit or LWA.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 28th day of August 2026.

For the Commission

/RA/

Ravi Penmetsa,
Director, Division of Advanced Reactor Science, Office of Advanced Reactors.

[FR Doc. 2026–17626 Filed 8–27–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–424, 50–425, and 72–1039; NRC–2026–3895]

Southern Nuclear Operating Company; Vogtle Electric Generating Plant Units 1 & 2; Independent Spent Fuel Storage Installation; Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a one-time exemption to Southern Nuclear Operating Company (SNC), authorizing Vogtle Electric Generating Plant Units 1 and 2 (Vogtle 1 and 2) to retain a single Neutron Source Assembly (NSA) in its current storage cell within a multi-purpose canister ((MPC–32), serial number MPC–707) at the Vogtle Independent Spent Fuel Storage Installation, in a manner that is inconsistent with the loading restrictions specified in Certificate of Compliance (CoC) No. 1014, Amendment 11, for the HI–STORM 100S Version B dry storage system. The exemption allows the NSA to remain in a peripheral basket cell, contrary to Appendix B, Table 2.1–1, which restricts NSA containing assemblies to designated interior cells. The NRC's determination is based on SNC's safety evaluation and supporting analyses demonstrating that the configuration continues to meet applicable safety requirements for criticality control, shielding, thermal performance, structural integrity, and confinement.

DATES: The exemption was issued on August 21, 2026.

ADDRESSES: Please refer to Docket ID NRC–2026–3895 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–3895. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual listed

in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Haimanot Yilma, Office of Nuclear Material Safety and Safeguards, U.S. NRC, Washington, DC 20555; telephone: 301–287–9070; email: *Haimanot.Yilma@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: August 25, 2026.

For the Nuclear Regulatory Commission.

Yoira Diaz-Sanabria,

Chief, Storage Transportation and Microreactors Licensing Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety, and Safeguards.

Attachment—Exemption

NUCLEAR REGULATORY COMMISSION

Docket Nos. 50–424, 50–425, and 72–1039

Southern Nuclear Operating Company; Vogtle Electric Generating Plant Units 1 & 2; Independent Spent Fuel Storage Installation; Exemption

I. Background

Southern Nuclear Operating Company (SNC) is the holder of Facility Operating Licenses Nos. 50–424 and 50–425, which authorize operation of Vogtle Electric Generating Plant Units 1 and 2 in Georgia, pursuant to part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities.'' The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. NRC now or hereafter in effect.

Consistent with 10 CFR part 72, subpart K, ''General License for Storage of Spent Fuel at Power Reactor Sites,'' a general license is issued for the storage of spent fuel in an Independent Spent Fuel Storage Installation (ISFSI) at power reactor sites to persons authorized to possess or operate nuclear power reactors under 10 CFR part 50.

SNC is authorized to operate nuclear power reactors under 10 CFR part 50 and holds a 10 CFR part 72 general license for storage of spent fuel at the Vogtle ISFSI. Under the terms of the general license, SNC stores spent fuel at its Vogtle ISFSI using the HI–STORM 100S system in accordance with CoC No. 1014, Amendment 11.

The HI–STORM 100 dry storage system is a passive design providing the required safety functions of heat removal, criticality control, shielding, and confinement. The system consists of multi-purpose canisters (MPCs) that confine the spent fuel, a storage overpack (HI–STORM 100S) for shielding and structural protection, and a transfer cask (HI–TRAC) for loading, unloading, and transfer operations. The MPC is a welded, cylindrical canister with a fuel basket containing neutron-absorbing material for criticality control, and all confinement boundary components are made of stainless steel alloys.

The HI–STORM 100 dry storage system is certified to accommodate spent fuel and specified non-fuel hardware (NFH), as defined in Appendix B of CoC No.1014, which restricts Neutron Source Assembly (NSA) containing assemblies to designated interior cells. NSAs are among the authorized NFH types.

On December 8, 2025, SNC discovered that a NSA had been misloaded in a peripheral cell of MPC–32, serial number MPC–707, during the April 2024 dry cast storage fuel loading campaign at Vogtle Units 1 and 2. This misloading occurred because NSAs were mislabeled as burnable poison rod assemblies (BPRAs) in the TracWorks database in 1997, due to the NSAs and BPRAs similarities in appearance and serial number nomenclature. The clerical error was not detected in SNC's fuel selection procedures, which led to the improper loading during the 2024 dry cask storage fuel loading campaign. This loading configuration is inconsistent with the requirements of Appendix B, Section 2.1, ''Fuel Specifications and Loading Conditions,'' and Section V, Table 2.1–1 of CoC No. 1014, Amendment 11. These requirements restrict loading of this type of NFH to specific interior basket locations (cells 13, 14, 19, and/or 20), with a maximum of one NSA per canister; peripheral cells are not permitted for NSA placement.

Following the discovery of this error, SNC updated TracWorks labels for all primary source assemblies at Vogtle to correctly reflect their hardware type and completed an extent-of-condition review of NSA labels and locations across all SNC PWR sites, including spent fuel pool inventories and previously loaded dry cask storage MPCs.

II. Request/Action

By letter dated April 6, 2026 (ML26096A485), SNC requested an exemption from 10 CFR 72.212(b)(3) and 72.212(b)(11), to deviate from CoC No. 1014, Amendment 11 (ML23328A045 (package)) restrictions on NSA placement within the MPC–32 basket.

This exemption request seeks the NRC's authorization, pursuant to 10 CFR 72.7, to permit a single NSA to remain in its as loaded storage location in a peripheral basket cell of MPC–32, serial number MPC–707.

III. Discussion

Pursuant to 10 CFR 72.7, ''Specific exemptions,'' the Commission may, upon application by any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations of 10 CFR part 72 as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

A. The Exemption Is Authorized by Law

This exemption would allow SNC to deviate from CoC No. 1014, Amendment 11 NSA placement restrictions and keep the NSA in a peripheral cell of MPC–707.

SNC is requesting an exemption from the provisions in 10 CFR part 72 that require the licensee to comply with the terms, conditions, and specifications of the CoC for the approved cask model it uses. Section 72.7 allows the NRC to grant exemptions from the requirements of 10 CFR part 72. This authority to grant exemptions is consistent with the Atomic Energy Act of 1954, as amended, and is not otherwise inconsistent with NRC's regulations or other applicable laws. Additionally, no other law prohibits the activities that would be authorized by the exemption. Therefore, the NRC concludes that there is no statutory prohibition on the issuance of the requested exemption, and the NRC is authorized to grant the exemption by law.

B. The Exemption Will Not Endanger Life or Property or the Common Defense and Security

This one-time exemption would allow SNC to retain a single NSA loaded within a multi-purpose canister (MPC–32, serial number MPC–707) at the Vogtle 1 & 2 units, in a manner that is inconsistent with the loading restrictions specified in CoC No. 1014, Amendment 11, for the HI–STORM 100S Version B dry storage system. SNC's evaluation concludes that retaining a single NSA in a peripheral cell does not adversely affect criticality control, shielding, thermal performance, structural integrity, or confinement functions of the HI–STORM 100S system and MPC–32, as loaded. The NSA (a Californium-252 primary source from Vogtle Unit 2 Cycle 1) has decayed for over 34 years, reducing neutron emission to negligible levels relative to a typical spent fuel assembly. Post-loading dose surveys confirm compliance with regulatory dose limits.

The NRC staff has evaluated the SNC's assessment and determined that under the requested exemption, the storage system will continue to meet the safety requirements of 10 CFR part 72 and the offsite dose limits of 10 CFR part 20, ''Standards for Protection Against Radiation'', and, therefore, will not endanger life or property or the common

defense and security. The NRC staff's review concluded, as discussed below, that the proposed exemption from certain requirements of 10 CFR part 72 will not cause CoC No. 1014 to encounter conditions beyond those for which it has already been evaluated and demonstrated to meet the applicable safety requirements in 10 CFR part 72. The NRC staff's evaluation focused on the application and those calculations and analyses submitted with the application. The NRC staff followed the guidance in NUREG–2215 to complete its safety evaluation. The NRC's staff evaluation includes thermal, containment, shielding, and criticality safety areas, which are the relevant technical disciplines affected by this exemption.

Thermal Review: The objective of the thermal evaluation was to confirm that the MPC–32, serial number MPC–707, with the improperly loaded NSA met the thermal requirements described in 10 CFR part 72, thereby allowing Vogtle Units 1 and 2 to continue to store the NSA in a manner that is inconsistent with the loading restrictions specified in CoC No. 1014, Amendment 11, for the HI–STORM 100S Version B dry storage system. The NRC staff relied on the information provided by the licensee in their exemption submittal (submitted April 2026) and their 30-day special report (letter NL–25–0474, January 2026).

As described in the licensee's, ''Request for Exemption from an Allowable Contents Requirement contained in the Certificate of Compliance Number 1014 of the HI–STORM 100S Version B Dry Cask Storage,'' (Enclosure to NL–26–0138 of the April 2026 submittal), the placement of a NSA in a peripheral cell (rather than in a designated interior cell) of the MPC–32 canister was inconsistent with the requirements of CoC 1014 of the HI–STORM 100S Version B Dry Cask Storage System. To support the exemption request, the licensee noted that the activity of an NSA (*e.g.,* cobalt activation of its stainless steel and Inconel portions) is bounded by the total activity of a burnable absorber assembly that can be stored in a peripheral cell of an MPC–32 basket. In addition, the licensee indicated that the placement of the NSA had no effect on the thermal safety evaluation, since the loaded NSA produced negligible decay heat and the evaluation is based on the bounding decay heat per cell location.

After reviewing this assessment, the NRC staff concludes that, because the activity of an NSA is bounded by the total activity of a burnable absorber assembly, and because of the negligible decay heat from the loaded NSA, placing the NSA in a peripheral cell of the MPC–32 basket, contrary to CoC No. 1014 (Amendment 11) requirements, would not change the thermal evaluation. Therefore, the NRC staff finds that the thermal function of MPC–32 (serial number MPC–707) loaded under CoC No. 1014, Amendment 11, as addressed in the exemption request, remains in compliance with 10 CFR part 72.

Confinement Review: The objective of the confinement evaluation was to confirm that MPC–32, serial number MPC–707, with the improperly loaded NSA met the confinement requirements described in 10 CFR part 72, thereby allowing Vogtle Units 1 and 2 to continue to store the NSA in a manner that is inconsistent with the loading restrictions specified in CoC No. 1014, Amendment 11, for the HI–STORM 100S Version B dry storage system. The NRC staff relied on the information provided by the licensee in their exemption submittal (submitted April 2026) and their 30-day special report (letter NL–25–0474, January 2026).

As described in the licensee's, ''Request for Exemption from an Allowable Contents Requirement contained in the Certificate of Compliance Number 1014 of the HI–STORM 100S Version B Dry Cask Storage,'' (Enclosure to NL–26–0138 of the April 2026 submittal), the placement of a NSA in a peripheral cell (rather than in a designated interior cell) of the MPC–32 canister's basket was inconsistent with the requirements of CoC No. 1014 of the HI–STORM 100S Version B Dry Cask Storage System. To support the exemption request, the licensee indicated that the placement of the NSA had no effect on confinement safety evaluations and that the MPC (*i.e.,* the confinement boundary, which is tested to ''leaktight'' specifications as described in chapters 7 and 9 of HI–STORM 100 final safety analysis report (FSAR) revision 16) continued to have no credible leakage. The licensee noted that the activity of an NSA (*e.g.,* cobalt activation of its stainless steel and Inconel portions) is bounded by the total activity of a burnable absorber assembly that can be stored at a peripheral cell of an MPC–32 basket, such that there is no significant change in content activity within the MPC–32. In addition, the licensee noted that the distinction between an NSA and burnable absorber assembly has no effect on structural evaluations.

After reviewing this assessment, the NRC staff agrees that the placement of the NSA had no effect on confinement safety evaluations as the activity of the NSA is bounded by the total activity of a burnable absorber assembly that can be stored in a peripheral cell, and, therefore, concludes that placing the NSA in a peripheral cell of the MPC–32 basket, contrary to CoC No. 1014 (Amendment 11) requirements, would not change the confinement evaluation. Therefore, the NRC staff finds that the confinement function of MPC–32 (serial number MPC–707), loaded under CoC No. 1014, Amendment 11, as addressed in the exemption request, remains in compliance with 10 CFR part 72.

Shielding Evaluation: The NRC staff reviewed SNC's exemption request to deviate from CoC No. 1014 requirements, to ensure that the shielding is adequate to meet requirements in 10 CFR part 72, thereby allowing Vogtle Units 1 and 2 to continue to store the NSA in a manner that is inconsistent with the loading restrictions specified in CoC No. 1014, Amendment 11, for the HI–STORM 100S Version B dry storage system. For shielding purposes, the NRC staff reviewed the exemption request for compliance with the requirements of 10 CFR 72.12(b)(3), 72.212(b)(11), 72.126(a)(6), 72.104 and 72.106.

The shielding design is described in Holtec International's FSAR for the HI–STORM 100 cask system and CoC No. 1014. Gamma radiation shielding is provided by the welded cylindrical MPC, as well as the steel and concrete of the overpack. Neutron radiation shielding is provided by the concrete of the overpack.

According to the licensee, for the NSA containing a Cf-252 source (half-life of 2.64 years), the inadvertent placement in peripheral cell MPC–32, serial number MPC–707, instead of one of the internal cells (No. 13, 14, 19, or 20), results in negligible effects on the cask's radiation dose rates. The licensee noted that the Cf-252 source has been decaying for over 34 years before being placed inside the cask, reducing its neutron emission to less than 0.011% of its original source strength. The licensee's dose analysis performed demonstrated that even in peripheral locations, the dose impact is negligible if only one NSA per quadrant is loaded and sufficient decay time has elapsed. This condition is met by the NSA. Due to the bounding gamma source term applicable to the non-fuel hardware (NFH) already in the MPC, the licensee indicated that shielding calculation for gamma source term produced from neutron activation from the Cf-252 source is not necessary to be performed.

Based on a review of the statements and representations contained in the application, specifically the decay time of the NSA, the negligible effects on the cask's radiation dose rate, and the dose analysis performed, the NRC staff agrees that the shielding is adequate with the incorrectly placed NSA. Therefore, the NRC staff finds that the shielding function of MPC–32 (serial number MPC–707) loaded under CoC No. 1014, Amendment 11, as addressed in the exemption request, remains in compliance with 10 CFR part 72.

Criticality Evaluation: The NRC staff reviewed SNC's exemption request to deviate from CoC No. 1014 requirements to ensure that the criticality safety analysis remains adequate to meet requirements in 10 CFR part 72, which would allow Vogtle Units 1 and 2 to continue to store the NSA in a manner that is inconsistent with the loading restrictions specified in CoC No. 1014, Amendment 11, for the HI–STORM 100S Version B dry storage system. The NRC staff reviewed the exemption request for compliance with the requirements of 10 CFR 72.124 and 72.236.

The criticality safety design is described in Holtec International's FSAR for the HI–STORM 100 cask system and CoC No. 1014. Criticality control is primarily provided by the allowable contents and the requisite basket configuration that contains neutron-absorbing material.

The licensee explained that the misplaced NSA in a peripheral cell MPC–32 (serial number MPC–707), results in negligible effects on the cask's criticality safety. As stated in the FSAR, fuel assemblies containing start-up neutron sources are permitted for storage in the HI–STORM 100 system. The reactivity of a fuel assembly is not affected by the presence of a neutron source because in a system with a k_{eff} less than 1.0, any given neutron population at any time, regardless of its origin or size, will decrease over time. Therefore, a neutron source of any strength will not increase reactivity, but only the neutron flux in a

system, and thus no additional criticality analyses are required. Sources are inserted as rods into fuel assemblies (*i.e.,* they replace either a fuel rod or water rod), displacing fuel material. Since the criticality safety of the system is based on the neutron interaction between the stored fuel assemblies, and since no additional uranium mass has been added to the cask, only shifted within the cask, the current analysis for the HI–STORM 100 cask system bounds this loading error.

Based on a review of the statements and representations contained in the application, the NRC staff agrees that because the current analysis of the HI–STORM 100 cask system bounds the loading error of the NSA in an unapproved configuration, the criticality safety analysis remains adequate. Therefore, the NRC staff finds that the criticality safety function of the MPC–32 (serial number MPC–707) loaded under CoC No. 1014, Amendment 11, as addressed in the exemption request, remains in compliance with 10 CFR part 72.

C. The Exemption Is Otherwise in the Public Interest

This exemption would allow SNC to deviate from the placement restrictions outlined in CoC No. 1014, Amendment 11, allowing the NSA to remain in a peripheral cell of MPC–32, serial number MPC–707.

According to SNC, the exemption is in the public interest because it prevents unnecessary reflooding and unloading of the canister, which would otherwise increase personnel radiation exposure, generate contaminated waste, and introduce additional operational risks without providing any corresponding safety benefit.

Upon NRC staff review, the NRC staff agrees with the licensee's assessment and concludes that granting the exemption serves the public interest by enabling continued safe storage of the NSA, without compromising safety, increasing personnel dose, or introducing unintended operational issues.

Environmental Consideration

The NRC staff also considered whether there would be any significant environmental impacts associated with the exemption. The NRC staff has determined that this action is categorically excluded under 10 CFR 51.22(d)(7), and there are no extraordinary circumstances present that would preclude reliance on this exclusion. The NRC staff have made this finding because the action results only in a change in process operations/equipment and does not involve ground disturbance, changes in effluents, or increased additional exposure or increased accident consequences. Therefore, pursuant to 10 CFR 51.22, the NRC staff concludes that this action does not require either an environmental assessment or an environmental impact statement. Additionally, the NRC staff has determined that this action does not have the potential to cause effects on historic properties. Therefore, in accordance with 36 CFR 800.3(a)(1), the NRC has no further obligation under Section 106 of the National Historic Preservation Act. The NRC staff has also determined that the action would have no effect on listed species or critical habitats, therefore, consultation is not required under section 7 of the Endangered Species Act.

IV. Conclusion

Based on these considerations, the NRC has determined that, pursuant to 10 CFR 72.7, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the NRC grants SNC an exemption from 10 CFR 72.212(b)(3) and 72.212(b)(11), to deviate from CoC No. 1014, Amendment 11, Appendix B, Table 2.1–1 requirements which restricts NSA containing assemblies to designated interior cells and allow the single NSA to remain in a peripheral basket cell of MPC–32, serial number MPC–707 under CoC No. 1014, Amendment 11.

This exemption is effective upon issuance.

Dated: August 21, 2026.

For the Nuclear Regulatory Commission.

/RA/

Yoira Diaz Sanabria,

Chief, Storage, Transportation and Microreactors Licensing Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2026–17577 Filed 8–27–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 11005897; NRC–2026–3565]

EnergySolutions Services Inc.; Export License Amendment Application

AGENCY: Nuclear Regulatory Commission.

ACTION: Opportunity to provide comments, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering approval of an export application, received on June 9, 2026, from EnergySolutions Services Inc. (ESSI). In the application, ESSI seeks to amend and renew an existing license, XW018, authorizing the export of radioactive material to Germany. The NRC is providing notice of the opportunity to comment, request a hearing, and petition to intervene on ESSI's application. This action will renew the existing export license for an additional 10 years (to expire on December 31, 2036) and amend the existing export license to update the licensee's address to 151 Lafayette Drive, Oak Ridge, Tennessee 37830.

DATES: Submit comments by September 28, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date. A request for a hearing or petition for leave to intervene must be filed by September 28, 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–2026–3565. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Hearing.Docket@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. eastern time (ET) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Joanne Savoy, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0371 or 301–287–9092; email: *Joanne.Savoy@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–3565 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–2026–3565.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the

ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov*. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. 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–2026–3565 in your comment submission.

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

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

II. Discussion

ESSI was issued XW018/02 on April 6, 2022, which expires on December 31, 2026, and authorizes the export of radioactive waste consisting of various materials contaminated with source, special nuclear, or byproduct material that were originally imported from Germany under an NRC general license for recycling and beneficial reuse (ADAMS Accession No. ML22098A005). Those materials include those processed for volume reduction via incineration, material directly ESSI submitted XW018/04 on June 9, 2026, requesting to renew the existing export license authorizing the export of German-origin radioactive waste from an ESSI processing facility in the State of Tennessee to Germany (ADAMS Accession No. ML26160A205). The radioactive material that would be subject to XW018/04, if approved, includes material processed for volume reduction via incineration (hearth ash); material directly attributable to that processing; material that was not recycled, burned, or otherwise released under applicable Tennessee Radioactive Material Licenses held by ESSI; and any non-incinerable or non-conforming material identified during inspection prior to incineration.

III. Opportunity To Comment

The NRC is providing notice of the receipt of the application; providing the opportunity to submit written comments concerning the application; and providing the opportunity to request a hearing or petition for leave to intervene, for a period of 30 days after publication of this notice in the **Federal Register**. Within 30 days from the date of publication of this notice, persons may submit written comments concerning the actions in this notice, as provided in section 110.81 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Written comments.'' The NRC will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this notice.

IV. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 30 days after the date of publication of this notice any person may file a request for a hearing or petition for leave to intervene with respect to the actions in this notice. A hearing request or petition for leave to intervene must include the information specified in 10 CFR 110.82(b). Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner in accordance with 10 CFR 110.89(a), either by delivery, by mail, or filed with the NRC electronically in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). Detailed guidance on electronic submissions may be found in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website (*https://www.nrc.gov/site-help/e-submittals.html*).

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

The information concerning this application for an export license follows.

NRC Export License Application

Application Information

Name of Applicant	EnergySolutions Services Inc.
Date of Application	May 14, 2026.
Date Received	June 9, 2026.
Application No	XW018/04.
Docket No	11005897.
ADAMS Accession No	ML26160A205.

NRC EXPORT LICENSE APPLICATION—Continued

Description of Material	
Material Type	Radioactive material consisting of hearth ash from the incineration dry active material. Exported material may also include non-incinerable or non-conforming material identified during inspection prior to incineration.
Total Quantity [1]	Authorization to export a total maximum quantity of 206.164 TBq, and 350 grams of SNM based on the maximum activity authorized for possession at ESSI's Bear Creek Operations as follows: H-3: 185 TBq, C-14: 18.5 Tbq, Ra-226: 0.74 TBq, Fe-55: 55.5 TBq, Th-232: 0.74 TBq, Po-210: 0.37 TBq, Uranium (natural or depleted): 7.4 TBq, Uranium (not U-233, U-235 or U-238): 0.074 TBq Atomic number 3 to 83 (excluding C-15 or Fe-55): 111 TBq, Atomic number 84 to 91 (total): 0.185, Transuranics (TRU): 0.185 TBq, Am-241: 0.37 TBq, and SNM, 235U equivalent: 350 grams.[2]
End Use	Storage and disposal in Germany.
Country of Destination	Germany.

[1] The license activity limits are the cumulative total maximums over the term of the license.
[2] Uranium 235-gram equivalent by weight of 350 grams (ESSI will not import enrichment level that exceed 20% by weight U-235).

Authority: 42 U.S.C. 2011 *et seq.*

Dated: August 26, 2026.

For the Nuclear Regulatory Commission.

David Skeen,

Director, Office of International Programs.

[FR Doc. 2026–17647 Filed 8–27–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 70–7033, M70–7033; CLI–26–12]

Global Laser Enrichment, llc; Paducah Laser Enrichment Facility; Commissioners: Ho. K. Nieh, Chairman; David A. Wright; Bradley R. Crowell; Matthew J. Marzano; Douglas W. Weaver; Order

On March 4, 2026, the Commission of the U.S. Nuclear Regulatory Commission (NRC) issued an order in the above-captioned docket providing notice of the receipt of an application from Global Laser Enrichment, LLC (GLE) for a license to possess and use special nuclear material for the purpose of constructing and operating a uranium enrichment facility in McCracken County, Kentucky.[1] The *GLE* order also provided specific guidance on the adjudicatory procedures to be used in the conduct of the proceeding, including direction regarding the conduct of an on-the-record uncontested hearing as well as the opportunity to request a contested hearing.

Subsequently, on August 7, 2026, the Commission issued an order in a separate proceeding concerning the receipt and notice of an application from Orano Enrichment USA LLC (Orano) also for a license to receive, acquire, possess, and transfer byproduct, source, and special nuclear material but for the purpose of constructing and operating the Project IKE Enrichment Facility in Oak Ridge, Tennessee.[2] In the *Orano* order, the Commission provided guidance on the adjudicatory procedures to apply in the proceeding, including an expectation that in the event a contested hearing on the application is held, the Commission would not also conduct an uncontested hearing.

On our own motion, we have considered the procedural guidance provided for both proceedings. Pursuant to our inherent supervisory authority to oversee and manage the NRC's adjudicatory proceedings, we have decided to modify the GLE proceeding to eliminate the previously noticed uncontested hearing and adopt the adjudicatory procedures outlined in the *Orano* order.[3]

To effectuate our decision today and comply with the requirements of section 193.(b) of the Atomic Energy Act, we re-open the contested proceeding previously terminated by the Atomic Safety and Licensing Board (Board) regarding the GLE license application.[4] Further, we hereby terminate the uncontested hearing established by the Board on July 13, 2026.

It is so ordered.

Dated at Rockville, Maryland, this 26th day of August, 2026.

For the Commission

Jody C. Martin,

Secretary of the Commission.

[FR Doc. 2026–17590 Filed 8–27–26; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Change in Rates of General Applicability for Competitive Products

AGENCY: Postal Service.

ACTION: Notice of a change in rates of general applicability for competitive products.

SUMMARY: This notice sets forth time-limited changes in rates of general applicability for competitive products.

DATES: *Effective date:* October 4, 2026.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: On August 19, 2026, pursuant to their authority under 39 U.S.C. 3632, the Governors of

[1] Global Laser Enrichment, LLC (Paducah Laser Enrichment Facility), CLI–26–3, 103 NRC __(Mar. 4, 2026) (ML26062A214).

[2] Orano Enrichment USA LLC (Project IKE Enrichment Facility), CLI–26–11, 104 NRC__(Aug. 7, 2026) (ML26218A174).

[3] *Section II, Notice of Mandatory Hearing, of the GLE order (CLI–26–3) is effectively removed by this modification. The GLE contested proceeding constitutes the required on-the-record hearing. To the extent applicable, any future contested proceedings regarding this license application will be conducted under 10 CFR part 2, Subparts C and L.*

[4] *See* Global Laser Enrichment, LLC (Paducah Laser Enrichment Facility), LBP–26–7, 104 NRC _ _(Jul. 9, 2026). This reopening of the record does not impact the Commission's consideration of the pending appeal filed by Kentucky Resources Council, Inc., on August 3, 2026. *See,* Notice of Appeal of ASLB Panel Memorandum and Order and Brief in Support of Appeal (ML26215A499 (package)).

the Postal Service established time-limited price changes for competitive products. The Governors' Decision and the record of proceedings in connection with such decision are reprinted below in accordance with section 3632(b)(2). Mail Classification Schedule language containing the new prices can be found at *www.prc.gov.*

Jeffrey Boblick,

Attorney, Ethics and Legal Compliance.

Decision of the Governors of the United States Postal Service on Changes in Rates of General Applicability for Competitive Products (Governors' Decision No. 26–7)

August 19, 2026

Statement of Explanation and Justification

Pursuant to authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 (''PAEA''), we establish new prices of general applicability for certain domestic shipping services (competitive products), and concurrent classification changes to effectuate the new prices. These prices shall be in effect at 12:00 a.m. CDT on October 4, 2026, until 12:00 a.m. CST on January 17, 2027, at which time prices will be restored to approved levels. The changes are described generally below, with a detailed description of the changes in the attachment. The attachment includes the draft Mail Classification Schedule sections with the new prices that will take effect on October 4 displayed in the price charts, as well as the Mail Classification Schedule sections with the prices that will be restored on January 17, 2027, unless the Governors take further action to adjust prices.

As shown in the nonpublic annex being filed under seal herewith, the changes we establish should enable each competitive product to cover its attributable costs (39 U.S.C. 3633(a)(2)) and should result in competitive products as a whole complying with 39 U.S.C. 3633(a)(3), which, as implemented by 39 CFR 3035.107(c), requires competitive products collectively to contribute a minimum of 8.1 percent to the Postal Service's institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products should arise (39 U.S.C. 3633(a)(1)). We therefore find that the new prices are in accordance with 39 U.S.C. 3632–3633 and 39 CFR 3035.102.

I. Domestic Products

A. Priority Mail Express

Overall, the Priority Mail Express price change represents a 6.0 percent increase. The existing structure of zoned Retail and Commercial price categories is maintained. Retail prices will increase 6.0 percent on average, while the Commercial price category will increase 6.0 percent on average.

B. Priority Mail

On average, Priority Mail prices will be increased by 6.0 percent. The existing structure of zoned Retail and Commercial price categories is maintained. Retail prices will increase 6.0 percent on average, while the Commercial price category will increase 6.0 percent on average.

C. USPS Ground Advantage

On average, USPS Ground Advantage prices will increase 6.0 percent. The existing structure of zoned Retail and Commercial price categories is maintained. Retail prices will increase 6.0 percent on average, while the Commercial price category will increase 6.0 percent on average.

D. Parcel Select

On average, Parcel Select prices will increase overall by 6.0 percent, with different percentages allocated across weight classes.

No price changes are being made to Special Services or International competitive products.

Order

The changes in prices set forth herein shall be effective at 12:00 a.m. on October 4, 2026, and will be rolled back to approved levels at 12:00 a.m. on January 17, 2027. We direct the Secretary of the Board of Governors to have this decision published in the **Federal Register** in accordance with 39 U.S.C. 3632(b)(2), and direct management to file with the Postal Regulatory Commission appropriate notice of these changes.

By The Governors:

/s/

Amber F. McReynolds,

Chair, Board of Governors

United States Postal Service Office of the Board of Governors

Certification of Governors' Vote on Governors' Decision no. 26–7

Consistent with 39 U.S.C. 3632(a), I hereby certify that on August 19, 2026, the Governors voted on adopting Governors' Decision No. 26–7, and that a majority of the Governors then holding office voted in favor of that Decision.

/s/

Date: *August 24, 2026*

Lucy C. Trout,

Secretary of the Board of Governors.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106183; File No. SR–FINRA–2026–017]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Amend the Codes of Arbitration Procedure To Make Changes to Certain Provisions Relating to Arbitrator List Selection

August 25, 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 12, 2026, the Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 FINRA. 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

FINRA is proposing to amend the Code of Arbitration Procedure for Customer Disputes (''Customer Code'') and the Code of Arbitration Procedure for Industry Disputes (''Industry Code'') (together, ''Codes'') to make changes to certain provisions relating to arbitrator list selection.

Specifically, the proposed rule change would amend FINRA Rules 12402 (Cases with One Arbitrator), 12403 (Cases with Three Arbitrators), 13406 (Appointment of Arbitrators; Discretion to Appoint Arbitrators Not on List), and 13411 (Replacement of Arbitrators) to provide parties with greater input into arbitrator selection at initial panel appointment and when replacing arbitrators after initial panel appointment.

The text of the proposed rule change is available on FINRA's website at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

http://www.finra.org and at the principal office of FINRA.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

I. Overview of FINRA's Arbitrator List Selection Process

Decisions in the FINRA Dispute Resolution Services (''DRS'') arbitration forum are made by independent arbitrators.[3] To help ensure fairness to all parties during arbitrator list selection, FINRA uses a computer algorithm, known as the ''list selection algorithm,'' to generate lists of arbitrators on a random basis from its rosters of arbitrators for the selected hearing location.[4] DRS maintains three rosters of arbitrators: public arbitrators, non-public arbitrators, and arbitrators who are eligible to serve as chairperson of a panel.[5] In general, a public arbitrator is a person who is otherwise qualified to serve as an arbitrator and is not disqualified from service as a public arbitrator due to their current or past ties to the financial industry.[6] A non-public arbitrator is a person who is disqualified from service as a public arbitrator due to their current or previous association with the financial industry.[7] An arbitrator is eligible to serve as a chairperson if they have completed FINRA's chairperson training and (1) have a law degree and are a member of a bar of at least one jurisdiction and have served as an arbitrator through award on at least one arbitration administered by a self-regulatory organization (''SRO'') in which hearings were held; or (2) have served as an arbitrator through award on at least three arbitrations administered by an SRO in which hearings were held.[8]

The number and composition of the arbitrator lists that are generated using the list selection algorithm varies depending on the nature of the dispute and whether it will be heard by a panel of three arbitrators or by a single arbitrator. With respect to both customer disputes with three arbitrators and industry disputes involving associated persons with three arbitrators,[9] DRS uses the list selection algorithm to generate three lists: (1) a list of 10 public arbitrators from the FINRA chairperson roster (''Chairperson List''); (2) a list of 15 arbitrators (in customer disputes) or 10 arbitrators (in industry disputes involving associated persons) from the FINRA public arbitrator roster (''Public List''); and (3) a list of 10 arbitrators from the FINRA non-public arbitrator roster (''Non-Public List'').[10]

More generally, once the lists of arbitrators are generated,[11] the Director[12] sends the lists to the parties.[13] The parties then select their arbitrators through a process that involves striking and ranking the arbitrators on the lists.[14] For example, with respect to customer disputes with three arbitrators, each separately represented party may strike up to four of the arbitrators from the Chairperson List for any reason. Additionally, each separately represented party may strike up to six of the arbitrators from the Public List for any reason. Each separately represented party may also strike up to all 10 arbitrators from the Non-Public List.[15] Following the striking process, each separately represented party shall rank all remaining arbitrators on the lists in order of preference, with a ''1'' indicating the party's first choice, a ''2'' indicating the party's second choice, and so forth. Each list of arbitrators must be ranked separately.[16]

Following the ranking process, the Director consolidates the parties' rankings to create combined lists for each arbitrator classification type and appoints the panelists based on the parties' rankings from the combined lists.[17] However, there may be no arbitrators remaining on the combined lists, or if arbitrators remain, they may be unable or unwilling to serve.[18] In addition, after panel appointment, an arbitrator may need to be removed or become unable or unwilling to serve on the panel.[19] The proposed rule change would make changes to the Codes by providing parties with greater input into arbitrator selection if either of these situations were to occur.[20]

II. Proposed Amendments To List Selection at Initial Panel Appointment

The proposed rule change would revise the process under the Codes for appointing an arbitrator to an initial panel when the number of arbitrators available to serve from the combined lists is insufficient to fill the initial panel.[21] Currently, the Codes provide that if the number of arbitrators available to serve from the combined lists is insufficient to fill an initial panel, the Director will appoint an arbitrator to complete the panel from

[3] As a neutral administrator of the arbitration forum, DRS does not participate in the decision-making process by arbitrators. DRS currently maintains a roster of approximately 8,100 arbitrators. *See* FINRA, Arbitration and Mediation, Dispute Resolution Statistics, *https://www.finra.org/arbitration-mediation/dispute-resolution-statistics;* FINRA, Arbitration and Mediation, Become an Arbitrator, *https://www.finra.org/arbitration-mediation/become-arbitrator.*

[4] *See* FINRA Rules 12400(a) and 13400(a).

[5] *See* FINRA Rules 12400(b) and 13400(b).

[6] *See* FINRA Rules 12100(aa) and 13100(x).

[7] *See* FINRA Rules 12100(t) and 13100(r).

[8] *See* FINRA Rules 12400(c) and 13400(c).

[9] The panel will consist of three arbitrators in both customer and industry disputes when (1) the amount of the claim is more than $50,000 but not more than $100,000, exclusive of interest and expenses, and the parties agree in writing to three arbitrators; or (2) the amount of the claim is more than $100,000, exclusive of interest and expenses, is unspecified, or the claim does not request money damages, unless the parties agree in writing to one arbitrator. *See* FINRA Rules 12401 and 13401.

[10] *See* FINRA Rules 12403(a)(1) and 13403(b)(2).

[11] The list selection algorithm will automatically exclude arbitrators from the lists based upon current conflicts of interest identified within the list selection algorithm. *See* FINRA Rules 12402(b)(2), 12403(a)(4), 13403(a)(4), and 13403(b)(5). In addition, DRS conducts a review for other conflicts not identified within the list selection algorithm. *See* FINRA Rules 12402(b)(3), 12403(a)(5), 13403(a)(5), and 13403(b)(6). If any arbitrators are removed due to such conflicts, the list selection algorithm is used to generate replacement arbitrators. *See* FINRA Rules 12402(b)(3), 12403(a)(5), 13403(a)(5), and 13403(b)(6).

[12] The term ''Director'' means the Director of DRS. Unless the Codes provide that the Director may not delegate a specific function, the term includes FINRA staff to whom the Director has delegated authority. *See* FINRA Rules 12100(m) and 13100(m).

[13] *See* FINRA Rules 12402(c)(1), 12403(b)(1), and 13403(c)(1).

[14] *See* FINRA Rules 12402(d), 12403(c), and 13404.

[15] *See* FINRA Rule 12403(c).

[16] *See supra* note 15.

[17] *See* FINRA Rules 12402(e), 12403(d), and 13405. Detailed information regarding the striking and ranking process is available on FINRA's website at *https://www.finra.org/arbitration-mediation/about/arbitration-process/arbitrator-selection.*

[18] *See* FINRA Rules 12402(f), 12403(e), and 13406(c).

[19] *See* FINRA Rules 12402(g), 12403(f)–(h), and 13411.

[20] FINRA notes that the proposed rule change would impact all members, including members that are funding portals or have elected to be treated as capital acquisition brokers (''CABs''), given that the funding portal and CAB rule sets incorporate the impacted FINRA rules by reference.

[21] *See* proposed Rules 12402(f), 12403(e), and 13406(c).

names generated randomly by the list selection algorithm—a process referred to as ''extending the list'' or an ''extended list appointment''—and parties are required to accept this appointment.[22] Based on FINRA's experience, extended list appointments have proved unpopular as parties may only challenge these arbitrators for cause, which limits the parties' role in arbitrator selection.[23]

Due to parties' concerns about extended list appointments, DRS's current practice is to provide parties with an opportunity to agree to receive a new list of arbitrators of the required classification generated randomly by the list selection algorithm (''new list'') rather than an extended list appointment. If the parties agree to a new list, each opposing party (all separately represented claimants collectively and all separately represented respondents collectively) strike and rank the arbitrators on the list, and then the Director combines both sides' ranking lists to select the highest-ranked arbitrator to fill the panel. As parties often agree to receive a new list of arbitrators of the required classification to fill an initial panel rather than an extended list appointment, FINRA is proposing to replace extended list appointments with new lists under the Codes.[24]

Thus, under the proposed rule change, when no arbitrators remain available on the combined lists to fill the initial panel, a new list of arbitrators would be generated randomly by the list selection algorithm for the parties to strike and rank in accordance with the Codes.[25] Parties would no longer be required to accept an extended list appointment or agree to a new list of arbitrators to avoid an extended list appointment. Under the proposed rule change, a new list of arbitrators of the required classification would be generated randomly by the list selection algorithm for the parties, with the same selection and participation rights they exercise during the initial arbitrator selection process.[26]

III. Proposed Amendments To Replace Arbitrators After Initial Panel Appointment

Under the Codes, when an arbitrator is removed from an arbitration case or becomes unable or unwilling to serve after initial panel appointment, the Director will appoint as a replacement the arbitrator who is the most highly ranked available arbitrator remaining on the combined list of the arbitrator classification type.[27] If that arbitrator is also unable or unwilling to serve, depending on whether the case is a customer or industry case and the number of arbitrators on the panel, the Director will return to the initial list of the arbitrator classification type and appoint the next highest-ranked available arbitrator to complete the panel or will make an extended list appointment.[28]

To provide parties with greater input into selecting replacement arbitrators after initial panel appointment and to address timing concerns related to the hearing schedule, DRS introduced a voluntary program known as the Short List Option.[29] If the parties agree to the current voluntary Short List Option, the list selection algorithm randomly generates a list of potential replacement arbitrators.[30] The Director will prescreen the arbitrators on the short list to confirm their availability for any scheduled hearings and will provide parties with a list of qualified arbitrators, the number of which varies depending on the hearing schedule. Each side may strike and rank the arbitrator names within a prescribed number of days.

As the current voluntary Short List Option provides forum participants with greater input into arbitrator selection when replacing arbitrators after initial panel appointment and to provide increased transparency to forum participants regarding the availability of this program, FINRA is proposing to codify it as the default method for selecting replacement arbitrators after panel appointment.

A. Proposed Amendments To Codify the Current Voluntary Short List Option

The proposed rule change would codify the circumstances under which a short list of arbitrators would be provided to the parties, as well as the number of listed arbitrators, when replacing arbitrators after initial panel appointment based on the hearing schedule (''Proposed Short List Option''):[31]

(1) a short list of five arbitrators if a hearing is scheduled in more than 20 days;

(2) a short list of three arbitrators if a hearing is scheduled between 10 and 20 days;

(3) a short list of five arbitrators if a hearing is scheduled in fewer than 10 days and the parties agree to postpone the upcoming hearing; or[32]

(4) a short list of five arbitrators if hearings have concluded but the award has not been issued.

In cases where no hearing dates are scheduled after panel appointment, the parties would instead receive a new list of arbitrators of the required classification generated randomly by the list selection algorithm.[33] Pursuant to existing FINRA rules, the parties would strike and rank the arbitrators on the list,[34] and the Director would combine both sides' ranking lists to select the highest-ranked arbitrator to fill the panel.[35]

The Director would prescreen arbitrators on the short list to confirm their availability for scheduled hearings before sending the short list to the parties.[36] For a short list of five arbitrators, each opposing party (all separately represented claimants collectively and all separately represented respondents collectively) may strike two arbitrators from the short list for any reason, and shall rank the remaining arbitrators in order of

[22] *See* FINRA Rules 12402(f), 12403(e), and 13406(c).

[23] Under FINRA Rules 12407(a) and 13410(a), the Director will grant a party's request to remove an arbitrator if it is reasonable to infer, based on information known at the time of the request, that the arbitrator is biased, lacks impartiality, or has a direct or indirect interest in the outcome of the arbitration. The interest or bias must be definite and capable of reasonable demonstration, rather than remote or speculative. *See* FINRA, How Parties Select Arbitrators, *https://www.finra.org/arbitration-mediation/about/arbitration-process/arbitrator-selection.*

[24] *See* proposed Rules 12402(f)(2), 12403(e)(2)(A), (e)(3)(C)(i), and 13406(c).

[25] *See supra* note 24.

[26] *See supra* notes 14–17 and accompanying text.

[27] *See* FINRA Rules 12402(g)(1)–(2), 12403(f)(1)–(2), (g)(1)–(2), (h)(1)–(2), and 13411(a)–(b).

[28] *See* FINRA Rules 12402(g)(1)–(3), 12403(f)(1), (3)–(4), (g)(1), (3)–(4), (h)(1), (3)–(4), and 13411(a)–(c).

[29] *See* FINRA, Short List Option, *https://www.finra.org/arbitration-mediation/rules-case-resources/special-procedures/short-list.*

[30] *See supra* note 29.

[31] *See* proposed Rules 12402(h)(1)(A)–(D), 12403(g)(1)(A)–(D), and 13411(f)(1)(A)–(D).

[32] When a hearing is scheduled in fewer than 10 days and parties agree to a postponement, parties may be assessed postponement fees pursuant to FINRA Rules 12214(a)(5), 12601(b)(2), 13214(a)(5), and 13601(b)(2). *See* proposed FINRA Rules 12402(h)(1)(C)(i), 12403(g)(1)(C)(i), and 13411(f)(1)(C)(i). The parties would be required to provide the Director with at least four sets of mutually agreed upon hearing dates to reschedule the hearings. This requirement would prevent indefinite delays when they agree to postpone the hearing. *See* proposed FINRA Rules 12402(h)(1)(C)(ii), 12403(g)(1)(C)(ii), and 13411(f)(1)(C)(ii).

[33] *See* proposed Rules 12402(g)(1), 12403(f)(1), and 13411(a).

[34] *See supra* notes 14–16 and accompanying text.

[35] *See supra* note 17 and accompanying text.

[36] *See* proposed Rules 12402(h)(2), 12403(g)(2), and 13411(f)(2).

preference.[37] Parties would have no more than five days after the date upon which the Director sent the short list to parties to return their ranked short list via the Party Portal.[38]

For a short list of three arbitrators, each opposing party (all separately represented claimants collectively and all separately represented respondents collectively) may strike one of the arbitrators from the short list for any reason, and each opposing party shall rank all remaining arbitrators in order of preference.[39] Parties would have no more than two days after the date upon which the Director sent the short list to parties to return their ranked short list via the Party Portal.[40] If a party does not return the ranked short list within the prescribed timeframe, the Director would proceed as though the party did not want to strike any arbitrator or have any preferences among the listed arbitrators.[41] The Director would appoint the highest-ranked available arbitrator from the combined rankings.[42]

B. Circumstances When Proposed Short List Option Would be Unavailable

The proposed rule change would codify the circumstances under which the Proposed Short List Option would be unavailable to the parties. Specifically, the Proposed Short List Option would be unavailable to the parties if: [43]

(1) all parties agree in writing to proceed with only the remaining arbitrators (in disputes with three arbitrators);

(2) a hearing is scheduled in fewer than 10 days of the date the arbitrator was removed, or became otherwise unable or unwilling to serve, and all parties do not agree to postpone the hearing dates;

(3) there are multiple claimants that are separately represented and do not agree to jointly submit one ranking list;

(4) there are multiple respondents that are separately represented and do not agree to jointly submit one ranking list; or

(5) there is a third party claim in which the third party respondent does not reach agreement with either the claimant or the respondent to jointly submit one ranking list.

In addition, the Proposed Short List Option would not be available to the parties if the case relates to a straight-in expungement request filed on or after October 16, 2023.[44]

In cases where the parties do not agree to postpone the hearing dates which are scheduled in fewer than 10 days of the date the arbitrator was removed, or became otherwise unable or unwilling to serve, as well as in cases with multiple separately represented claimants or respondents who do not agree to jointly submit one ranking list, the Director would appoint as a replacement the arbitrator who is the next highest-ranked available arbitrator of the required classification remaining on the combined ranked list at initial panel appointment.[45] If there are no available arbitrators of the required classification on the combined ranked list, the Director would appoint a replacement arbitrator of the required classification to complete the panel by randomly generating an appointment using the extended list process.[46] This appointment process would be consistent with the current procedures used when parties do not agree to the current voluntary Short List Option, thereby maintaining continuity with existing practice while establishing it as the default method when the Proposed Short List Option is unavailable.[47]

C. Replacement Arbitrator Duties and Compensation

To help ensure replacement arbitrators are adequately prepared, the proposed rule change would expressly codify the current expectation that immediately following panel appointment, replacement arbitrators review the case record, including listening to the audio recording(s) of any hearings that have been held (or reading the transcript, if available) and reviewing admitted exhibits.[48] In addition, before making any decision as a replacement arbitrator or attending a hearing session, the replacement arbitrator must execute FINRA's arbitrator oath or affirmation.[49]

The proposed rule change would codify DRS's current practice of paying replacement arbitrators an honorarium of $300 for every four hours or less of reasonable time spent listening to audio recordings or reading transcripts of a hearing that has been held, or reviewing admitted exhibits, provided that the replacement arbitrator submits written confirmation in the manner and form required by the Director.[50] The proposed rule change would also clarify in the Codes that replacement arbitrators may decide any pending motions and that remaining hearing sessions would proceed with the replacement arbitrator on the panel.[51]

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice.*

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[52] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

FINRA believes that the proposed rule change will protect investors and the public interest by providing parties with greater input into arbitrator selection at initial panel appointment and when replacing arbitrators after initial panel appointment. The proposed rule change will increase the likelihood that parties receive arbitrators of their choice rather

[37] *See* proposed Rules 12402(h)(3)(A), 12403(g)(3)(A), and 13411(f)(3)(A).

[38] *See* proposed Rules 12402(h)(3)(A)(ii), 12403(g)(3)(A)(ii), and 13411(f)(3)(A)(ii). If a party is a *pro se* customer who opted out of using the Party Portal pursuant to Rule 12300(a), the party may return the ranked short list to the Director by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. *See* proposed Rules 12402(h)(3)(A)(ii) and 12403(g)(3)(A)(ii).

[39] *See* proposed Rules 12402(h)(3)(B), 12403(g)(3)(B), and 13411(f)(3)(B).

[40] *See* proposed Rules 12402(h)(3)(B)(ii), 12403(g)(3)(B)(ii), and 13411(f)(3)(B)(ii). If a party is a *pro se* customer who opted out of using the Party Portal pursuant to Rule 12300(a), the party may return the ranked short list to the Director by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. *See* proposed Rules 12402(h)(3)(B)(ii) and 12403(g)(3)(B)(ii).

[41] *See* proposed Rules 12402(h)(3)(C), 12403(g)(3)(C), and 13411(f)(3)(C). In addition, parties are not required to send a copy of their ranked short list to the opposing parties. *See* proposed Rules 12402(h)(3)(D), 12403(g)(3)(D), and 13411(f)(3)(D).

[42] *See* proposed Rules 12402(h)(4), 12403(g)(4), and 13411(f)(4).

[43] *See* proposed Rules 12402(g)(2), 12403(f)(2), and 13411(b)(1)–(5).

[44] *See* proposed Rule 13411(b)(6). Straight-in expungement requests must be decided by three public arbitrators who are eligible for the chairperson roster and have completed enhanced expungement training and served through award on at least four customer-initiated arbitrations. The list selection algorithm randomly selects these arbitrators, and parties requesting expungement may not strike arbitrators from the panel, agree to their removal from the panel, or agree to fewer than three arbitrators on the panel, though they may challenge any arbitrator selected for cause. *See* FINRA Rules 13805 and 13806.

[45] *See* proposed Rules 12402(g)(3), 12403(f)(3), and 13411(c).

[46] *See* proposed Rules 12402(g)(4), 12403(f)(4), and 13411(c).

[47] *See supra* notes 45–46.

[48] *See* proposed Rules 12402(i)(1), 12403(h)(1), and 13411(g)(1).

[49] *See supra* note 48.

[50] *See* proposed Rules 12402(i)(2), 12403(h)(2), and 13411(g)(2).

[51] *See* proposed Rules 12402(i)(1), 12403(h)(1), and 13411(g)(1).

[52] 15 U.S.C. 78*o*–3(b)(6).

than arbitrators randomly generated by the list selection algorithm who can be challenged solely for cause. In addition, by reducing extended list appointments, the proposed rule change will provide parties with greater input over the arbitrator selection process.

The proposed rule change also will protect investors and the public interest by codifying current practices that DRS has developed to help ensure it administers cases in a fair and efficient manner. The proposed rule change to codify DRS's current practice of paying replacement arbitrators an honorarium of $300 for every four hours or less of reasonable time spent listening to audio recordings or reading transcripts of a hearing that has been held, or reviewing admitted exhibits, provides transparency and recognizes that these arbitrators must often make themselves available and be prepared to serve on a panel on short notice. By providing that replacement arbitrators may decide any pending motions and that remaining hearing sessions will proceed with the replacement arbitrator, the proposed rule change will help ensure that proceedings are not unnecessarily delayed.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to analyze the economic baseline for the proposed rule change and its potentially significant economic impacts, including anticipated costs and benefits, relative to the baseline, and the alternatives considered in assessing how best to meet FINRA's regulatory objectives.

Regulatory Need

The proposed rule change would address concerns about arbitrator appointments when the number of arbitrators available to serve from the combined lists is insufficient to fill the initial panel or when an arbitrator is removed or becomes unable or unwilling to serve after initial panel appointment. Currently, parties may be required to accept either an extended list appointment, reducing their role in the arbitrator selection process, or previously lower-ranked arbitrators who reflect a lower combined preference. The proposed rule change would require parties to select from a new list of arbitrators of the required classification where circumstances permit, increasing the number of arbitrators available to parties and enhancing party input over panel composition. Additionally, the proposed rule change would codify the current expectation that replacement arbitrators review the case record and receive compensation for that review.

Economic Baseline

The economic baseline is the current provisions under the Codes that address arbitrator appointments. The baseline also includes the current voluntary Short List Option, the utilization rate of the current voluntary Short List Option, and whether parties may agree on the method of arbitrator appointment. The proposed rule change is expected to affect the parties to cases in the forum, their counsel, and arbitrators.

Arbitrators were appointed in 12,596 cases filed and closed in the forum from 2020 to 2025 (sample cases), resulting in 30,395 total arbitrator appointments. Ten percent of appointments were made after the panel could not be initially filled from the combined lists or to replace an arbitrator after initial panel appointment. These appointments would have fallen within the scope of the proposed rule change and represent 17 percent of sample cases.

Over the full period, parties in sample cases were required to accept extended list appointments for just one percent of all appointments (342 appointments): 217 to initially fill panels and 125 to replace arbitrators after initial panel appointment. In addition, parties accepted previously-ranked arbitrators on the combined lists to replace arbitrators after initial panel appointment in five percent of appointments (1,563 appointments). Finally, parties actively selected arbitrators using new lists or the voluntary Short List Option for four percent of appointments (1,122 appointments): 286 using new lists to initially fill panels and 836 using the current voluntary Short List Option to replace arbitrators after initial panel appointment.

The current voluntary Short List Option cannot be used to replace arbitrators when there are multiple separately represented parties on either side of the dispute (claimants, respondents, or third party respondents joining either side), and the multiple separately represented parties do not agree to jointly submit one ranking list. Over the full period, such party configurations occur in 16 percent of sample cases. Among the 17 percent of sample cases that would have fallen within the scope of the proposed rule change, one-quarter (or four percent of all sample cases) have such party configurations.

From July 2025 to December 2025, in 239 cases, DRS offered a new list to parties to initially fill a panel (21 cases) or the current voluntary Short List Option to replace arbitrators after initial panel appointment (218 cases). As of the beginning of March 2026, parties agreed to a new list or the current voluntary Short List Option in 140 cases (59 percent of 239 cases). Parties did not respond or had not yet responded to the offered selection methods in the remaining 99 proceedings (41 percent).[53]

Economic Impacts

Where available, the proposed rule change would eliminate the requirement for all parties to agree to use new lists to fill a panel at initial panel appointment and the current voluntary Short List Option to replace an arbitrator following initial panel appointment. As a result, the proposed rule change would expand the use of new lists and the Short List Option for arbitrator appointments. This would increase the number of arbitrators available to parties for selection and enhance parties' input over panel composition. The expanded use of new lists and the Short List Option would generally result in different arbitrator appointments, with fewer extended list appointments or previously lower-ranked arbitrators. Which arbitrators are ultimately appointed and whether a party prefers the outcome, however, would depend on the composition of the new lists or lists under the Short List Option sent to parties and their preferences.

As the default method, the expanded use of new lists and the Short List Option to fill vacancies may alter how parties influence arbitrator selection. For example, by providing new lists of arbitrators of the required classification to initially fill a panel, the proposed rule change may give claimants or respondents with more separately represented parties (each with a full set of strikes) additional opportunities to use their collectively greater number of strikes. This may increase their influence over arbitrator selection.

In addition, by making the Short List Option the default method, the proposed rule change would shift the collective decision-making power to

[53] In proceedings where multiple lists were provided (*e.g.,* at initial panel appointment and later for replacement arbitrators), available data does not readily permit determination of which specific list was accepted. Accordingly, acceptance rates are reported at the case level.

parties who prefer the Short List Option, as those who favor previously-ranked arbitrators or extended list appointments would have to reach agreement to use those alternatives.

Parties would incur costs to review the arbitrators on new lists or lists under the Short List Option and make selections, particularly when timeframes are compressed. The types of costs parties may incur depend on how they manage resources to meet deadlines (*e.g.,* reallocating resources from other activities or employing additional staff). Parties that would not have agreed to use new lists or the Short List Option under the baseline, and are required to use them under the proposed rule change, would bear these costs involuntarily.

In addition, at initial panel appointment, cases with multiple separately represented parties (each with a full set of strikes) are more likely to eliminate too many arbitrators to fill a panel. Parties in these cases would be more likely to receive new lists and have delays in completing the initial panel appointment and longer proceedings. These costs are not attributable to the proposed rule change when, under the baseline, parties would have voluntarily agreed to use new lists.

As noted above, the expanded use of new lists and the current voluntary Short List Option would generally result in different, but not additional, arbitrator appointments. Arbitrators more likely to be selected using a new list or the current voluntary Short List Option may benefit from additional selections. The benefits from additional selections include experience as well as supplemental income from serving on panels. The benefits that may accrue to arbitrators are not new but instead represent transfers from arbitrators who would have been appointed under the baseline. A potential unintended consequence is that some arbitrators, such as those with less experience, may have fewer opportunities to serve if extended list appointments are reduced. However, the data suggests that extended list appointments under the baseline represent only one percent of all appointments, limiting potential impacts on arbitrator opportunity distribution.

Finally, the proposed rule change would codify the current expectations of parties and the forum that replacement arbitrators review case records and the expectation by replacement arbitrators of compensation for that review. Together, this may help ensure that replacement arbitrators both understand their responsibilities and are appropriately incentivized to fulfill them following appointment.

Alternatives Considered

Depending on the hearing schedule, FINRA considered providing lists of more than five arbitrators under the Proposed Short List Option. This would increase the costs parties incur to review the arbitrators and make selections under the Proposed Short List Option but would not materially affect their input over panel composition. FINRA also considered whether to maintain extended list appointments for initial panel selections rather than providing new lists. Parties expressed concerns about the limited role they have in arbitrator selection under extended list appointments, however, and providing new lists would address these concerns while maintaining an efficient process.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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–FINRA–2026–017 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–FINRA–2026–017. 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 (*http://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2026–017 and should be submitted on or before September 18, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[54]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–17549 Filed 8–27–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106186; File No. S7–966]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing and Order Approving and Declaring Effective an Amendment to the Plan for the Allocation of Regulatory Responsibilities Among Cboe BZX Exchange, Inc., BOX Exchange, LLC, Cboe Exchange, Inc., Cboe C2 Exchange, Inc., Nasdaq ISE, LLC, Financial Industry Regulatory Authority, Inc., Miami International Securities Exchange, LLC, NYSE American LLC, NYSE Arca, Inc., The Nasdaq Stock Market LLC, Nasdaq Texas LLC, Nasdaq PHLX LLC, Nasdaq GEMX, LLC, Cboe EDGX Exchange, Inc., Nasdaq MRX, LLC, MIAX PEARL, LLC, MIAX Emerald, LLC, MIAX Sapphire, LLC, MEMX LLC, MX2 LLC and Investors Exchange LLC Concerning Options-Related Sales Practice Matters

August 25, 2026.

Notice is hereby given that the Securities and Exchange Commission

[54] 17 CFR 200.30–3(a)(12).

(''Commission'') has issued an Order, pursuant to Section 17(d) of the Securities Exchange Act of 1934 (''Act''),[1] approving and declaring effective an amendment to the plan for allocating regulatory responsibility (''Plan'') filed on August 5, 2026, pursuant to Rule 17d–2 of the Act,[2] by Cboe BZX Exchange, Inc. (''BZX''), BOX Exchange, LLC (''BOX''), Cboe Exchange, Inc., Cboe C2 Exchange, Inc. (''C2''), Nasdaq ISE, LLC (''ISE''), Financial Industry Regulatory Authority, Inc. (''FINRA''), Miami International Securities Exchange, LLC (''MIAX''), The Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq Texas LLC (''Nasdaq Texas''), NYSE American LLC (''NYSE American''), NYSE Arca, Inc. (''NYSE Arca''), Nasdaq PHLX LLC (''PHLX''), Nasdaq GEMX, LLC (''GEMX''), Cboe EDGX Exchange, Inc. (''EDGX''), Nasdaq MRX, LLC (''MRX''), MIAX PEARL, LLC (''MIAX PEARL''), MIAX Emerald, LLC (''MIAX Emerald''), MIAX Sapphire, LLC (''MIAX Sapphire''), MEMX LLC (''MEMX''), MX2 LLC (''MX2'') and Investors Exchange (''IEX'') (collectively, ''Participating Organizations'' or ''parties'').

I. Introduction

Section 19(g)(1) of the Act,[3] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d)[4] or Section 19(g)(2)[5] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[6] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[7] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[8] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[9] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[10] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system, and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Plan

On September 8, 1983, the Commission approved the SRO participants' plan for allocating regulatory responsibilities pursuant to Rule 17d–2.[11] On May 23, 2000, the Commission approved an amendment to the plan that added the ISE as a participant.[12] On November 8, 2002, the Commission approved another amendment that replaced the original plan in its entirety and, among other things, allocated regulatory responsibilities among all the participants in a more equitable manner.[13] On February 5, 2004, the Commission approved an amendment to the plan, primarily to include the BSE, which was establishing a new options trading facility to be known as BOX, as an SRO participant.[14] On March 26, 2007, the Commission approved an amendment to the plan that, among other things, provided that the National Association of Securities Dealers (''NASD'') (n/k/a FINRA) and NYSE are Designated Options Examining Authorities under the plan.[15] On March 12, 2008, the Commission approved an amendment to the plan primarily to add NASDAQ as an SRO participant.[16] On June 18, 2008, the Commission approved an amendment to the plan primarily to remove the NYSE as a Designated Options Examining Authority, leaving FINRA as the sole Designated Options Examining Authority for all common members that are members of FINRA.[17] On February 25, 2010, the Commission approved a proposed amendment to the plan to add Bats and C2 as SRO participants and to reflect the name changes of the American Stock Exchange LLC to the NYSE Amex LLC, the Boston Stock Exchange, Inc., to the NASDAQ OMX BX, Inc. and the Philadelphia Stock Exchange, Inc. to the NASDAQ OMX PHLX, Inc.[18] On May 11, 2012, the Commission approved an amendment to the plan to add BOX as an SRO participant and to amend Section XIII of

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] 15 U.S.C. 78s(g)(1).

[4] 15 U.S.C. 78q(d).

[5] 15 U.S.C. 78s(g)(2).

[6] 15 U.S.C. 78q(d)(1).

[7] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[8] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[9] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[10] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[11] *See* Securities Exchange Act Release No. 20158 (September 8, 1983), 48 FR 41256 (September 14, 1983).

[12] *See* Securities Exchange Act Release No. 42816 (May 23, 2000), 65 FR 34759 (May 31, 2000).

[13] *See* Securities Exchange Act Release No. 46800 (November 8, 2002), 67 FR 69774 (November 19, 2002).

[14] *See* Securities Exchange Act Release No. 49197 (February 5, 2004), 69 FR 7046 (February 12, 2004).

[15] *See* Securities Exchange Act Release No. 55532 (March 26, 2007), 72 FR 15729 (April 2, 2007).

[16] *See* Securities Exchange Act Release No. 57481 (March 12, 2008), 73 FR 14507 (March 18, 2008).

[17] *See* Securities Exchange Act Release No. 57987 (June 18, 2008), 73 FR 36156 (June 25, 2008).

[18] *See* Securities Exchange Act Release No. 61589 (February 25, 2012), 75 FR 9976 (March 4, 2010).

the plan to set forth a revised procedure for adding new participants to the plan.[19] On December 5, 2012, the Commission approved an amendment to the plan to add MIAX as an SRO participant, and to change the name of NYSE Amex LLC to NYSE MKT LLC.[20] On July 26, 2013, the Commission approved an amendment to the plan to add Topaz Exchange LLC as an SRO participant.[21] On October 29, 2015, the Commission approved an amendment to the plan to add EDGX as an SRO participant and to change the name of Topaz Exchange, LLC to ISE Gemini, LLC.[22] On February 16, 2016, the Commission approved an amendment to the plan to add ISE Mercury, and remove the NYSE, as an SRO participant to the Plan.[23] On February 2, 2017, the Commission approved an amendment to the plan to add MIAX PEARL as an SRO participant to the Plan.[24] On February 12, 2019, the Commission approved an amendment to the plan to add MIAX Emerald as an SRO participant to the Plan.[25] On October 18, 2022, the Commission approved an amendment to the plan to add MEMX as a Participant to the Plan to accommodate the launch of MEMX's options facility, to reflect name changes of certain Participating Organizations, and to reflect updated rule citations.[26] On July 31, 2024, Commission approved an amendment to add MIAX Sapphire as a Participant to the Plan.[27]

The plan reduces regulatory duplication for a large number of firms currently members of two or more of the SRO participants by allocating regulatory responsibility for certain options-related sales practice matters to one of the SRO participants. Generally, under the plan, the SRO participant responsible for conducting options-related sales practice examinations of a firm, and investigating options-related customer complaints and terminations for cause of associated persons of that firm, is known as the firm's ''Designated Options Examining Authority'' (''DOEA''). Pursuant to the plan, any other SRO of which the firm is a member is relieved of these responsibilities during the period in which the firm is assigned to another SRO acting as that firm's DOEA.

III. Proposed Amendment to the Plan

On August 5, 2026, the Parties submitted a proposed amendment to the Plan. The primary purpose of the amendment is to add MX2 and IEX as Participants to the Plan, and to reflect the name change of Nasdaq BX, Inc. to Nasdaq Texas LLC. The text of the proposed amended 17d–2 plan is as follows (additions are *italicized*; deletions are [bracketed]):

* * * * *

Agreement by and among Cboe BZX Exchange, Inc., BOX Exchange, LLC, Cboe Exchange, Inc., Cboe C2 Exchange, Inc., Nasdaq ISE, LLC, Financial Industry Regulatory Authority, Inc., Miami International Securities Exchange, LLC, NYSE American LLC, NYSE Arca, Inc., The Nasdaq Stock Market LLC, Nasdaq *Texas, LLC* [BX, Inc.], Nasdaq PHLX LLC, Nasdaq GEMX, LLC, Cboe EDGX Exchange, Inc., Nasdaq MRX, LLC, MIAX PEARL, LLC, MIAX Emerald, LLC, MIAX Sapphire, LLC, [and] MEMX LLC, *MX2 LLC and Investors Exchange LLC* Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934.

This agreement (''Agreement''), by and among Cboe BZX Exchange, Inc. (''BZX''), BOX Exchange, LLC, Cboe Exchange, Inc., Cboe C2 Exchange, Inc., Nasdaq ISE, LLC *(''ISE'')*, Financial Industry Regulatory Authority, Inc. (''FINRA''), Miami International Securities Exchange, LLC (''MIAX''), The Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq *Texas, LLC (''Nasdaq Texas'')* [BX, Inc. (''BX'')], NYSE American LLC (''NYSE American''), NYSE Arca, Inc. (''NYSE Arca''), Nasdaq PHLX LLC (''PHLX''), Nasdaq GEMX, LLC (''GEMX''), Cboe EDGX Exchange, Inc. (''EDGX''), Nasdaq MRX, LLC (''MRX''), MIAX PEARL, LLC (''MIAX PEARL''), MIAX Emerald, LLC (''MIAX Emerald''), MIAX Sapphire, LLC (''MIAX Sapphire''), [and] *MEMX LLC (''MEMX''), MX2 LLC (''MX2'') and Investors Exchange (''IEX'')* hereinafter collectively referred to as the Participants, is made this *4th* [18th] day of *August, 2026* [July, 2024], pursuant to the provisions of Rule 17d–2 under the Securities Exchange Act of 1934 (the ''Exchange Act''), which allows for plans among self-regulatory organizations to allocate regulatory responsibility. This Agreement shall be administered by a committee known as the Options Self-Regulatory Council (the ''Council'').

This Agreement amends and restates the agreement entered into among the Participants on [September 20, 2022] *July 18, 2024,* entitled ''Agreement by and among Cboe BZX Exchange, Inc., BOX [Options] Exchange, LLC, Cboe Exchange, Inc., Cboe C2 Exchange, Inc., Nasdaq ISE, LLC, Financial Industry Regulatory Authority, Inc., Miami International Securities Exchange, LLC, *NYSE American LLC, NYSE Arca, Inc.,* The Nasdaq Stock Market LLC, Nasdaq BX, Inc., [NYSE American LLC, NYSE Arca, Inc.,] Nasdaq PHLX LLC, Nasdaq GEMX, LLC, Cboe EDGX Exchange, Inc., Nasdaq MRX, LLC, MIAX PEARL, LLC, MIAX Emerald, LLC, *MIAX Sapphire, LLC* and MEMX LLC Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934.''

Whereas, the Participants are desirous of allocating regulatory responsibilities with respect to broker-dealers, and persons associated therewith, that are members [1] of more than one Participant (the ''Common Members'') and conduct a public business for compliance with Common Rules (as hereinafter defined) relating to the conduct by broker-dealers of accounts for listed options, index warrants, currency index warrants and currency warrants (collectively, ''Covered Securities''); and

Whereas, the Participants are desirous of executing a plan for this purpose pursuant to the provisions of Rule 17d–2 and filing such plan with the Securities and Exchange Commission (''SEC'' or the ''Commission'') for its approval;

Now, therefore, in consideration of the mutual covenants contained hereafter, the Participants agree as follows:

I. As used herein the term Designated Options Examining Authority (''DOEA'') shall mean: (1) FINRA insofar as it shall perform Regulatory Responsibility (as hereinafter defined) for its broker-dealer members that also are members of another Participant or (2) the Designated Examination Authority (''DEA'') pursuant to SEC Rule 17d–1 under the Securities Exchange Act (''Rule 17d–1'') for a broker-dealer that is a member of a more than one Participant (but not a member of FINRA).

[19] *See* Securities Exchange Act Release No. 66974 (May 11, 2012), 77 FR 29705 (May 18, 2012).

[20] *See* Securities Exchange Act Release No. 68363 (December 5, 2012), 77 FR 73711 (December 11, 2012).

[21] *See* Securities Exchange Act Release No. 70051 (July 26, 2013), 78 FR 46644 (August 1, 2013).

[22] *See* Securities Exchange Act Release No. 76309 (October 29, 2015), 80 FR 68361 (November 4, 2015).

[23] *See* Securities Exchange Act Release No. 77148 (February 16, 2016), 81 FR 8775 (February 22, 2016).

[24] *See* Securities Exchange Act Release No. 79929 (February 2, 2017), 82 FR 9757 (February 8, 2017).

[25] *See* Securities Exchange Act Release No. 85106 (February 12, 2019), 84 FR 4554 (February 15, 2019).

[26] *See* Securities Exchange Act Release No. 96100 (October 18, 2022), 87 FR 64285 (October 24, 2022).

[27] *See* Securities Exchange Act Release No. 100629 (July 31, 2024), 89 FR 64012 (August 6, 2024).

[1] In the case of BZX, NYSE American, NYSE Arca, EDGX, MIAX PEARL, MEMX, *MX2, IEX,* PHLX and Nasdaq, members are those persons who are options participants (as defined in the BX, BZX, NYSE American, NYSE Arca, EDGX, MIAX PEARL, MEMX, *MX2, IEX,* PHLX and Nasdaq Options Market Rules).

II. As used herein, the term ''Regulatory Responsibility'' shall mean the examination and enforcement responsibilities relating to compliance by Common Members with the rules of the applicable Participant that are substantially similar to the rules of the other Participants (the ''Common Rules''), insofar as they apply to the conduct of accounts for Covered Securities. A list of the current Common Rules of each Participant applicable to the conduct of accounts for Covered Securities is attached hereto as Exhibit A. Each year within 30 days of the anniversary date of the commencement of operation of this Agreement, each Participant shall submit in writing to FINRA and each DEA performing as a DOEA for any members of such Participant any revisions to Exhibit A reflecting changes in the rules of the Participant, and confirm that all other rules of the Participant listed in Exhibit A continue to meet the definition of Common Rules as defined in this Agreement. Within 30 days from the date that FINRA and each DEA performing as a DOEA has received revisions and/or confirmation that no change has been made to Exhibit A from all Participants, FINRA and each DEA performing as a DOEA shall confirm in writing to each Participant whether the rules listed in any updated Exhibit A are Common Rules as defined in this Agreement. Notwithstanding anything herein to the contrary, it is explicitly understood that the term ''Regulatory Responsibility'' does not include, and each of the Participants shall (unless allocated pursuant to Rule 17d–2 otherwise than under this Agreement) retain full responsibility for, each of the following:

(a) Surveillance and enforcement with respect to trading activities or practices involving its own marketplace, including without limitation its rules relating to the rights and obligations of specialists and other market makers;

(b) Registration pursuant to its applicable rules of associated persons;

(c) Discharge of its duties and obligations as a DEA; and

(d) Evaluation of advertising, responsibility for which shall remain with the Participant to which a Common Member submits same for approval.

III. Apparent violations of another Participant's rules discovered by a DOEA, but which rules are not within the scope of the discovering DOEA's Regulatory Responsibility, shall be referred to the relevant Participant for such action as the Participant to which such matter has been referred deems appropriate. Notwithstanding the foregoing, nothing contained herein shall preclude a DOEA in its discretion from requesting that another Participant conduct an enforcement proceeding on a matter for which the requesting DOEA has Regulatory Responsibility. If such other Participants agree, the Regulatory Responsibility in such case shall be deemed transferred to the accepting Participant and confirmed in writing by the Participants involved. Each Participant agrees, upon request, to make available promptly all relevant files, records and/or witnesses necessary to assist another Participant in an investigation or enforcement proceeding.

IV. The Council shall be composed of one representative designated by each of the Participants. Each Participant shall also designate one or more persons as its alternate representative(s). In the absence of the representative of a Participant, such alternate representative shall have the same powers, duties and responsibilities as the representative. Each Participant may, at any time, by notice to the then Chair of the Council, replace its representative and/or its alternate representative on such Council. A majority of the Council shall constitute a quorum and, unless specifically otherwise required, the affirmative vote of a majority of the Council members present (in person, by telephone or by written consent) shall be necessary to constitute action by the Council. The representative from FINRA shall serve as Chair of the Council. All notices and other communications for the Council shall be sent to it in care of the Chair or to each of the representatives.

V. The Council shall determine the times and locations of Council meetings, provided that the Chair, acting alone, may also call a meeting of the Council in the event the Chair determines that there is good cause to do so. To the extent reasonably possible, notice of any meeting shall be given at least ten-business days prior thereto. Notwithstanding anything herein to the contrary, representatives shall always be given the option of participating in any meeting telephonically at their own expense rather than in person.

VI. FINRA shall have Regulatory Responsibility for all Common Members that are members of FINRA. For the purpose of fulfilling the Participants' Regulatory Responsibilities for Common Members that are not members of FINRA, the Participant that is the DEA shall serve as the DOEA. All Participants shall promptly notify the DOEAs no later than the next scheduled meeting of any change in membership of Common Members. A DOEA may request that a Common Member that is allocated to it be reallocated to another DOEA by giving thirty days written notice thereof. The DOEAs in their discretion may approve such request and reallocate such Common Member to another DOEA.

VII. Each DOEA shall conduct an examination of each Common Member. The Participants agree that, upon request, relevant information in their respective files relative to a Common Member will be made available to the applicable DOEA. At each meeting of the Council, each DOEA shall be prepared to report on the status of its examination program for the previous quarter and any period prior thereto that has not previously been reported to the Council.

VIII. Each DOEA will promptly furnish a copy of the Examination report, relating to Covered Securities, of any examination made pursuant to the provisions of this Agreement to each other Participant of which the Common Member examined is a member.

IX. Each DOEA's Regulatory Responsibility shall for each Common Member allocated to it include investigations into terminations ''for cause'' of associated persons relating to Covered Securities, unless such termination is related solely to another Participant's market. In the latter instance, that Participant to whose market the termination for cause relates shall discharge Regulatory Responsibility with respect to such termination for cause. In connection with a DOEA's examination, investigation and/or enforcement proceeding regarding a Covered Security-related termination for cause, the other Participants of which the Common Member is a member shall furnish, upon request, copies of all pertinent materials related thereto in their possession. As used in this Section, ''for cause'' shall include, without limitation, terminations characterized on Form U5 under the label ''Permitted to Resign.'' ''Discharge'' or ''Other.''

X. Each DOEA shall discharge the Regulatory Responsibility for each Common Member allocated to it relative to a Covered Securities-related customer complaint [2] unless such complaint is uniquely related to another Participant's market. In the latter instance, the DOEA shall forward the matter to that Participant to whose market the matter relates, and the latter shall discharge Regulatory Responsibility with respect

[2] For purposes of complaints, they can be reported pursuant to Form U4, Form U5 or RE–3 and any amendments thereto.

thereto. If a Participant receives a customer complaint for a Common Member related to a Covered Security for which the Participant is not the DOEA, the Participant shall promptly forward a copy of such complaint to the DOEA.

XI. Any written notice required or permitted to be given under this Agreement shall be deemed given if sent by certified mail, return receipt requested, or by a comparable means of electronic communication to each Participant entitled to receipt thereof, to the attention of the Participant's representative on the Council at the Participant's then principal office or by email at such address as the representative shall have filed in writing with the Chair.

XII. The Participants shall notify the Common Members of this Agreement by means of a uniform joint notice approved by the Council.

XIII. This Agreement may be amended to add a new Participant provided that such Participant does not assume Regulatory Responsibility, solely by an amendment by FINRA and such new Participant. All other Participants expressly consent to allow FINRA to add new Participants to this Agreement as provided above. FINRA will promptly notify all Participants of any such amendments to add new Participants. All other amendments to this Agreement must be approved in writing by each Participant. All amendments, including adding a new Participant, must be filed with and approved by the SEC before they become effective.

XIV. Any of the Participants may manifest its intention to cancel its participation in this Agreement at any time by giving the Council written notice thereof at least 90 days prior to the effective date of such cancellation. Upon receipt of such notice the Council shall allocate, in accordance with the provisions of this Agreement, any Common Members for which the petitioning party was the DOEA. Until such time as the Council has completed the reallocation described above; the petitioning Participant shall retain all its rights, privileges, duties and obligations hereunder.

XV. The cancellation of its participation in this Agreement by any Participant shall not terminate this Agreement as to the remaining Participants. This Agreement will only terminate following notice to the Commission, in writing, by the then Participants that they intend to terminate the Agreement and the expiration of the applicable notice period. Such notice shall be given at least six months prior to the intended date of termination, provided that in the event a notice of cancellation is received from a Participant that, assuming the effectiveness thereof, would result in there being just one remaining member of the Council, notice to the Commission of termination of this Agreement shall be given promptly upon the receipt of such notice of cancellation, which termination shall be effective upon the effectiveness of the cancellation that triggered the notice of termination to the Commission.

XVI. No Participant nor the Council nor any of their respective directors, governors, officers, employees or representatives shall be liable to any other Participant in this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibility as provided hereby or for the failure to provide any such Responsibility, except with respect to such liability, loss or damages as shall have been suffered by one or more of the Participants and caused by the willful misconduct of one or more of the other participants or their respective directors, governors, officers, employees or representatives. No warranties, express or implied, are made by any or all of the Participants or the Council with respect to any Regulatory Responsibility to be performed by each of them hereunder.

XVII. Pursuant to Section 17(d)(1)(A) of the Securities Exchange Act of 1934 and Rule 17d–-2 promulgated pursuant thereto, the Participants join in requesting the Securities and Exchange Commission, upon its approval of this Agreement or any part thereof, to relieve those Participants which are from time to time participants in this Agreement which are not the DOEA as to a Common Member of any and all Regulatory Responsibility with respect to the matters allocated to the DOEA.

REVISED [July 18, 2024]

August 4, 2026

Exhibit A

Rules Enforced Under 17D–2 Agreement

Pursuant to Section II of the Agreement by and among Cboe BZX Exchange, Inc. (''BZX''), BOX Exchange, LLC (''BOX''), Cboe Exchange, Inc. (''Cboe''), Cboe C2 Exchange, Inc. (''C2''), Nasdaq ISE, LLC (''ISE''), Financial Industry Regulatory Authority, Inc. (''FINRA''), Miami International Securities Exchange, LLC (''MIAX''), The Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq *Texas, LLC (''Nasdaq Texas'')* [BX, Inc. (''BX'')], NYSE American LLC (''NYSE American''), NYSE Arca, Inc. (''NYSE ARCA''), Nasdaq PHLX LLC (''PHLX''), Nasdaq GEMX, LLC (''GEMX''), Cboe EDGX Exchange, Inc. (''EDGX''), Nasdaq MRX, LLC (''MRX''), MIAX PEARL, LLC (''MIAX PEARL''), MIAX Emerald, LLC (''MIAX Emerald''), MIAX Sapphire, LLC (''MIAX Sapphire''), [and] MEMX LLC (''MEMX''), *MX2 LLC (''MX2'') and Investors Exchange LLC (''IEX'')* pursuant to Rule 17d–2 under the Securities Exchange Act of 1934 dated [July 17, 2024] *August 4, 2026* (the ''Agreement''), a revised list of the current Common Rules of each Participant, as compared to those of FINRA, applicable to the conduct of accounts for Covered Securities is set forth in this Exhibit A.

Opening of Accounts

NYSE American	Rules 411, 921 and 1101.
BZX	Rule 26.2.
BOX	Rule 4020.
Cboe	Rule 9.1.
C2 *	Cboe Rule 9.1.
EDGX	Rule 26.2.
IEX	*Rule 27.110.*
ISE	Options 10, Section 6.
FINRA	Rules 2360(b)(16) and 2352.
MEMX	Rule 26.2.
MX2	*Rule 26.2.*
MIAX	Rule 1307.
MIAX PEARL	Rule 1307.

MIAX Emerald	Rule 1307.
MIAX Sapphire	Rule 1307.
GEMX	Options 10, Section 6.
MRX	Options 10, Section 6.
PHLX	Options 10, Section 6 [1].
NYSE ARCA	Rules 9.2–O(a), 9.18–O(b), 9.18–E(b) and 8.4–E.
[BX] *Nasdaq Texas*	Options 10, Section 6.
Nasdaq	Options 10, Section 6.

Supervision

NYSE American	Rules 411, 922 and 1104.
BZX	Rule 26.3.
BOX	Rule 4030.
Cboe	Rule 9.2 [2].
C2 *	Cboe Rule 9.2 [2].
EDGX	Rule 26.3.
IEX	*Rule 27.120.*
ISE	Options 10, Section 7.
FINRA	Rules 2360(b)(20), 2360(b)(17)(B), 2360(b)(16)(E), 2355 and 2358.
MEMX	Rule 26.3.
MX2	*Rule 26.3.*
MIAX	Rule 1308.
MIAX PEARL	Rule 1308.
MIAX Emerald	Rule 1308.
MIAX Sapphire	Rule 1308.
GEMX	Options 10, Section 7.
MRX	Options 10, Section 7.
PHLX	Options 10, Section 7.
NYSE ARCA	Rules 9.2–O(b), 9.18–O(d)(2)(G) and 8.7–E.
[BX] *Nasdaq Texas*	Options 10, Section 7.
Nasdaq	Options 10, Section 7.

Suitability

NYSE American	Rules 923 and 1102.
BZX	Rule 26.4.
BOX	Rule 4040.
Cboe	Rule 9.3.
C2 *	Cboe Rule 9.3.
EDGX	Rule 26.4.
IEX	*Rule 27.130.*
ISE	Options 10, Section 8.
FINRA	Rule 2360(b)(19) and 2353.
MEMX	Rule 26.4.
MX2	*Rule 26.4.*
MIAX	Rule 1309.
MIAX PEARL	Rule 1309.
MIAX Emerald	Rule 1309.
MIAX Sapphire	Rule 1309.
GEMX	Options 10, Section 8.
MRX	Options 10, Section 8.
PHLX	Options 10, Section 8.
NYSE ARCA	Rules 9.18–O(c), 9.18–E(c) and 8.5–E.
[BX] *Nasdaq Texas*	Options 10, Section 8.
Nasdaq	Options 10, Section 8

Discretionary Accounts

NYSE American	Rules 421, 924 and 1103.
BZX	Rule 26.5 [3].
BOX	Rule 4050.
Cboe	Rule 9.4.
C2 *	Cboe Rule 9.4.
EDGX	Rule 26.5 [3] [2].
IEX	*Rule 27.140.*
ISE	Options 10, Section 9.
FINRA	Rules 2360(b)(18) and 2354.
MEMX	Rule 26.5 [3].
MX2	*Rule 26.5* [3].
MIAX	Rule 1310.
MIAX PEARL	Rule 1310.
MIAX Emerald	Rule 1310.
MIAX Sapphire	Rule 1310.
GEMX	Options 10, Section 9.
MRX	Options 10, Section 9.
PHLX	Options 10, Section 9.

NYSE ARCA	Rules 9.18–O(e), 9.18–E(e) and 8.6–E.
[BX] *Nasdaq Texas*	Options 10, Section 9.
Nasdaq	Options 10, Section 9.

Customer Communications (Advertising)

NYSE American	Rules 8.9E, 991 and 1106.
BZX	Rule 26.16.
BOX	Rule 4170.
Cboe	Rule 9.15.
C2 *	Cboe Rule 9.15.
EDGX	Rule 26.16.
IEX	*Rule 27.250.*
ISE	Options 10, Section 20.
FINRA	Rules 2220 and 2357.
MEMX	Rule 26.16.
MX2	*Rule 26.16.*
MIAX	Rule 1322.
MIAX PEARL	Rule 1322.
MIAX Emerald	Rule 1322.
MIAX Sapphire	Rule 1322.
GEMX	Options 10, Section 20.
MRX	Options 10, Section 20.
PHLX	Options 10, Section 20.
NYSE ARCA	Rules 9.21–O(a), 9.21–O(b), *9.21–O(d),* 9.28–O[(c)] and 9.28–E.
[BX] *Nasdaq Texas*	Options 10, Section 20.
Nasdaq	Options 10, Section 20

Customer Complaints

NYSE American	Rules 8.8E, 932 and 1105.
BZX	Rule 26.17.
BOX	Rule 4190.
Cboe	Rule 9.17.
C2 *	Cboe Rule 9.17.
EDGX	Rule 26.17.
IEX	*Rule 27.260.*
ISE	Options 10, Section 22.
FINRA	FINRA Rules 2360(b)(17)(A) and 2356.
MEMX	Rule 26.17.
MX2	*Rule 26.17.*
MIAX	Rule 1324.
MIAX PEARL	Rule 1324.
MIAX Emerald	Rule 1324.
MIAX Sapphire	Rule 1324.
GEMX	Options 10, Section 22.
MRX	Options 10, Section 22.
PHLX	Options 10, Section 22.
NYSE ARCA	Rules 9.18–O(l), 9.18–E(l) and 8.8–E.
[BX] *Nasdaq Texas*	Options 10, Section 22.
Nasdaq	Options 10, Section 22.

Customer Statements

NYSE American	Rules 419 and 930.
BZX	Rule 26.7.
BOX	Rule 4070.
Cboe	Rule 9.6.
C2 *	Cboe Rule 9.6.
EDGX	Rule 26.7.
IEX	*Rule 27.160.*
ISE	Options 10, Section 11.
FINRA	Rule 2360(b)(15).
MEMX	Rule 26.7.
MX2	*Rule 26.7.*
MIAX	Rule 1312.
MIAX PEARL	Rule 1312.
MIAX Emerald	Rule 1312.
MIAX Sapphire	Rule 1312.
GEMX	Options 10, Section 11.
MRX	Options 10, Section 11.
PHLX	Options 10, Section 11.
NYSE ARCA	Rules *9.15–O,* 9.18–O(j) and 9.18–E(j).
[BX] *Nasdaq Texas*	Options 10, Section 11.
Nasdaq	Options 10, Section 11.

Confirmations	
NYSE American	Rule 925.
BZX	Rule 26.6.
BOX	Rule 4060.
Cboe	Rule 9.5.
C2 *	Cboe Rule 9.5.
EDGX	Rule 26.6.
IEX	*Rule 27.150.*
ISE	Options 10, Section 10.
FINRA	Rule 2360(b)(12).
MEMX	Rule 26.6.
MX2	*Rule 26.6.*
MIAX	Rule 1311.
MIAX PEARL	Rule 1311.
MIAX Emerald	Rule 1311.
MIAX Sapphire	Rule 1311.
GEMX	Options 10, Section 10.
MRX	Options 10, Section 10.
PHLX	Options 10, Section 10.
NYSE ARCA	Rules 9.18–O(f) and 9.18–E(f).
[BX] *Nasdaq Texas*	Options 10, Section 10.
Nasdaq	Options 10, Section 10.

Allocation of Exercise Assignment Notices	
NYSE American	Rule 981.
BZX	Rule 23.2.
BOX	Rule 9010.
Cboe	Rule 6.21.
C2 *	Cboe Rule 6.21.
EDGX	Rule 23.2.
IEX	*Rule 24.110.*
ISE	Options 6B, Section 2.
FINRA	Rule 2360(b)(23)(C).
MEMX	Rule 23.2.
MX2	*Rule 23.2.*
MIAX	Rule 701.
MIAX PEARL	Rule 701.
MIAX Emerald	Rule 701.
MIAX Sapphire	Rule 701.
GEMX	Options 6B, Section 2.
MRX	Options 6B, Section 2.
PHLX	Options 6B, Section 2.
NYSE ARCA	Rule 6.25–O[(a)].
[BX] *Nasdaq Texas*	Options 6B, Section 2.
Nasdaq	Options 6B, Section 2.

Disclosure Documents	
NYSE American	Rules 921 and 926.
BZX	Rule 26.10.
BOX	Rule 4100.
Cboe	Rule 9.9.
C2 *	Cboe Rule 9.9.
EDGX	Rule 26.10.
IEX	*Rule 27.190.*
ISE	Options 10, Section 13.
FINRA	Rule 2360(b)(11).
MEMX	Rule 26.10.
MX2	*Rule 26.10.*
MIAX	Rule 1315.
MIAX PEARL	Rule 1315.
MIAX Emerald	Rule 1315.
MIAX Sapphire	Rule 1315.
GEMX	Options 10, Section 13.
MRX	Options 10, Section 13.
PHLX	Options 10, Section 13.
NYSE ARCA	Rules 9.18–O(g) and 9.18–E(g).
[BX] *Nasdaq Texas*	Options 10, Section 13.
Nasdaq	Options 10, Section 13.

Branch Offices of Member Organizations	
NYSE American	Rule 922(d) [4] *3*.
BOX	Rule 4010(b).
Cboe	Rule 3.40.

C2 *	Cboe Rule 3.40.
ISE	Options 10, Section 5.
FINRA	Rules 2360(b)(20)(B) and 2355.
MIAX	Rule 1306.
MIAX PEARL	Rule 1306.
MIAX Emerald	Rule 1306.
MIAX Sapphire	Rule 1306.
GEMX	Options 10, Section 5.
MRX	Options 10, Section 5.
PHLX	N/A.
NYSE ARCA	Rules 9.18–O(m) and 9.18–E(m).
[BX] *Nasdaq Texas*	Options 10, Section 5.
Nasdaq	Options 10, Section 5.

Prohibition Against Guarantees

NYSE American	Rule 390.
BZX	Rule 26.13.
BOX	Rule 4130.
Cboe	Rule 9.12.
C2 *	Cboe Rule 9.12.
EDGX	Rule 26.13.
IEX	*Rule 27.220.*
ISE	Options 10, Section 16.
FINRA	Rule 2150(b).
MEMX	Rule 26.13.
MX2	*Rule 26.13.*
MIAX	Rule 1318.
MIAX PEARL	Rule 1318.
MIAX Emerald	Rule 1318.
MIAX Sapphire	Rule 1318.
GEMX	Options 10, Section 16.
MRX	Options 10, Section 16.
PHLX	General 9, Section 54(b).
NYSE ARCA	Rules 9.1–O(e), 9.1–E(e) and 9.2150–E(b).
[BX] *Nasdaq Texas*	Options 10, Section 16.
Nasdaq	Options 10, Section 16.

Sharing In Accounts

NYSE American	Rule 390.
BZX	Rule 26.14 [5] *4*.
BOX	Rule 4140.
Cboe	Rule 9.12(b).
C2 *	Cboe Rule 9.12(b).
EDGX	Rule 26.14 [5] *4*.
IEX	*Rule 27.230.*
ISE	Options 10, Section 17 [6] *5*.
FINRA	Rule 2150(c).
MEMX	Rule 26.14 [5] *4*.
MX2	*Rule 26.14* *4*.
MIAX	Rule 1319.
MIAX PEARL	Rule 1319.
MIAX Emerald	Rule 1319.
MIAX Sapphire	Rule 1319.
GEMX	Options 10, Section 17 [6] *5*.
MRX	Options 10, Section 17 [6] *5*.
PHLX	N/A.
NYSE ARCA	Rules 9.1–O(f) and 9.2150–E(c).
[BX] *Nasdaq Texas*	Options 10, Section 17 [6] *5*.
Nasdaq	Options 10, Section 17 [6] *5*.

Registration of ROP

NYSE American	Rules 920 and 2.1220(a)(7)(A)
BZX	Rule 17.2(g)(1), (2), (6) and (7).
BOX	Rule 2020(c)(1).
Cboe	Rule 3.36.
C2 *	Cboe Rule 3.36.
EDGX	Rule 17.2(g)(1), (2), (6) and (7).
IEX	*Rule 18.110(h)(1), (2), (6), and (7).*
ISE	Options 10, Section 2.
FINRA	Rule 1220(a)(8).
MEMX	Rule 17.2(g)(1), (2), (6) and (7).
MX2	*Rule 17.2(g)(1), (2), (6) and (7).*
MIAX	Rule 1301.
MIAX PEARL	Rule 1301.

MIAX Emerald	Rule 1301.
MIAX Sapphire	Rule 1301.
GEMX	Options 10, Section 2.
MRX	Options 10, Section 2.
PHLX	Options 10, Section 2.
NYSE ARCA	Rules 9.26–O, 9.26–E and 2.1220(a)(7)(A).
[BX] *Nasdaq Texas*	Options 10, Section 2.
Nasdaq	Options 10, Section 2.
Certification of Registered Personnel	
NYSE American	Rules 920 and 1220(b).
BZX	Rule 2.5 Interpretation .01(c) and 11.4(e).
BOX	IM–2040–3.
Cboe	Rule 3.37.
C2 *	Cboe Rule 3.37.
EDGX	Rule 2.5 Interpretation .01(c) and 11.4(e).
IEX	*Rules 2.160(h) and 11.140(e).*
ISE	Options 10, Section 3.
FINRA	Rule 1220(b) and FINRA By-Laws Article V Sections 2 and 3.
MEMX	Rule 2.5 Interpretation .01(c) and 11.4(e).
MX2	*Rule 2.5 Interpretation .01(c) and 11.4(e).*
MIAX	Rule 1302.
MIAX PEARL	Rule 1302.
MIAX Emerald	Rule 1302.
MIAX Sapphire	Rule 1302.
GEMX	Options 10, Section 3.
MRX	Options 10, Section 3.
PHLX	Options 10, Section 6.
NYSE ARCA	Rules 9.27–O(a), 9.27–E(a) and 2.1220(b).
[BX] *Nasdaq Texas*	Options 10, Section 3.
Nasdaq	Options 10, Section 3.

[1] FINRA shall not have any Regulatory Responsibility regarding foreign currency option requirements specified in any of the PHLX rules in this Exhibit A.

[2] FINRA shall not have any Regulatory Responsibility regarding receipt of written reports by April 1 of each year pursuant to Cboe Rule 9.8(g).]

[3] [2] FINRA shall not have any Regulatory Responsibility to enforce this rule as to time and price discretion in institutional accounts.

[4] [3] FINRA shall only have Regulatory Responsibility for the first paragraph and shall not have any Regulatory Responsibility regarding the requirements for debt options.

[5] [4] FINRA shall not have any Regulatory Responsibility regarding MEMX's, *MX2's,* BZX's, and EDGX's requirements to the extent such rules do not contain an exemption addressing immediate family.

[6] [5] FINRA shall not have any Regulatory Responsibility regarding Nasdaq's, *Nasdaq Texas'* [BX's], ISE's, GEMX's and MRX's requirements to the extent its rule does not permit sharing in the profits and losses of an account upon prior written consent from the customer, or contain an exemption addressing immediate family.

* Cboe Options rule incorporated by reference into C2 Rulebook.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 S7–966 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 S7–966. 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 (*http://www.sec.gov/rules/other.shtml*). Copies of the plan also will be available for inspection and copying at the principal offices of the Participating Organizations. 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 S7–966 and should be submitted on or before September 18, 2026.

V. Discussion

The Commission continues to believe that the proposed plan is an achievement in cooperation among the SRO participants. The Plan, as amended, will reduce unnecessary regulatory duplication by allocating to the designated SRO the responsibility for certain options-related sales practice matters that would otherwise be performed by multiple SROs. The plan promotes efficiency by reducing costs to firms that are members of more than one of the SRO participants. In addition, because the SRO participants coordinate their regulatory functions in accordance with the plan, the plan promotes, and will continue to promote, investor protection.

Under paragraph (c) of Rule 17d–2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective. In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The primary purpose of the amendment is to add MX2 and IEX as Participants to the Plan, and to reflect the name change of Nasdaq BX, Inc. to Nasdaq Texas LLC. By declaring it effective today, the amended Plan can become effective and be implemented without undue delay. The Commission notes that the prior

version of this plan immediately prior to this proposed amendment was published for comment and the Commission did not receive any comments thereon.[28] Furthermore, the Commission does not believe that the amendment to the plan raises any new regulatory issues that the Commission has not previously considered.

VI. Conclusion

This order gives effect to the amended Plan submitted to the Commission that is contained in File No. S7–966.

It is therefore ordered, pursuant to Section 17(d) of the Act, that the Plan, as amended, filed with the Commission pursuant to Rule 17d–2 on August 5, 2026, is hereby approved and declared effective.

It is further ordered that those SRO participants that are not the DOEA as to a particular common member are relieved of those regulatory responsibilities allocated to the common member's DOEA under the amended Plan to the extent of such allocation.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–17548 Filed 8–27–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106187; File No. SR–LTSE–2026–17]

Self-Regulatory Organizations: Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Certain of Its Rules Regarding Statutory Disqualifications

August 25, 2026.

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 12, 2026, Long-Term Stock Exchange, Inc. (''LTSE'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the 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 is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend certain of its rules regarding statutory disqualifications.

The text of the proposed rule change is available at the Exchange's website at *https://ltse.com/regulation/rule-filings#rule-filings,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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 self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

LTSE is amending certain of its rules regarding statutory disqualifications. First, the Exchange is supplementing Rule 1.160(cc) (defining ''person associated with a Member'' or ''associated person of a Member'') by adding the following text:

> For purposes of ''statutory disqualification'' as such term is defined in Section 3(a)(39) of the Exchange Act, the terms ''person associated with a Member'' and ''associated person of a Member'' shall mean (1) a natural person who is registered or has applied for registration under the Rules of the Exchange and (2) a sole proprietor, partner, officer, director, or branch manager of a Member, or other natural person occupying a similar status or performing similar functions, or a natural person engaged in the securities business who is directly or indirectly controlling or controlled by a Member, whether or not any such person is registered or exempt from registration with the Exchange under its Rules.

This addition conforms LTSE's definition exactly to Cboe BZX Exchange, Inc. (''BZX'') Rule 1.5(q) and is designed to improve the interplay between the Exchange's rules and FINRA's.

Prior to this proposed rule change, in all contexts, LTSE's definition included entities, meaning that an entity that is under common control of a Member is considered a person associated with the Member. Under the Exchange's rules, Members are required to submit an application for continuance as a Member if any person associated with the Member becomes subject to a statutory disqualification[3] and so, prior to this proposal, Members were required to file applications for affiliates under common control that would be subject to a statutory disqualification under securities law. In contrast, FINRA's definition of ''Person Associated with a member'' or ''Associated Person of a Member'' does not include affiliates under common control of the FINRA member.[4] Thus, prior to this proposed rule change, a firm that is both an Exchange Member and FINRA member, which has an affiliate under common control that would be subject to a statutory disqualification under securities laws, was required to file an application with the Exchange but not with FINRA. By altering LTSE's definition of ''Person Associated with a member'' or ''Associated Person of a Member'' in the context of statutory disqualification, LTSE harmonized the outcomes under its rules and FINRA's (such that, in the described scenario, the member of FINRA and LTSE would not be required to file).

The Exchange also proposes to amend LTSE Rule 2.160(a) in a number of ways. As context, LTSE Rule 2.160 governs registration requirements and restrictions on membership. Prior to the proposed rule change, the introductory language in Rule 2.160(a) provided: ''No person may become a Member or continue as a Member in any capacity on the Exchange where. . . .'' As amended, Rule 2.160(a) now provides: ''The Exchange may determine not to permit a person to become or continue as a Member or person associated with a Member in any capacity on the Exchange where. . . .'' Thus, the

[28] *See* Securities Exchange Act Release No. 100629 (July 31, 2024), 89 FR 64012 (August 6, 2024).

[29] 17 CFR 200.30–3(a)(34).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* LTSE Rules 9.521(a) and 9.522.

[4] FINRA Regulation, Inc. By-laws, Article I, paragraph (ee) defines the terms ''person associated with a member'' or ''associated person of a member'' in relevant part as: ''(2) a sole proprietor, partner, officer, director, or branch manager of a member, or other natural person occupying a similar status or performing similar functions, or a natural person engaged in the investment banking or securities business who is directly or indirectly controlling or controlled by a member, whether or not any such person is registered or exempt from registration with the Corporation under these By-Laws or the Rules of the Corporation; and (3) for purposes of Rule 8210, any other person listed in Schedule A of Form BD.''

previous outright prohibition on becoming or remaining a Member was softened to allow the Exchange to prohibit membership based on the items enumerated below. This amended rule text also permits the Exchange to prohibit a person from becoming or continuing as a person associated with a Member, which had not been within the express scope of this provision. The Exchange notes that BZX Rule 2.5(a) is similarly permissive.[5]

The Exchange is amending LTSE Rule 2.160(a)(3) in two respects. First, the scope of this subparagraph is being broadened to conform to the revised scope to LTSE Rule 2.160(a) as discussed above. Second, the Exchange is permitting relief from statutory disqualification pursuant to the applicable requirements of LTSE Rule Series 9.520 rather than a Commission order pursuant to Rules 19d–1, 19d–2, 19d–3 and 19h–1 of the Act. The Exchange notes that this is consistent with BZX Rules 2.5(a)(3) and 2.5(b).

Additionally, the Exchange proposes the following new circumstances under which it may determine to not to permit a person to become a Member or person associated with a Member: failure to meet any of the qualification requirements for becoming a Member or associated with a Member; failure to meet any condition placed by the Exchange on such Member or association with a Member; and violation of any agreement with the Exchange.[6] These conditions are not novel.[7]

The Exchange also made changes to portions of its Rule Series 9.500 (Other Proceedings), which governs LTSE's procedure for persons who are or are about to be aggrieved by adverse action, including, but not limited to, those persons who have been denied membership in the Exchange, barred from becoming associated with a Member, allowing them to apply for an opportunity to be heard and to have the complained of action reviewed. LTSE Rule 9.521(a) is *not substantive;* it provides an overview of the rules that follow. The Exchange made the following changes (additions italicized, deletion [bracketed]) to that paragraph:

> LTSE Rule Series 9.520 sets forth procedures for a person to become or remain *a Member or* associated with a Member, notwithstanding the existence of a statutory disqualification as defined in Article I of the LTSE Bylaws and for a current Member [or], person *currently* associated with a Member, *Member applicant, or person seeking to become associated with a Member* to obtain relief from the eligibility or qualification requirements of the LTSE Bylaws and LTSE Rules. Such actions hereinafter are referred to as ''eligibility proceedings.''

The additions of ''a Member'', ''Member applicant'' and ''person seeking to become associated with a Member'' are clarifying changes designed to better describe the scope of LTSE Rule Series 9.520 both prior to and after this proposed rule change. Proposed LTSE Rule 9.521(a) expressly states that eligibility proceedings apply to existing and prospective Members as well as persons associated with a Member and persons seeking such association. This is consistent with LTSE Rule 9.522(a)(1) for example, which was not changed and sets forth the procedure to be followed when LTSE Regulation staff (or FINRA staff) has reason to believe that a disqualification exists or that a Member, person associated with a Member, applicant to become a Member, or applicant to become associated with a Member, fails to meet LTSE's eligibility requirements.[8]

The Exchange made changes to LTSE Rule 9.521(b). Specifically, it added detail to the definition of ''Application'' by stating that FINRA's Form MC–400A is applicable to Member applicants (in addition to Members), and provided that an Application may be filed with a designee, which may include FINRA (in addition to the Department of Registration and Disclosure). As amended, LTSE Rule 9.521(b)(1) is substantially similar to BZX Rule 2.13(a)(2)(A).

The Exchange also defined a new term ''LTSE Regulation'' as follows: ''certain Exchange employees and, as applicable, may also include employees of FINRA who are providing regulatory services to the Exchange in accordance with the regulatory services agreement.'' [9] This definition generally tracks BZX Rule 2.13(a)(2)(D) (defining ''Exchange staff), except that LTSE's definition specifies that only ''certain'' Exchange employees are members of LTSE Regulation. The Exchange also made a renumbering change in LTSE Rule 9.521(b), which was necessitated by the addition of the new definition.

The Exchange changed the Rule 9.522(a) in two respects. First, the title was changed from ''Initiation by FINRA'' to ''Initiation by the Exchange.'' This clarifying change more accurately characterizes the process: under the rule, even where FINRA advises LTSE that it has reason to believe there is an eligibility issue, it is LTSE that issues the written notice to the Member or applicant for membership. Second, the Exchange amended Rule 9.522(a)(4) to provide that notice issued under this paragraph (a) will be served by electronic mail rather than via facsimile,[10] and that service by electronic mail will be deemed complete upon sending the notice. These changes are consistent with BZX Rule 2.13(b)(1)(D).

Lastly, the Exchange amended a number of provisions of LTSE Rule 9.522(e). Previously, LTSE Rule 9.522(e)(1)(C) authorized LTSE to approve a written request for relief from the eligibility requirements by a disqualified Member or a sponsoring Member without the filing of an application by such disqualified Member or sponsoring Member if a disqualified Member or disqualified person is subject to this condition but is not otherwise subject to disqualification if a disqualified Member or sponsoring Member is a Member of both LTSE and another self-regulatory organization. LTSE broadened that provision to also allow the Exchange to approve a written request by a disqualified person seeking to become a Member who is also a member of another self-regulatory organization (''SRO''). As amended, LTSE Rule 9.522(e)(1)(C) is substantively identical to BZX Rule 2.13(b)(5)(A)(iii).

The Exchange also supplemented LTSE Rule 9.522(e) by adding new subparagraph (3),[11] which allows for the submission of an interim plan of heightened supervision in connection with the continued association of a disqualified person or a person seeking association with a Member. Such a plan must: identify an appropriately registered principal responsible for carrying out the interim plan of heightened supervision, who has signed the plan and acknowledged his or her responsibility for implementing and

[5] Like the proposed rule, BZX Rule 2.5(a) explicitly permits the exchange to determine not to permit a person to become or continue as a Member or person associated with a Member.

[6] *See* proposed LTSE Rule 2.160(a)(5), (6), and (7), respectively.

[7] *See* BZX Rule 2.5(a)(5), (6), and (7).

[8] The Exchange believes that proposed LTSE Rule 9.521(a) describes the scope of its rules more comprehensively than overviews provided by other national securities exchanges. *Compare* IEX Rules 9.521(a) (which does not expressly state that the procedures apply to prospective Members) and 9.522(a)(1) (which states that the procedure applies to prospective Members).

[9] Proposed LTSE Rule 9.521(b)(4).

[10] The amended rule continues to provide that such notice may also be effected pursuant to LTSE Rules 9.131 and 9.134.

[11] To accommodate the insertion of new subparagraphs (e)(3)–(5), LTSE renumbered old subparagraph (3) (Rights of Disqualified Member, Sponsoring Member, Disqualified Person, and LTSE Regulation) as subparagraph (6).

maintaining such plan; [12] be in effect throughout the entirety of the application review process which shall be considered concluded only upon the final resolution of the eligibility proceeding; [13] comply with the Exchange's supervision rules, including Chapter 5; [14] be reasonably designed and tailored to include specific supervisory policies and procedures that address any regulatory concerns related to the nature of the disqualification, the nature of the sponsoring Member's business, and the disqualified person's current and proposed activities during the review process; [15] and include a written representation from the sponsoring Member that the disqualified person is currently subject to an interim plan of heightened supervision.[16] Proposed LTSE Rule 9.522(e)(3) is substantively identical to BZX Rule 2.13(b)(6).

The Exchange also added LTSE Rule 9.522(e)(4), which allows the Exchange to reject an application seeking the continued association of a disqualified person filed pursuant to subparagraph (a)(3) or (b)(1)(B) of LTSE Rule 9.522 if it is substantially incomplete. An application will be deemed to be substantially incomplete if: it does not include the representation required by LTSE Rule 9.522(e)(3)(B); or Exchange staff determines that it does not include a reasonably designed interim plan of heightened supervision that complies with the standards of proposed LTSE Rule 9.522(e)(3)(A). A rejected application may be deemed to have not been filed. In such a case, the Exchange staff will provide the sponsoring Member notice of the delinquency and its reasons for doing so, and the sponsoring Member will have 10 business days after service of the notice of delinquency to remedy the application (or such other time period as prescribed by Exchange staff). Proposed LTSE Rule 9.522(e)(4) is substantively identical to BZX Rule 2.13(b)(7).

Lastly, proposed LTSE Rule 9.522(e)(5) provides that, if an applicant fails to remedy an application that is substantially incomplete, Exchange staff will serve a written notice on the sponsoring Member of its determination to reject the application and its reasons for doing so. Upon such rejection, the sponsoring Member must promptly terminate association with the disqualified person. Proposed LTSE Rule 9.522(e)(3) is substantively identical to BZX Rule 2.13(b)(8).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act [17] in general. More specifically, the Exchange believes that the proposed rule change furthers the objectives of Section 6(b)(5) of the Act [18] in that it is designed to promote just and equitable principles of trade by modifying the Exchange's practices regarding statutory disqualifications, which are restrictions that prevent an individual or a firm that has engaged in enumerated activities in Section 3(a)(39) of the Act [19] from associating with or working for a broker-dealer or SRO, to conform more closely with the practices of other SROs.

The Exchange also believes that the proposed rule change is consistent with Section 6(b)(1) of the Act,[20] which requires (among other things) that a national securities exchange be organized and have the capacity to be able to carry out the purposes of the Act and comply with its own rules. The proposed changes to the Exchange's statutory disqualification rules, which are consistent with those of other SROs, better organize LTSE to carry out the purposes of the Act. Additionally, the clarifying changes identified above assist LTSE in better complying with its own rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendment is not intended to address any competitive issue, but rather is designed to align the Exchange's statutory disqualification procedures to those of other SROs. Consequently, the Exchange believes that the proposed rule change would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is effective upon filing pursuant to Section 19(b)(3) of the Exchange Act [21] and paragraph (f)(6) of Rule 19b–4 thereunder,[22] in that the proposed rule change does not significantly affect the protection of investors or the public interest; does not impose any significant burden on competition; and does not become operative for 30 days after filing or such shorter time as the Commission may designate.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(ii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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–LTSE–2026–17 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–LTSE–2026–17. 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

[12] *See* proposed rule LTSE Rule 9.522(e)(3)(A).
[13] *See id.*
[14] *See id.*
[15] *See id.*
[16] *See* proposed rule LTSE Rule 9.522(e)(3)(B).
[17] 15 U.S.C. 78f.
[18] 15 U.S.C. 78f(b)(5).
[19] 15 U.S.C. 78c(39).
[20] 15 U.S.C. 78f(b)(1).
[21] 15 U.S.C. 78s(b)(3).
[22] 17 CFR 240.19b–4(f)(6).

post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–LTSE–2026–17 and should be submitted on or before September 18, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–17550 Filed 8–27–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106184; File No. SR–GEMX–2026–31]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay the Implementation of SR–GEMX–2026–15

August 25, 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 24, 2026, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the implementation date of the rule change made by SR–GEMX–2026–15.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to delay the implementation of SR–GEMX–2026–15 which amends Supplementary Material .01 and .03 to Options 3, Section 11 (Auction Mechanisms), Supplementary Material .06 to Options 3, Section 13 (Price Improvement Mechanism for Crossing Transactions) to permit orders by Members in a Facilitation Mechanism, a SOM, and a PIM to trade against Agency Orders for the accounts of Market Makers assigned to the options class.

SR–GEMX–2026–15 stated that the Exchange would implement the proposed changes on or before Q3 2026, and that it would issue an Options Trader Alert indicating the date the changes will be implemented. The Exchange now proposes to amend the implementation date to on or before November 10, 2026 to provide additional time to complete implementation of the changes. The Exchange requires a few additional weeks to complete the technology development and testing. The Exchange will issue an Options Trader Alert to Members announcing the specific implementation date in advance of implementation.

The Exchange does not propose any substantive changes to SR–GEMX–2026–15.

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.

Extending the implementation date for SR–GEMX–2026–15 from ''on or before Q3 2026'' to ''on or before November 10, 2026'' is consistent with the protection of investors and the public interest because it will provide the Exchange with the additional time necessary to complete the technology development and testing. This will ensure that the Exchange has sufficient time to implement the changes in an orderly manner, thereby protecting investors and promoting the maintenance of fair and orderly markets.

The Exchange does not propose any substantive changes to SR–GEMX–2026–15. The proposal only extends the outside date by which the Exchange must implement those changes. The Exchange will issue an Options Trader Alert to Members announcing the specific implementation date in advance of implementation.

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 rule change is not intended to address competitive issues but, rather, is intended solely to extend the implementation date of SR–GEMX–2026–15. The extended implementation date does not impose any burden on intra-market competition because it will apply uniformly to all Members. The proposed rule change does not impose any burden on inter-market competition because it does not alter the substance of the rule change.

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

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 105265 (April 17, 2026), 91 FR 21537 (April 22, 2026) (SR–GEMX–2026–15) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Various Auction Mechanism) (''SR–GEMX–2026–15'').

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

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–GEMX–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–GEMX–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–GEMX–2026–31 and should be submitted on or before September 18, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–17554 Filed 8–27–26; 8:45 am]

BILLING CODE 8011–01–P

[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 Commission deems this requirement to have been met.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11:00 a.m. on Thursday, September 3, 2026.

PLACE: The meeting will be held via remote means and at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

(Authority: 5 U.S.C. 552b.)

Dated: August 26, 2026.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–17591 Filed 8–26–26; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106185; File No. SR–ISE–2026–48]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay the Implementation of SR–ISE–2026–18

August 25, 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 21, 2026, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the implementation date of the rule change made by SR–ISE–2026–18.[3]

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 105266 (April 17, 2026), 91 FR 21576 (April 22, 2026) (SR–ISE–2026–18) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Various Auction Mechanism) (''SR–ISE–2026–18'').

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to delay the implementation of SR–ISE–2026–18 which amended Supplementary Material .01 and .03 to Options 3, Section 11 (Auction Mechanisms), Supplementary Material .06 to Options 3, Section 13 (Price Improvement Mechanism for Crossing Transactions), Options 3A, Section 12 (FLEX Price Improvement Mechanism (''FLEX PIM'' or ''FLEX PIM Auction''), and Supplementary Material .02 to Options 3A, Section 13 (FLEX Solicited Order Mechanism (''FLEX SOM'' or ''FLEX SOM Auction'') to permit orders by Members in a Facilitation Mechanism, a SOM, a PIM, a FLEX PIM or a FLEX SOM to trade against Agency Orders for the accounts of Market Makers assigned to the options class.

SR–ISE–2026–18 stated that the Exchange would implement the proposed changes on or before Q3 2026, and that it would issue an Options Trader Alert indicating the date the changes will be implemented. The Exchange now proposes to amend the implementation date to on or before November 10, 2026 to provide additional time to complete implementation of the changes. The Exchange requires a few additional weeks to complete the technology development and testing. The Exchange will issue an Options Trader Alert to Members announcing the specific implementation date in advance of implementation.

The Exchange does not propose any substantive changes to SR–ISE–2026–18.

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.

Extending the implementation date for SR–ISE–2026–18 from ''on or before Q3 2026'' to ''on or before November 10, 2026'' is consistent with the protection of investors and the public interest because it will provide the Exchange with the additional time necessary to complete the technology development and testing. This will ensure that the Exchange has sufficient time to implement the changes in an orderly manner, thereby protecting investors and promoting the maintenance of fair and orderly markets.

The Exchange does not propose any substantive changes to SR–ISE–2026–18. The proposal only extends the outside date by which the Exchange must implement those changes. The Exchange will issue an Options Trader Alert to Members announcing the specific implementation date in advance of implementation.

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 rule change is not intended to address competitive issues but, rather, is intended solely to extend the implementation date of SR–ISE–2026–18. The extended implementation date does not impose any burden on intra-market competition because it will apply uniformly to all Members. The proposed rule change does not impose any burden on inter-market competition because it does not alter the substance of the rule change.

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–ISE–2026–48 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–ISE–2026–48. 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–ISE–2026–48 and should be submitted on or before September 18, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–17547 Filed 8–27–26; 8:45 am]

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[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 Commission deems this requirement to have been met.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0779]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 2a–5

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is submitting to the Office of Management and Budget (''OMB'') this request for extension of the collection of information titled, ''Rule 2a–5 under the Investment Company Act of 1940, Fair Value.'' The OMB Control Number is 3235–0779. 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.

Section 2(a)(41) of the Investment Company Act of 1940 (''Investment Company Act'') requires funds to value their portfolio investments using the market value of their portfolio securities when market quotations for those securities are ''readily available,'' and, when a market quotation for a portfolio security is not readily available, by using the fair value of that security, as determined in good faith by the fund's board. The aggregate value of a fund's investments is the primary determinant of the fund's net asset value (''NAV''), which for many funds determine the price at which their shares are offered and redeemed (or repurchased).

17 CFR 270.2a–5 (''rule 2a–5'') provides requirements for determining in good faith the fair value of the investments of a registered investment company or companies that have elected to be treated as business development companies under the Investment Company Act (''BDCs'' and, collectively, ''funds'') for purposes of section 2(a)(41) of the Investment Company Act and rule 2a–4 thereunder. Under the rule, fair value as determined in good faith requires assessing and managing material risks associated with fair value determinations; selecting, applying, and testing fair value methodologies; and overseeing and evaluating any pricing services used. The rule also permits a fund's board to designate a ''valuation designee'' to perform fair value determinations. The valuation designee can be the adviser of the fund or an officer of an internally managed fund. When a board designates the performance of determinations of fair value to a valuation designee for some or all of the fund's investments under the rule, the rule requires the board to oversee the valuation designee's performance of fair value determinations.

To facilitate the board's oversight, the rule also includes certain reporting and other requirements in the case of designation to a valuation designee. As relevant here, the rule requires, if the board designates performance of fair value determinations to a valuation designee, that the valuation designee report to the board in both periodic and as needed reports on a per-fund basis.

Specifically, on a periodic basis, the valuation designee must provide the following to the board:

- *Quarterly Reports.* At least quarterly, in writing, (1) any reports or materials requested by the board related to the fair value of designated investments or the valuation designee's process for fair valuing fund investments and (2) a summary or description of material fair value matters that occurred in the prior quarter. This summary or description must include (1) any material changes in the assessment and management of valuation risks, including any material changes in conflicts of interest of the valuation designee (and any other service provider), (2) any material changes to, or material deviations from, the fair value methodologies, and (3) any material changes to the valuation designee's process for selecting and overseeing pricing services, as well as any material events related to the valuation designee's oversight of pricing services.
- *Annual Reports.* At least annually, in writing, an assessment of the adequacy and effectiveness of the valuation designee's process for determining the fair value of the designated portfolio of investments. At a minimum, this annual report must include a summary of the results of the testing of fair value methodologies required under the rule and an assessment of the adequacy of resources allocated to the process for determining the fair value of designated investments, including any material changes to the roles or functions of the persons responsible for determining fair value.

Further, the rule requires the valuation designee to provide a written notification to the board of the occurrence of matters that materially affect the fair value of the designated portfolio of investments (defined as ''material matters'') within a time period determined by the board, but in no event later than five business days after the valuation designee becomes aware of the material matter. Material matters in this instance include, as examples, a significant deficiency or material weakness in the design or effectiveness of the valuation designee's fair value determination process or of material errors in the calculation of net asset value. The valuation designee must also provide such timely follow-on reports as the board may reasonably determine are appropriate.

The rule constitutes a ''collection of information'' for PRA purposes. Respondents are funds. Compliance with rule 2a–5 is mandatory for any fund that would need to determine fair value under the Investment Company Act. To the extent that records required to be created and maintained under the rule are provided to the Commission in connection with examinations or investigations, such information would be kept confidential subject to the provisions of applicable law.

Commission staff estimates that 10,047 respondents will provide one response each, for an aggregate of 10,047 responses, annually. Commission staff estimates 34 hours per response, for an aggregate of 341,598 hours, annually. Commission staff estimates a monetized time cost of $33,422 per response, for an aggregate monetized time cost of $335,790,834, annually. Commission staff estimates an external cost burden of $3,632 per response, for an aggregate external cost burden of $36,490,704, annually.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202606-3235-004* or email comment to *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* within 30 days of the day after publication of this notice, by September 28, 2026.

Dated: August 26, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–17604 Filed 8–27–26; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 13111]

30-Day Notice of Proposed Information Collection: Annual Report—J-NONIMMIGRANT Exchange Visitor Program

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to September 28, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Send direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Karen Ward, Director, Office of Private Sector Exchange Designation, Office of Private Sector Exchange, ECA/EC/D, SA–5, Floor 5, Department of State, 2200 C Street NW, Washington, DC 20522–0505, who may be reached at *JExchanges@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Annual Report—J-NONIMMIGRANT Exchange Visitor Program.
- *OMB Control Number:* 1405–0151.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Educational and Cultural Affairs, Office of Private Sector Exchange, ECA/EC.
- *Form Number:* DS–3097.
- *Respondents:* Designated J-NONIMMIGRANT program sponsors.
- *Estimated Number of Respondents:* 1,425.
- *Estimated Number of Responses:* 1,425.
- *Average Time per Response:* 2 hours.
- *Total Estimated Burden Time:* 2,850 hours.
- *Frequency:* Annually.
- *Obligation to Respond:* Required to Obtain or Retain Benefits.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Annual reports from designated program sponsors assist the Department in oversight and administration of the Exchange Visitor Program. The reports provide qualitative data on the number of exchange participants an organization sponsored annually per category of exchange. The reports also provide a summary of the activities in which exchange visitors were engaged and indicate information about program effectiveness. Program sponsors include government agencies, academic institutions, and private sector not-for-profit and for-profit entities. The Department administers the Exchange Visitor Program under the Mutual Educational and Cultural Exchange Act of 1961, as amended (Pub. L. 87–256, 22 U.S.C. 2451 *et seq.*), and 22 CFR 62.15 requires designated sponsors to report annually on their exchange visitor program activities. The Department received one comment during the 60-day public comment period. The commenter expressed no objection to the proposed revisions, and no changes have been made to the form as a result.

Methodology

Annual reports are completed through the Student and Exchange Visitor Information System (SEVIS) and then printed and signed by a sponsor official and sent to the Department by email.

Response to Public Comment

The Department received one comment, submitted by a designated program sponsor. The commenter expressed no objection to the proposed revisions to Form DS–3097. The comment instead requested clarification on three matters of program administration and reporting practice: the continued alignment of the revised form with the fields automatically populated from the Student and Exchange Visitor Information System (SEVIS); the scope of the term ''Sponsor Official'' for purposes of the certification signature; and the meaning of the term ''host sites'' as used in the staffing item.

Because the comment raised questions of program administration and terminology rather than *comments on the collection itself or on* the substance of the proposed revisions, the Department is proceeding with the revisions to Form DS–3097 as published in the 60-day notice. The Department will respond directly to the commenter and will address the questions raised through its ordinary guidance to program sponsors.

Karen S. Ward,

Director, Office of Private Sector Exchange Designation, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2026–17578 Filed 8–27–26; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2026–7360]

Agency Information Collection Activities: Requests for Comments; Clearance for Renewal of Information Collection: Privacy International Civil Aviation Organization (ICAO) Address

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for an information collection renewal. The collection involves an aircraft operator's request for a privacy ICAO address through a web-based application process. The information to be collected is necessary to qualify for the authorized use of the privacy ICAO address services and for monitoring to support continued airworthiness and enforcement activities.

DATES: Written comments should be submitted 30 days after publication in the **Federal Register**.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Mr. Jamal A. Wilson, Surveillance and Broadcast Services, AJM 42, PIA Program Manager at *jamal.wilson@faa.gov* or at (202) 267–4301.

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.

OMB Control Number: 2120–0779.

Title: Privacy International Civil Aviation Organization (ICAO) Address Program.

Form Numbers: Not applicable.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on 25 June 2026 (FR Doc. 2026–13035). In 2010, the FAA issued a final rule mandating equipage requirements and performance standards for Automatic Dependent Surveillance-Broadcast (ADS–B) Out avionics on aircraft operating in certain airspace after December 31, 2019. Aircraft operators must be equipped with ADS–B Out to fly in most controlled airspace. Federal Regulations 14 CFR 91.225 and 14 CFR 91.227 contain requirement details. Each registered aircraft is assigned an aircraft registration number and an ICAO 24-bit aircraft address. This is also referred to as a ''Mode S Code'' in some FAA documents and websites, including the FAA Aircraft Registry. Where a 1090- MHz Extended Squitter (1090ES) transponder is required for ADS–B Out compliance, this ICAO 24-bit aircraft address, based on current transponder avionics standards, is openly broadcasted on the 1090 MHz frequency in transponder replies and ADS–B messages. Subsequently, the nature of openly broadcasting makes the identity of the aircraft publicly available. Industry stakeholders have long suggested that FAA develop a process for aircraft operators who seek anonymity such that their aircraft movements and identity cannot be traced or seen by privately owned sensors that monitor the 1090 MHz frequency and combine this with other downlinked ADS–B and Mode S data being disseminated using the internet. The FAA intends to develop a process for operators who wish to mask their aircraft movements and identity for a period while flying within the sovereign airspace of the United States. Participation in the assignment of privacy ICAO Code addresses is voluntary. Only U.S. registered aircraft can be assigned a privacy ICAO aircraft address. No operator can use a privacy ICAO aircraft address for a U.S.-registered aircraft unless that operator is authorized to use a third-party flight identification for that same aircraft. No unique privacy ICAO address will be assigned to more than one U.S.-registered aircraft at any given time. Once approved, the operator will be assigned a privacy ICAO address. The operator will be required to notify the FAA when their avionics have been loaded with the assigned temporary ICAO 24-bit aircraft address. Owners and operators must verify that the ICAO 24-bit aircraft address (Mode S code) broadcast by their ADS–B equipment matches the assigned privacy ICAO address for their aircraft. Operators can verify what ICAO 24-bit aircraft address is being broadcast by their aircraft by visiting: *https://adsbperformance.faa.gov/PAPRRequest.aspx.* For monitoring privacy ICAO address use, the information will be downloaded by the FAA and entered into the FAA's ADS–B Performance Monitor [Docket No. FAA–2017–1194 published in **Federal Register**, December 20, 2017, as Document Number: 2017–27202].

Respondents: Intended for operators who seek anonymity such that their aircraft movements and identity cannot be easily traced or seen by privately owned sensors that monitor the 1090 MHz frequency. FAA estimates up to 15,000 respondents.

Frequency: Frequency will be occasional based on specific scenarios. An operator can change privacy ICAO aircraft addresses, but no more often than once every 20 days. In the event real-world security concerns become evident, an operator can elect to change their PIA address sooner than 20 days.

Estimated Average Burden per Response: Approximately 15 minutes per application.

Estimated Total Annual Burden: 12,563 hours.

Issued in Washington, DC, on 13 August 2026.

Jamal A. Wilson,

Privacy ICAO Address (PIA) Program Manager, In-Service Performance and Sustainment (AJM–4220), Federal Aviation Administration.

[FR Doc. 2026–17642 Filed 8–27–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2026–7360]

Agency Information Collection Activities: Requests for Comments; Clearance for Renewal of Information Collection: Privacy International Civil Aviation Organization (ICAO) Address

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for an information collection renewal. The collection involves an aircraft operator's request for a privacy ICAO address through a web-based application process. The information to be collected is necessary to qualify for the authorized use of the privacy ICAO address services and for monitoring to support continued airworthiness and enforcement activities.

DATES: Written comments should be submitted by [ ]

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Mr. Jamal A. Wilson, Surveillance and Broadcast Services, AJM 42, PIA Program Manager at *jamal.wilson@faa.gov* or at (202) 267–4301.

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.

OMB Control Number: 2120–0779.

Title: Privacy International Civil Aviation Organization (ICAO) Address Program.

Form Numbers: Not applicable.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on 25 June 2026 (FR Doc. 2026–13035). In 2010, the FAA issued a final rule mandating equipage requirements and performance standards for Automatic Dependent Surveillance-Broadcast (ADS–B) Out avionics on aircraft operating in certain airspace after December 31, 2019. Aircraft operators must be equipped with ADS–B Out to fly in most controlled airspace. Federal Regulations 14 CFR 91.225 and 14 CFR 91.227 contain requirement details. Each registered aircraft is assigned an aircraft registration number and an ICAO 24-bit aircraft address. This is also referred to as a ''Mode S Code'' in some FAA documents and websites, including the FAA Aircraft Registry. Where a 1090-MHz Extended Squitter (1090ES) transponder is required for ADS–B Out compliance, this ICAO 24-bit aircraft address, based on current transponder avionics standards, is openly broadcasted on the 1090 MHz frequency in transponder replies and ADS–B messages. Subsequently, the nature of openly broadcasting makes the identity of the aircraft publicly available. Industry stakeholders have long suggested that FAA develop a process for aircraft operators who seek anonymity such that their aircraft movements and identity cannot be traced or seen by privately owned sensors that monitor the 1090 MHz frequency and combine this with other downlinked ADS–B and Mode S data being disseminated using the internet. The FAA intends to develop a process for operators who wish to mask their aircraft movements and identity for a period while flying within the sovereign airspace of the United States. Participation in the assignment of privacy ICAO Code addresses is voluntary. Only U.S. registered aircraft can be assigned a privacy ICAO aircraft address. No operator can use a privacy ICAO aircraft address for a U.S.-registered aircraft unless that operator is authorized to use a third-party flight identification for that same aircraft. No unique privacy ICAO address will be assigned to more than one U.S.-registered aircraft at any given time. Once approved, the operator will be assigned a privacy ICAO address. The operator will be required to notify the FAA when their avionics have been loaded with the assigned temporary ICAO 24-bit aircraft address. Owners and operators must verify that the ICAO 24-bit aircraft address (Mode S code) broadcast by their ADS–B equipment matches the assigned privacy ICAO address for their aircraft. Operators can verify what ICAO 24-bit aircraft address is being broadcast by their aircraft by visiting: *https://adsbperformance.faa.gov/PAPRRequest.aspx.* For monitoring privacy ICAO address use, the information will be downloaded by the FAA and entered into the FAA's ADS–B Performance Monitor [Docket No. FAA–2017–1194 published in **Federal Register**, December 20, 2017, as Document Number: 2017–27202].

Respondents: Intended for operators who seek anonymity such that their aircraft movements and identity cannot be easily traced or seen by privately owned sensors that monitor the 1090 MHz frequency. FAA estimates up to 15,000 respondents.

Frequency: Frequency will be occasional based on specific scenarios. An operator can change privacy ICAO aircraft addresses, but no more often than once every 20 days. In the event real-world security concerns become evident, an operator can elect to change their PIA address sooner than 20 days.

Estimated Average Burden per Response: Approximately 15 minutes per application.

Estimated Total Annual Burden: 12,563 hours.

Issued in Washington, DC, on 13 August 2026.

Jamal A. Wilson,

Privacy ICAO Address (PIA) Program Manager, In-Service Performance and Sustainment (AJM–4220), Federal Aviation Administration.

[FR Doc. 2026–17602 Filed 8–27–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2024–0049; Notice 2]

Michelin North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Michelin North America, Inc. (MNA) has determined that certain Michelin TEX T195/65R22 T-type spare tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 109, *New Pneumatic Tires for Vehicles Manufactured from 1949 to 1975, Bias Ply Tires, and T-Type Spare Tires.* MNA filed a noncompliance report dated May 1, 2024, and subsequently petitioned NHTSA (the ''Agency'') on May 29, 2024, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the grant of MNA's petition.

FOR FURTHER INFORMATION CONTACT: Jayton Lindley, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (325) 655–0547.

SUPPLEMENTARY INFORMATION:

I. Overview

MNA determined that certain Michelin Tex T195/65R22 do not fully comply with paragraph S4.3(b) of FMVSS No. 109, *New Pneumatic Tires for Vehicles Manufactured from 1949 To 1975, Bias Ply Tires, and T-Type Spare Tires* (49 CFR 571.109).

MNA filed a noncompliance report dated May 1, 2024, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* MNA petitioned NHTSA on May 29, 2024, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

Notice of receipt of MNA's petition was published with a 30-day public comment period, on December 13, 2024, in the **Federal Register** (89 FR 101093). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Then follow the online search instructions to

locate docket number ''NHTSA–2024–0049.''

II. Tires Involved

Approximately 532 Michelin TEX T195/65R22 T-type spare tires, manufactured between September 26, 2023, and March 6, 2024, were reported by the manufacturer.

III. Rule Requirements

Paragraph S4.3(b) of FMVSS No. 109 includes the requirements relevant to this petition. This requirement specifies, among other things, that each tire must have the maximum permission inflation pressure permanently molded onto or into both tire sidewalls. In addition, for T-type spare tires with a maximum inflation pressure of 420 kPa (60 psi), an additional marking that states ''Inflate to 420 kPa (60 psi)'' is required on both sidewalls in a prominent location with a large font size. In total, the subject tires are required to have the maximum inflation pressure marked in four different locations.

IV. Noncompliance

MNA explains that the subject tires incorrectly state the maximum permissible inflation pressure in one location on each sidewall and, therefore, do not comply with paragraph S4.3(b) of FMVSS No. 109. Specifically, the tire markings show an incorrect pressure of 350 kPa (51 psi), instead of the correct 420 kPa (60 psi) in one location of the two required locations on each sidewall.

V. Summary of MNA's Petition

The following views and arguments presented in this section, ''V. Summary of MNA's Petition,'' are the views and arguments provided by MNA. They do not reflect the views of the Agency. MNA describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

MNA explains that the noncompliance was discovered when Indian authorities detected a marking error during a certification inspection and alerted Michelin Europe. European Original Equipment Quality then notified North American Original Equipment Quality that some Range Rovers equipped with the affected spare tires may have been shipped to the US. An investigation was initiated to determine if the affected product had entered the US market. MNA blocked 506 affected tires at the Nyiregyhaza, Hungary manufacturing facility and confirmed that 532 tires were sold into the U.S. market as OEM spares. Upon detecting the subject noncompliance, MNA reports that production of the affected tires was suspended within 24 hours and molds with corrected markings were put into production on March 25, 2024.

MNA explains that the incorrect maximum permissible inflation pressure marking is inconsistent with the correct sidewall marking: ''Inflate to 420 kPa (60 psi)'' required by paragraph S4.3.5 of FMVSS No. 109, which is present and correctly marked in two locations on the tire. MNA states that although the subject tires were marked with two different inflation pressures, testing confirmed that they fully comply with all applicable FMVSS tire safety performance standards, including endurance, high speed performance, bead unseating, and tire strength. FMVSS No. 109 performance testing was conducted and confirmed that the subject tires passed under the specified conditions for both of the maximum inflation pressures marked on the tires: 350 kPa (51 psi) and 420 kPa (60 psi).

MNA believes that several factors improve the likelihood of the subject tires being used at the correct inflation pressure. First, tires are inflated to the correct pressure at the wheel mounting facility, eliminating the need for dealers to determine which pressure to follow. Additionally, when end users perform the recommended monthly pressure check, the most prominent spare tire sidewall marking required by paragraph S4.5 of FMVSS No. 109, specifies 420 kPa (60 psi) for the spare tire. Furthermore, the placard on the vehicle specifies 420 kPa (60 psi). MNA argues that the subject spare tire has been confirmed to be safe at both inflation pressures, and therefore it remains safe even if the customer adjusts the pressure to the lower value stated on the tire.

VI. NHTSA's Analysis

The burden of establishing the inconsequentiality of a failure to comply with a *performance requirement* in an FMVSS is substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential.[1] Potential performance failures of safety-critical equipment, like seat belts or air bags, are rarely deemed inconsequential.

In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which a recall would otherwise protect.[2] In general, NHTSA does not consider the absence of complaints or injuries when determining if a noncompliance is inconsequential to safety. The absence of complaints does not mean vehicle occupants have not experienced a safety issue, nor does it mean that there will not be safety issues in the future.[3] Further, because each inconsequential noncompliance petition must be evaluated on its own facts and determinations are highly fact-dependent, NHTSA does not consider prior determinations as binding precedent. Petitioners are reminded that they have the burden of persuading NHTSA that the noncompliance is inconsequential to safety.

Arguments that only a small number of vehicles or items of motor vehicle equipment are affected also do not justify granting an inconsequentiality petition.[4] Similarly, mere assertions that only a small percentage of vehicles or items of equipment are likely to actually exhibit a noncompliance are unpersuasive. The percentage of potential occupants that could be adversely affected by a noncompliance is not relevant to whether the noncompliance poses an inconsequential risk to safety. Rather, NHTSA focuses on the consequence to an occupant who is exposed to the

[1] *Cf. Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

[2] *See Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

[3] *See Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 21663, 21666 (Apr. 12, 2016); *see also United States* v. *Gen. Motors Corp.,* 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it ''results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future'').

[4] *See Mercedes-Benz, U.S.A., L.L.C.; Denial of Application for Decision of Inconsequential Noncompliance,* 66 FR 38342 (July 23, 2001) (rejecting argument that noncompliance was inconsequential because of the small number of vehicles affected); *Aston Martin Lagonda Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 41370 (June 24, 2016) (noting that situations involving individuals trapped in motor vehicles—while infrequent—are consequential to safety); *Morgan 3 Wheeler Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 21663, 21664 (Apr. 12, 2016) (rejecting argument that petition should be granted because the vehicle was produced in very low numbers and likely to be operated on a limited basis).

consequence of that noncompliance.[5] The Safety Act is preventive, and manufacturers cannot and should not wait for deaths or injuries to occur in their vehicles before they carry out a recall.[6] Indeed, the very purpose of a recall is to protect individuals from risk.[7]

NHTSA has evaluated the merits of the petition submitted by MNA and is granting MNA's request for relief from notification and remedy based on the following:

1. Based on its review of the information MNA submitted, NHTSA has no basis to believe that the tires do not meet the performance and labeling requirements of FMVSS No. 109 at both inflation pressures, except for the incorrect inflation pressure marking. Additionally, in conjunction with the rationale listed below, because the subject tires are temporary use spare tires, we would anticipate that meeting the endurance and high-speed test requirements of FMVSS No. 109 in the underinflated condition would ensure a level of safety needed to travel short distances and durations under which the drivers would be using the subject tires in order to reach a service station safely.

2. All the affected tires were original equipment on the Range Rover Sport L461 sold between 11/04/2023 and 04/23/2024. The risk of incorrect vehicle application is minimized because none of the tires were delivered to the replacement market for sale directly to consumers. Further, the reduced load carrying capacity of the tire at 350 kPa (51 psi) is still sufficient to support the load of the vehicle on which they were sold, even when mounted on the more severe rear axle and loaded to the vehicle's maximum load or gross vehicle weight rating (GVWR).

3. The large, prominent inflation pressure marking required by FMVSS No. 109 is present and has the correct marking, and the inflation pressure listed on the certification label is correct.

4. While NHTSA's confidence in consumers making sensible choices is not unbridled, we note that in instances where owners perceive the inconsistent markings on the tires, the correct inflation pressure is both more prominent on the tires themselves and also available on the vehicle placard.

VII. NHTSA's Decision

In consideration of the foregoing, NHTSA finds that MNA has met its burden of persuasion that the subject FMVSS No. 109 noncompliance in the affected tires is inconsequential to motor vehicle safety. Accordingly, MNA's petition is hereby granted and MNA is consequently exempted from the obligation of providing notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

MNA concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted. NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject tires that MNA no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve tire distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after MNA notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2026–17648 Filed 8–27–26; 8:45 am]

BILLING CODE 4910–59–P

[5] *See Gen. Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19900 (Apr. 14, 2004); *Cosco Inc.; Denial of Application for Decision of Inconsequential Noncompliance,* 64 FR 29408, 29409 (June 1, 1999).

[6] *See, e.g., United States* v. *Gen. Motors Corp.,* 565 F.2d 754, 759 (D.C. Cir. 1977).

[7] *Id.*

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2025–0589]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Request for Comment; Pulsating Stop Lamps, Flashing Lights, and Distance Perception

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a new 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. This document describes a new collection of information for which NHTSA intends to seek OMB approval titled ''Pulsating Stop Lamps, Flashing Lights, and Distance Perception.'' A **Federal Register** Notice with a 60-day comment period soliciting comments on this information collection was published on May 26, 2026. Three comments were received in response, providing support for the research and recommending consideration for motorcycles and international regulations related to ''emergency stop signals.'' While these topics are out of scope for this research, NHTSA plans to incorporate the recommended topics into the final report by including them in the literature review and background sections. Incorporation of these inputs into the study does not materially impact the burden on the participants, and therefore the participant burden estimate included in the 60-day notice remains unchanged.

DATES: Comments must be submitted on or before September 28, 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 Dr.

Kathryn Lucaites, National Highway Traffic Safety Administration, 1200 New Jersey Ave. SE, Washington, DC 20590; email *Kathryn.lucaites@dot.gov;* phone: 202–366–7409. 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 these requirements, this notice announces that the following information collection request will be submitted OMB.

Title: Pulsating Stop Lamps, Flashing Lights, and Distance Perception.

OMB Control Number: New.

Form Numbers: NHTSA Form 2150—Flashing Lights Screening; NHTSA Form 2151—Flashing Lights Participant Reminders; NHTSA Form 2152—Flashing Lights Informed Consent; NHTSA Form 2153—Vision & Hearing Tests; NHTSA Form 2154—Flashing Lights Surface Street Checklist; NHTSA Form 2155—Flashing Lights Highway Checklist; NHTSA Form 2156—VTTI Post-Drive Questionnaire, Flashing Lights Study; NHTSA Form 2157—UMN Survey Research Informed Consent; NHTSA Form 2158—UMN Survey Research One-time Pre-Questionnaires; NHTSA Form 2159—UMN Survey Research Data Collection and Driver Response; NHTSA Form 2160—UMN Survey Research One-time Post-Questionnaires; NHTSA Form 2161—UMN Simulation Screening Questionnaires; NHTSA Form 2162—Participant Scheduling; NHTSA Form 2163—UMN Simulation Informed Consent; NHTSA Form 2164—UMN Simulation Vision Evaluation; NHTSA Form 2165—Pre-Simulator Questionnaire; NHTSA Form 2166—Driving Simulation Checklist; NHTSA Form 2167—Post-Simulator Drive Questionnaire; NHTSA Form 2168—Demographics Questionnaire; NHTSA Form 2169—UMN Simulator Post-Simulator Study Questionnaire.

Type of Request: New information collection.

Type of Review Requested: Regular.

Length of Approval Requested: Three years from date of approval.

Summary of the Collection of Information: The National Highway Traffic Safety Administration (NHTSA) is seeking approval to conduct 21 voluntary information collections as part of a multi-phase research study involving up to 270 licensed drivers of various ages to evaluate potential safety benefits and disbenefits of implementing pulsating stop lamps on a broader scale across a range of driving contexts and over time. The study involves three different parts that will be executed simultaneously:

Descriptions of the VTTI (Part 1—Test Track Study) and UMN (Part 2—Survey Research and Part 3—Simulator Study) efforts are detailed below.

- *Part 1—Test Track Study:* The data collection will consist of one driving session with an instrumented vehicle. A group of volunteer participants, each with a valid driving license, will be recruited by VTTI to participate in the study. The participants will drive the instrumented vehicle through controlled driving tests on the Smart Roads facilities (controlled-access test tracks built to Federal Highway Administration standards). The focus is to characterize how pulsating stop lamps affect driver distance perception and time-to-collision judgements under a range of situations with multiple lead vehicles and braking signal types (*i.e.,* steady-burn and flashing). Visual distraction associated with flashing lights will also be assessed by tracking the driver's gaze. Following the presentation of all the testing conditions, participants will provide feedback about the stop lamp configurations. The entirety of participation in the study is estimated at three hours.
- *Part 2—Survey Research:* The data collection will consist of one online survey. Participants will join the study through a crowdsourced research website and will be directed to the University of Minnesota's Qualtrics.com survey site using their personal computer. Participants will be shown a series of animated videos of car-following scenarios with various stop lamp configurations. For each video, participants will be asked to provide subjective feedback, including their interpretation of each stop lamp configuration and their expected driving response to each scenario. The goal of this collection is to characterize driver's understanding and interpretation of pulsating stop lamps. The entirety of participation in the study is estimated at 0.5 hours.
- *Part 3—Simulator Study:* The data collection will consist of three simulated driving sessions. A group of volunteer participants, each with a valid driving license, will be recruited by UMN to participate in the study. The driving simulation study aims to address a number of research questions relating to the driver response characteristics in response to flashing or pulsating stop lamps during normal and crash imminent scenarios. In addition, the multi-session experiment aims to address questions regarding the effects of repeated exposure to flashing or pulsating stop lamps over time.

Across three sessions, participants will be asked to complete a series of drives in an immersive driving simulator while following vehicles with varied stop lamp configurations and braking events. In addition to participant's brake response characteristics collected from the simulator, participants' demographics, attitudes and interpretations will also be measured with questionnaires.

The driving simulation study aims to quantify driver performance in response to pulsating stop lamps during normal and crash imminent scenarios. In addition, the multi-session experiment aims to address questions regarding the effects of repeated exposure to pulsating stop lamps over time. The entirety of participation in the study is estimated at 3.5 hours.

NHTSA will use the information gathered from both the VTTI and UMN efforts to produce a technical report that presents the results of the study. The report will provide important information needed by NHTSA to develop, implement, and maintain effective countermeasures that meet the agency's mandate to reduce the number of deaths, injuries, and economic losses resulting from motor vehicle crashes on the U.S. highways.

Recruitment of study respondents will be from the area near the testing facilities in Blacksburg, VA, Minneapolis, MN, as well as a digital crowdsourcing component. The target for the study varies based on the part in question (a total of 30 participants for Part 1, a total of 200 participants for Part 2, a total of 40 participants for Part 3); however, the research team has provided sufficient additional recruitment such that the target sample is achieved given expected reductions in respondents due to ineligibility and attrition. The planned data collection activities discussed herein have been approved by an Institutional Review Board.

Description of the Need for the Information and Proposed Use of the Information: As part of NHTSA's mission to save lives, prevent injuries, and reduce traffic-related health care and other economic costs, the agency conducts research as a foundation for the development of motor vehicle standards and traffic safety programs The House Report accompanying the

Departments of Transportation, and Housing and Urban Development, and Related Agencies Appropriations Bill, 2020 (H.R. 116–106) directed NHTSA to study the safety effectiveness of rear-end collision avoidance systems that mitigate and prevent rear-end crashes and specified that the study should include the effectiveness of pulsating light systems in motor vehicles.

Pulsating stop lamps are not currently permitted on new vehicles under the Federal Motor Vehicle Safety Standard (FMVSS) No. 108, which requires stop lamps to be steady burning (FMVSS No. 108 S7.3). However, there are aftermarket products which alter stop lamps so that they pulsate when the brake is applied. NHTSA has previously conducted research studying the potential of flashing rear-brake lighting to capture attention in crash-imminent scenarios. However, there may be unintended consequences associated with pulsating stop lamps when considering the broader driving context in which they operate.

The objective of this NHTSA project is to evaluate potential safety benefits and disbenefits of implementing pulsating stop lamps on a broader scale across a range of driving contexts and over time.

NHTSA will use the information collected to produce a technical report containing summary statistics and tables that will be made available publicly through the agency website and the National Transportation Library.

60-Day Notice: A **Federal Register** notice with a 60-day comment period soliciting public comments on the following information collection was published on May 26, 2026 (91 FR 30783). NHTSA received a total of three public comments from the American Trucking Associations (ATA), the Motorcycle Industry Council (MIC), and the Alliance for Automotive Innovation (the Alliance).

The ATA supported the proposed research, citing the importance of understanding the safety impacts of pulsating stop lamps and pulsating auxiliary lamps on commercial trucks.

The MIC indicated they support the overall goal of the research and requested that NHTSA include motorcycles as part of the study, noting that motorcycles have a narrower profile than other motor vehicles and may benefit from pulsating stop lamps. MIC further encouraged any research on motorcycles to explore the use of pulsating stop lamps combined with hazard lamps, and increased illumination levels above current legal limits. NHTSA agrees that the narrower profile of a motorcycle may affect the safety impacts of pulsating stop lamps. While the scope of the proposed research is limited to aftermarket flashing or pulsating brake light systems for passenger vehicles and commercial trucks, NHTSA will conduct a review of literature related to pulsating stop lamps on motorcycles, the combined use of stop lamps and hazard lamps, and the effect of pulsating lamp brightness, and will incorporate the findings of the literature review into the study's final report, noting the potential for future research.

The Alliance supported the proposed research, and encouraged NHTSA to consider relevant international approaches, including requirements for ''emergency stop signals'' under UNECE Regulation No. 48. NHTSA acknowledges that prior work sponsored by the agency and supported by industry has emphasized the use of flashing brake signals as a means of alerting drivers to emergency braking events (Wierwille et al., 2005; [1] Wierwille et al., 2009; [2] Llaneras et al., 2010).[3] Unlike ''emergency stop signals'' supported by UNECE that trigger under hard deceleration, the scope of the proposed research is focused on aftermarket systems in the U.S. that activate on any brake pedal press, regardless of deceleration rate or brake pedal force. To incorporate the point raised in this comment, discussion of international regulations and previous research on emergency brake signaling will be included in the background section of this project's final report, and the potential for future research will be noted.

After thoughtful consideration of the comments, NHTSA will incorporate discussion of the application of this research to motorcycles as well as considerations for alternative brake signal configurations (*e.g.,* emergency stop signals) in the final report. Incorporation of the above material into the study does not materially impact the burden on the participants, and therefore the participant burden estimate included in the 60-day notice remains unchanged.

Affected Public: Respondents to this collection will be members of the public recruited from Blacksburg, VA; Minneapolis, MN, and national sample. Effort will be made to recruit equal numbers of adult males and females, including participants aged 21 to 65. A representative sample is not necessary to satisfy the objectives of the study and therefore, a convenience sample of individuals meeting eligibility criteria will be sufficient.

Estimated Number of Respondents: The target for the study is for 270 participants total across all 3 parts of the study (a total of 30 participants for Part 1, a total of 200 participants for Part 2, a total of 40 participants for Part 3) to complete all sessions with valid data collected for each. However, eligibility and attrition must be accounted for throughout the individual information collections included in this request. As previously stated, there are 21 individual information collections in this request. The number of respondents annually for each collection is as follows: Recruitment Screener—33; Participant Reminders—10; Informed Consent—10; W–9 Form—10; Vision-Hearing Form—10; Surface Street Controlled Driving on Smart Roads—10; Highway Controlled Driving on Smart Roads—10; Post-Drive Questionnaire—10; Survey Research—67; One-time Pre-Questionnaire—67; Survey Research Data Collection and Driver Response—67; One-time Post-Questionnaire—67; Simulator Study Screening Questionnaire—40; Participant Scheduling—13; Informed Consent—13; Vision Evaluation—13; Pre-Simulator Questionnaire—13; Driving Simulation Checklist—13; Post-Simulator Drive Questionnaire—13; Demographics Questionnaire—13; and Post-Simulator Study Questionnaire—13.

Frequency: This is a one-time information collection.

Estimated Number of Responses: 12,470.

Estimated Annual Burden Hours: The total estimated burden for this one-time information collection is 386 hours total, or 127 annual burden hours (based on a 3-year period of performance). Further details are provided below. This ICR includes 21 information collections (8 information collections at VTTI and 13 at UMN), which are described below. Total burden estimates for each information collection are provided in Table 1 and annual burden estimates for each information collection are provided in Table 2.

[1] Wierwille, W. W., Lee, S. E., and DeHart, M. C. (2005). *Enhanced Rear Lighting and Signal Systems: Project Final Report Emphasizing Task 3 Results: Test Road Experiment on Imminent Warning Rear Lighting and Signaling.* DOT HS 809 864. Washington, DC: National Highway Traffic Safety Administration.

[2] Wierwille, W. W., Llaneras, R. E., & Neurauter, M. (2009). *Evaluation of Enhanced Brake lights Using Surrogate Safety Metrics Task 1 Report: Further Characterization and Development of Rear Brake Light Signals.* DOT HS 811 127. Washington, DC: National Highway Traffic Safety Administration.

[3] Llaneras, R. E., Neurauter, M., & Perez, M. (2010). *Evaluation of Enhanced Brake Lights Using Surrogate Safety Metrics Task 2 & 3 Report: Development of a Rear Signaling Model and Work Plan for Large Scale Field Evaluation.* DOT HS 811 329. Washington, DC: National Highway Traffic Safety Administration.

Part 1—Test Track Study

1. Recruitment Screener (Form 2150)

An estimated 100 total respondents (33 respondents annually) will answer a Recruitment Screener (form 2150) over the phone to determine if they qualify for the study. Participants will be screened over the phone to determine eligibility, with recruitment personnel recording responses on a paper form using an anonymized ID. Respondents who meet the inclusion criteria will be individually scheduled for an appointment over the phone to go to the contractor facilities in Blacksburg, VA. Respondents are expected to take an estimated average of 20 minutes to complete the questionnaire and will complete this questionnaire once, resulting in a total of 33 burden hours (11 annual burden hours) for the screening of potential participants. Recruitment of study respondents is from Southwest Virginia, specifically the New River Valley and surrounding areas (Roanoke, Salem, etc.).

2. Participant Reminders (Form 2151)

Participants will both be contacted by phone in order to remind them of their appointment (Form 2151), as well as contacted through email (Form 2151). These activities (the phone contact and the participant reviewing the email content) are expected to take a total of two minutes. For a maximum of 30 participants (10 respondents annually), this results in a total of 1 burden hour (<1 annual burden hour).

3. Informed Consent (Form 2152)

Based on an estimate that 30 percent of those who begin the screening process will be eligible and interested in participating, we anticipate an estimated 30 total participants (10 respondents annually) initiate the consenting process. The visit to the VTTI facility will begin with a consenting process that includes an overview of the study, an explanation of the informed consent form, (Form 2152) and an opportunity for the potential participants to ask questions and get clarification. Those individuals who consent to the study and enroll will complete the Informed Consent form and move on to the next process. This consent process and completion of the Informed Consent form, using the maximum of 30 respondents (10 annually), are expected to take six minutes and will be completed resulting in a total of three burden hours (1 annual burden hour). This is a paper form, which participants are required to sign two copies of, keeping one for their records.

4. W–9 Form

After completing the informed consent process, 30 participants will also be required to fill out a W–9 Form, in order to receive compensation for their participation. This form is expected to take two minutes and will be completed once, resulting in a total of 1 burden hour (<1 annual burden hour). This is a paper form.

5. Vision-Hearing Form (Form 2153)

Following the consenting process, the experimenter will administer a brief vision and hearing evaluation (Form 2153) for a maximum of 30 respondents (10 respondents annually). The purpose of this evaluation is to ensure that participants meet the basic vision requirements of driver's licensure in Virginia (20/40), and to confirm that they can hear instructions provided by the experimenter when looking away. The hearing evaluation consists of repeating approximately five statements back to the experimenter. Results will be completed once and will be recorded on paper. This evaluation is expected to take two minutes, resulting in a total of 1 total burden hour (<1 annual burden hour).

6. Surface Street: Controlled Driving on Smart Roads (Form 2154)

To assess reactions to multiple brake light configurations and scenarios, study participants will experience a series of controlled driving tests with research vehicle on the Smart Roads Surface Street test track. VTTI anticipates that staged trial scenarios on the Surface Street test track will include 3-lanes of forward traffic (a lead, and two adjacent vehicles on either side of the lead). Participants will be presented with a set of staged car-following trials in which they must respond to lead vehicle braking events. To ensure safety, VTTI will use a dual-control study vehicle that has been specifically modified by moving the primary driving controls to the rear seat (experimenter station) while still maintaining functional driving capabilities from the factory driver's seat. The modifications allow the experimenter in the rear seat to take control of the vehicle at any time, but still provides the ability to measure driver control inputs in response to staged braking events. Participant drivers will be required to brake as needed and appropriate when they first detect lead vehicle deceleration. Visual occlusion will be used to control the onset of the exposure interval and mimic a distracted driver, with the drivers' ''gaze'' opening just prior to the start of the trial. Note that the participant's braking response, deceleration profile, and gaze pattern will serve as key outcome measures during these trials. Not including the questionnaire elements referenced below, this driving session is expected to take 130 minutes, including vehicle familiarization, drive-time, and breaks. For a maximum of 30 participants (10 respondents annually), this results in a total of 65 burden hours (22 annual burden hours).

7. Highway: Controlled Driving on Smart Roads (Form 2155)

The highway portion of the data collection investigates the impact of pulsating/flashing lights on driver brake response characteristics and habituation resulting from repeated exposures. This part of the study will use the Smart Roads Highway section allowing continuous driving interactions and evolving events over a 35-minute period. As with the Surface Street portion, VTTI will use a dual-control study vehicle that has been specifically modified by moving the primary driving controls to the rear seat (experimenter station) while still maintaining functional driving capabilities from the factory driver's seat. Unlike the Surface Street portion, participants will be actively driving the vehicle with the rear-seat experimenter serving as a safety driver intervening to take control of the vehicle if needed. Specific aspects of focus during this portion include car following, headway maintenance, and braking scenarios under distracted and attentive driving, extended car following situations (over a period of minutes, habituation to flashing/pulsating signals over a single episode where pulsing/flashing signals are de-coupled from meaningful deceleration events (episodic habituation). This driving session is expected to take 35 minutes, including vehicle familiarization, drive-time, and breaks. For a maximum of 30 participants (10 respondents annually), this results in a total of 18 burden hours (six annual burden hours).

8. Post-Drive Questionnaire (Form 2156)

Following the Highway portion of the VTTI test track scenarios, respondents will be asked to complete a single Questionnaire (on paper) (Form 2156) related to their reactions to the brake light presentation. Completion of this form will take five minutes per person and is to be completed 1 time per respondent for a maximum of 30 respondents (10 respondents annually), resulting in a total of three burden hours (one annual burden hour).

Part 2—Survey Research

1. Informed Consent (Form 2157)

An estimated 200 participants (67 respondents annually) will be recruited via prolific.com and initiate the consenting process. Using the maximum 200 respondents (six annually), the consent process, including reading the information sheet and agreeing to participate, is expected to take five minutes and will be completed 1 time per respondent, resulting in a total of 17 burden hours (six annual burden hours). This is a digital form, which participants digitally indicate their agreement and consent and are then free to download a copy for their records.

2. One-Time Pre-Questionnaires (Form 2158)

After the informed consent process, respondents will complete a series of online forms filled on Prolific, comprising a demographics questionnaire and a request to participants to provide their Prolific ID's to allow the research team to validate responses and provide payment via Prolific payment system. Respondents are expected to take an estimated average of one minute to complete the one-time questionnaires and will complete this questionnaire once. This data collection, using the maximum of 200 respondents (67 annually), results in a total of three burden hours (one annual burden hour) for participants.

3. Survey Research Data Collection and Driver Response (Form 2159)

Participants using an online crowdsourcing platform (*prolific.com*) will then observe a series of animated images in an imagined vehicle-following scenario and respond with their interpretations of the behavior of the vehicle in the animated image, as well as their likely responses in the vehicle-following scenario. 54 experimental trials will be presented in random order. Each video will play for six seconds. Along with each video, participants will be asked to answer questions related to potential signal interpretations, potential driving responses, and subjective ratings. Using the maximum of 200 respondents (67 annually), each trial (viewing the video and responding to the associated survey questions) is anticipated to take no more than 0.5 minutes and will be completed 54 times per respondent, resulting in a total of 90 burden hours (30 annual burden hours).

4. One-time Post-Questionnaires (Form 2160)

A post-study questionnaire is included at the end of the study, which is a set of three questions asking about their experience with pulsating or flashing brake lights, requiring a response on multiple choice entries. Respondents are expected to take an estimated average of one minute to complete the one-time questionnaires and will complete this questionnaire once. This data collection, using the maximum of 200 respondents (67 annually), results in a total of three burden hours (one annual burden hours) for participants.

Part 3—Simulator Study

1. Screening Questionnaire (Form 2161)

An estimated 120 participants (40 respondents annually) will complete a screening questionnaire to determine study eligibility. Respondents are expected to take an estimated average of three minutes to complete the questionnaire and will complete this questionnaire 1 time per respondent, resulting in a total of six burden hours (two annual burden hours).

2. Participant Scheduling (Form 2162)

Participants who pass the screening are potential candidates for scheduling. Participants must be at least 18 years of age, have a driver's license for at least one year, have adequate visual acuity and normal color vision and hearing, and not have conditions that leave them susceptible to simulation sickness (*e.g.,* issues with dizziness, motion sickness, sea sickness, migraines, etc.). There will also be natural attrition from participants who lose interest after they've filled out the screening form. This will restrict the number of participants who are eligible for scheduling, from 120 who complete the screening survey to those who are scheduled and take the consent form in the next line item. For scheduling participants for the first simulator driving session, along with the informed consent and vision evaluation, the research team will reach out to the participant with their preferred method (*e.g.,* email or phone), and coordinate the best available time for both the research team and the participant. Participant Scheduling for First Session, using the maximum of 40 respondents (13 annually), is expected to take two minutes and will be completed three times per respondent resulting in a total of four burden hours (one annual burden hour).

3. Informed Consent (Form 2163)

While NHTSA estimates that 120 respondents will begin the screening process, NHTSA estimates that only 40 (13 respondents annually) will complete informed consent, anticipating that either some respondents may choose not to proceed with the study or that the experimenter may determine that they should not participate (uncooperative, impaired, etc.). The visit to the UMN facility will begin with a consenting process that includes an overview of the study, an explanation of the consent form, and an opportunity for the potential participants to ask questions and get clarification. Those individuals who consent to the study and enroll will complete the Informed Consent form (Form 2163) and move on to the next process. This consent process and completion of the Informed Consent form, using the maximum of 40 respondents (13 annually), are expected to take five minutes and will be completed one time per respondent, resulting in a total of three burden hours (one annual burden hour). This is a digital form, which participants are required to sign digitally and are able to download a copy if desired.

4. Vision Evaluation (Form 2164)

In order to ensure that the participants in the study have comparable visual capabilities, they will be evaluated on their visual acuity and color vision, due to the UMN simulator study having significant visual requirements. The evaluation will comprise a combination of the typical Snellen test for visual acuity, as well as Ishihara's Concise Color Vision Test. The former requires participants to read rows of letters in progressively smaller font sizes, and the latter requires participants to identify numbers and lines in colored plates. This vision evaluation, using the maximum of 40 respondents (13 annually), is expected to take 10 minutes and will be completed one time per respondent, resulting in a total of seven burden hours (two annual burden hours).

5. Pre-Simulator Questionnaire (Form 2165)

Before the simulation drive, participants are administered the pre-drive Short Stress State Questionnaire (SSSQ), which assesses the change in task stress experienced by the participant during the simulator drive. This Pre-Simulator Questionnaire, using the maximum of 40 respondents (13 annually), is expected to take two minutes and will be completed three times per respondent, resulting in a total of four burden hours (one annual burden hour).

6. Driving Simulation Checklist (Form 2166)

The simulated world will consist of a roughly 10-mile stretch of a four-lane or six-lane divided highway at dusk or nighttime conditions, *i.e.,* to maximize the visibility of brake lamp indications in the projection system-based simulation environment. Participants will be presented with a brief urban driving scenario featuring a series of city blocks and signalized intersections. Participants will be given an indication of which lane they should travel in and, depending on beta and pilot testing results, may be prompted to reach a set speed and set their cruise control to maintain this speed. Distractor and target vehicles will be presented in the roadway and will be programmed to travel at an independent speed or a speed which maintains a constant distance from the participant's vehicle. Participants are expected to perform four 10-mile drives during each test session. The Simulator Driving Session 1, using the maximum of 40 respondents (13 annually), is expected to take 50 minutes and will be completed three times per respondent, resulting in a total of 100 burden hours (33 annual burden hours).

7. Post-Simulator Drive Questionnaire (Form 2167)

After completing the four drives, participants will complete the Post-Simulator Drive Questionnaire (Form 2167. This includes a set of questions assessing respondents' understanding of the meaning of the flashing brake lamps, along with the sense of urgency, usefulness, ease of interpretation, and annoyingness, distractingness, and discomfort of the brake lamps in the driving scenario. Other questions include Rating Scale Mental Effort (RSME) and the post-drive version of the Short Stress State Questionnaire (SSSQ). The RSME assesses how mentally demanding the drive was for the participant, and the SSSQ assesses the change in task stress experienced by the participant during the simulator drive by measuring the participant's self-reported stress before (Pre-Questionnaire) and immediately after (Post-Questionnaire) the drive. The Post-Stimulator questionnaire also has a set of questions examining symptoms of simulation sickness (Wellness Questionnaire), to ensure the health and well-being of participants after the drive. This set of questionnaires, using the maximum of 40 respondents (13 annually), is expected to take 10 minutes and will be completed three times per respondent, resulting in a total of 20 burden hours (seven annual burden hours).

8. Demographics Questionnaire (Form 2168)

After the first set of drives, a set of questionnaires is administered, which includes demographic questions asking about age, sex, education level, racial background, region of habitation (urban, suburban, rural), and area the participant drives. This set of questionnaires, using the maximum of 40 respondents (13 annually), is expected to take one minute and will be completed one time per respondent, resulting in a total of one burden hour (0.43 annual burden hours).

9. Post-Simulator Study Questionnaire (Form 2169)

After completing all three simulation sessions, participants will complete the post-simulator study questionnaire. These include questions about participant experience with pulsating brake lights and whether they've encountered, driven, or owned a vehicle with pulsating brake lights. This will also include a brief debriefing period where the participant will verbally communicate their experiences with the simulated drives. The Post-Simulator Study Questionnaire, using the maximum of 40 respondents (13 annually), is expected to take five minutes and will be completed once per respondent, resulting in a total of three burden hours (one annual burden hour).

For ease in understanding the calculations for burden and opportunity cost, Tables *1, 2,* and *3* summarize the estimated annual burden hours for each of the study-related activities and forms, based on a 3-year period. *Note: For Tables 1–3, Annual Number of Respondents is rounded to the nearest 1, Cost per Response is rounded to the nearest $.01, Annual Burden Hours are rounded to the nearest hour, Annual Opportunity Cost is rounded to the nearest $1, and Loaded Annual Opportunity Cost is rounded to the nearest $1. There may be some discrepancies in the tables due to rounding. The annual information will be entered into ROCIS.*

TABLE 1—ANNUAL BURDEN ESTIMATES BY INFORMATION COLLECTION

[Part 1—Test track study]

Information collection	Annual number of respondents	Frequency of response	Time per response (minutes)	Cost per response	Annual burden hours	Annual opportunity cost (AHE = $36.16)	Loaded annual opportunity cost
Screening questionnaire (Form 2150)	33	1	20	$12.05	11	$398	$517
Participant Reminders (Form 2151)	10	1	2	1.21	0	12	16
Informed Consent (Form 2152)	10	1	6	3.62	1	36	47
IRS Form W–9	10	1	2	1.21	1	12	16
Vision/Hearing evaluation (Form 2153)	10	1	2	1.21	0	12	16
Surface Street: Controlled driving on the Smart Roads (orientation, drive-time) (Form 2154)	10	1	130	78.35	22	783	1,019
Highway: Prescribed driving on public roads (orientation, drive-time) (Form 2155)	10	1	35	21.09	6	211	274
Post-Drive Questionnaire (Form 2156)	10	1	5	3.01	1	30	39
Total					41	1,494	1,944

TABLE 2—ANNUAL BURDEN ESTIMATES BY INFORMATION COLLECTION

[Part 2—Survey research]

Information collection	Annual number of respondents	Frequency of response	Time per response (minutes)	Cost per response	Annual burden hours	Annual opportunity cost (AHE = $37.01)	Loaded annual opportunity cost
Informed Consent (Form 2157)	67	1	5	$3.08	6	$207	$269
One-time Pre-Questionnaires (Form 2158)	67	1	1	0.62	1	41	54

TABLE 2—ANNUAL BURDEN ESTIMATES BY INFORMATION COLLECTION—Continued
[Part 2—Survey research]

Information collection	Annual number of respondents	Frequency of response	Time per response (minutes)	Cost per response	Annual burden hours	Annual opportunity cost (AHE = $37.01)	Loaded annual opportunity cost
Survey Research Data Collection and Driver Response (Form 2159)	67	54	0.5	0.31	30	1,116	1,451
One-time Post-Questionnaires (Form 2160)	67	1	1	0.62	1	41	54
Total					38	1,405	1,828

TABLE 3—ANNUAL BURDEN ESTIMATES BY INFORMATION COLLECTION
[Part 3—Simulator study]

Information collection	Annual number of respondents	Frequency of response	Time per response (minutes)	Cost per response	Annual burden hours	Annual opportunity cost (AHE = $40.09)	Loaded annual opportunity cost
Screening questionnaire (Form 2161)	40	1	3	$2.00	2	$80	$104
Participant Scheduling (Form 2162)	13	3	2	1.34	1	52	68
Informed Consent (Form 2163)	13	1	5	3.34	1	43	56
Vision evaluation (Form 2164)	13	1	10	6.68	2	87	113
Pre-Simulator Questionnaire (Form 2165)	13	3	2	1.34	1	52	68
Driving Simulation Checklist (Form 2166)	13	3	50	33.41	33	1,303	1,694
Post-Simulator Drive Questionnaire (Form 2167)	13	3	10	6.68	7	261	339
Demographic Questionnaire (Form 2168)	13	1	1	0.67	0	9	11
Post-Simulator Study Questionnaire (Form 2169)	13	1	5	3.34	1	43	56
Total					48	1,930	2,509

Estimated Total Annual Burden Cost: $0.

The only cost burdens respondents will incur are costs related to travel to and from the research location. The costs are minimal and are expected to be offset by the honorarium that will be provided to the research participants.

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.

Cem Hatipoglu,

Associate Administrator, Office of Vehicle Safety Research.

[FR Doc. 2026–17612 Filed 8–27–26; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2020–0116; Notice 2]

Mercedes-Benz USA, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Mercedes-Benz AG (MBAG) and Mercedes-Benz USA, LLC (MBUSA), (collectively, ''Mercedes-Benz''), have determined that certain model year (MY) 2020–2021 Mercedes-Benz GLE and GLS Class motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 Kilograms (10,000 pounds) or Less.* Mercedes-Benz filed a noncompliance report dated October 30, 2020. Mercedes-Benz subsequently petitioned NHTSA on November 16, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces the grant of Mercedes-Benz's petition.

FOR FURTHER INFORMATION CONTACT: Kamna Ralhan, Office of Vehicle Safety Compliance, NHTSA, (202) 366–6443.

SUPPLEMENTARY INFORMATION:

I. Overview: Mercedes-Benz has determined that certain MY 2020–2021 GLE and GLS Class motor vehicles do not fully comply with the requirements of paragraph S4.3(c) of FMVSS No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 Kilograms (10,000 pounds) or Less* (49 CFR 571.110). Mercedes-Benz filed a noncompliance report dated October 30, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Mercedes-Benz subsequently petitioned NHTSA on November 16, 2020, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

Notice of receipt of Mercedes-Benz's petition was published with a 30-day public comment period, on April 23, 2021, in the **Federal Register** (86 FR 21792). One comment was received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/*. Then follow the online search instructions to locate docket number ''NHTSA–2020–0116.''

II. Vehicles Involved: Approximately 22,439 MY 2020–2021 Mercedes-Benz GLE350, GLE450, GLE580, GLS450, and GLS580 motor vehicles, manufactured between July 7, 2018, and October 16, 2020, are potentially involved.

III. Noncompliance: Mercedes-Benz explains that the noncompliance is that the subject vehicles are equipped with a vehicle placard affixed to the driver's side B-pillar of the vehicle that erroneously overstates maximum permissible cold tire pressure and therefore, does not fully meet the requirements specified in paragraph S4.3(c) of FMVSS No. 110. Specifically, the vehicle placard overstates the maximum permissible cold tire pressure as 320 kPa (46.41 psi), when it should state a maximum cold tire pressure of 300 kPa (43.5 psi).

IV. Rule Requirements: Paragraph S4.3(c) of FMVSS No. 110 includes the requirements relevant to this petition. Each vehicle, except for a trailer or incomplete vehicle, shall show the information specified in S4.3(a) through (g), and may show, at the manufacturer's option, the information specified in S4.3(h) and (i), on a placard permanently affixed to the driver's side B-pillar. This information shall be in the English language and conform in color and format, not including the border surrounding the entire placard, as shown in the example set forth in Figure 1 in this standard. At the manufacturer's option, the information specified in S4.3 (c), (d), and, as appropriate, (h) and (i) may be shown, alternatively to being shown on the placard, on a tire inflation pressure label which must conform in color and format, not including the border surrounding the entire label, as shown in the example set forth in Figure 2 in this standard.

V. Summary of Mercedes-Benz's Petition: The following views and arguments presented in this section, ''V. Summary of Mercedes-Benz's Petition,'' are the views and arguments provided by Mercedes-Benz and do not reflect the views of the Agency. Mercedes-Benz describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Mercedes-Benz says that although the placard and gas tank flap contain the incorrect tire inflation pressure of 320 kPa (46.41 psi), the tire sidewall indicates that the maximum cold tire inflation pressure is 300 kPa (43.5 psi). Mercedes-Benz believes that this discrepancy does not cause any risk of over-inflation because the tires were designed to have a maximum tire inflation pressure of 350 kPa (50.8 psi).

Mercedes-Benz states that if a consumer were to rely upon the incorrect tire inflation pressure of 320 kPa (46.41 psi), there is no risk of tire overloading because the subject tires are designed and manufactured to withstand a maximum tire pressure of 350 kPa (50.7 psi). Mercedes-Benz says that the supplier confirmed that inflating the tires to the 320 kPa (46.41 psi) limit listed on the placard or the 300 kPa (43.5 psi) limit listed on the side wall would not affect vehicle performance or safety. Mercedes-Benz says that other than the subject noncompliance, the affected tires meet or exceed all applicable FMVSS performance requirements.

Mercedes-Benz contends that in the past, for petitions involving a similar noncompliance, NHTSA ''has recognized that slight discrepancies in the listed tire pressure and deviations in the information listed in the placard do not have a consequential effect on motor vehicle safety'' Mercedes-Benz says that the Agency granted a petition submitted by Chrysler Group, LLC, in 2013 where the placards equipped on the affected vehicles did not correctly identify the size of the tires that were installed on the vehicles. According to Mercedes-Benz, the Agency concluded that the noncompliance was inconsequential to motor vehicle safety because, among other reasons, the vehicles were equipped with tires that were ''appropriate to handle the vehicle maximum loads when inflated to the maximum tire pressure.'' [1] Mercedes-Benz claims that the Agency has used the same rationale when specific information was missing from the vehicle placard.[2] Mercedes-Benz also claims that the Agency has ''recognized that the maximum tire inflation pressure indicated on the tire sidewall have somewhat limited safety value'' and that the Agency ultimately decided to retain maximum inflation pressure labeling requirements as an aid in preventing over-inflation.[3]

Mercedes-Benz argues that because the subject tires were designed and engineered to have a greater maximum inflation pressure than is indicated on the placard or under the gas tank flap, there is no risk of over-inflation. Furthermore, Mercedes-Benz says that 300 kPa (43.5 psi). is a sufficient maximum pressure for the tires installed on the subject vehicles. Therefore, Mercedes-Benz claims that if the consumer relied on the value provided on the tire sidewall, there is also no risk of under pressurizing the tire. Both 300 kPa (43.5 psi) and 320 kPa (46.41 psi) are appropriate pressures for the GVWR of the subject vehicle and would not affect the operation of the tire pressure monitoring system. Further, if the tire is inflated to 320 kPa (46.41 psi) as listed on the placard and gas tank flap, the load-carrying capacity of the vehicle would not be affected.

Mercedes-Benz says owners of the subject vehicle may seek guidance from their Roadside Assistance program during the vehicle warranty period and any Mercedes-Benz customer may contact the Mercedes-Benz Customer Assistance center. Mercedes-Benz adds that all of the remaining information provided on the vehicle placard is accurate, ''including the vehicle loading capacity and tire size and dimensions, which further confirms that the vehicle is not susceptible to overloading even if the tires are inflated to 320 kPa (46.41 psi).''

Mercedes-Benz cites NHTSA as stating that the Agency has ''historically granted petitions for inconsequentiality for inaccurate tire placards where the grantee has supplied sufficient reasoning to support . . . a conclusion [that there is no adverse safety impact.''] [4]

Mercedes-Benz concludes by contending that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

VI. Public Comment: NHTSA received one comment from a member of the general public expressing concern with the subject noncompliance.[5] The

[1] *See* Chrysler Group, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 38443 (June 26, 2013).

[2] *See* General Motors, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 84 FR 25117 (May 30, 2019).

[3] *See* Grant of Petition of Michelin North America, 70 FR 10161 (March 2, 2005).

[4] *See* Kia Motors, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 85 FR 39676 (July 1, 2020).

[5] *See https://www.regulations.gov/comment/NHTSA-2020-0116-0003.*

commenter stated that Mercedes-Benz should not have made the error and appeared to be dissatisfied with the use of metric measurements in the U.S. market.

VII. NHTSA's Analysis: Mercedes-Benz acknowledges that the tire placard and information listed in the gas tank cap/placard label indicate that the maximum tire pressure is 320 kPa (46.41 psi) while the tire sidewall lists a maximum tire pressure of 300 kPa (43.5 psi). Pursuant to FMVSS 110 S4.3.4, the maximum tire inflation pressure shown on the placard must be equal to or less than the maximum tire inflation pressure on the tire sidewall.

The intent of FMVSS No. 110 is to ensure that vehicles are equipped with tires appropriate to handle maximum vehicle loads and to prevent overloading. FMVSS No. 110 requires that the original tires on a vehicle and the tires listed on the vehicle placard be the same size and that the tires, at the manufacturer recommended inflation pressure, be appropriate for the designed vehicle maximum load conditions.

NHTSA agrees with Mercedes-Benz that the tire placard on certain MY 2020–2021 GLE and GLS Class vehicles overstating the maximum cold tire pressure as 320 kPa (46.41 psi) instead of 300 kPa (43.5 psi) does not present a safety risk, because the tires are designed to safely withstand inflation pressures up to 350 kPa (50.8 psi) without affecting vehicle performance, load capacity, or the Tire Pressure Monitoring System (TPMS). Mercedes-Benz explains that the difference between the tire sidewall and what was included on the vehicle placard does not present any risk of over-inflation since, per the tire manufacturer, the tires were designed to withstand a maximum permissible inflation pressure of 350 kPa (50.8 psi). However, vehicle owners should always maintain their tires at the manufacturer's recommended inflation pressure, as over-inflation can lead to serious safety issues like tire blowouts, decreased traction, faster treadwear and potential crashes. In addition, the supplier has confirmed that there are no effects on vehicle performance and there would be no adverse safety consequences if the tires were inflated to either the 300 kPa (43.5 psi) limit on the tire sidewall or the 320 kPa (46.41 psi) limit indicated on the placard. Inflating the tires at either 300 kPa (43.5 psi) or 320 kPa (46.41 psi) is appropriate for the vehicle's GVWR. Inflating the tires to the pressure listed on either the tire sidewall or the value listed on the placard would not impact the operation of the Tire Pressure Monitoring System (TPMS) and the vehicle's load carrying capacity would not be impacted or reduced if the tire is inflated to 320 kPa (46.41 psi) if the consumer followed the inflation level on the placard or under the gas tank flap.

NHTSA observes that a member of the public commented that Mercedes-Benz should not have made this error and further appeared to disagree with metric measurements being used in the U.S. market. While NHTSA appreciates and encourages public participation in making determinations, we did not find these comments relevant to the issue raised by this petition.

Based upon the arguments presented, NHTSA has reviewed and accepts Mercedes-Benz's analyses and supporting documentation that the noncompliance is inconsequential to motor vehicle safety. The difference in the tire pressure listed on the placard is 20 kPa (3 psi) higher than the pressure on the tire sidewall and the tire manufacturer specifies that the tires are actually designed to withstand a maximum permissible inflation pressure of 350 kPa (50.8 psi) which is 9.4 percent more than what is listed on placard. Further, the tires meet or exceed all applicable FMVSS performance requirements.

VIII. NHTSA's Decision: In consideration of the foregoing, NHTSA finds that Mercedes-Benz has met its burden of persuasion that the subject FMVSS No. 110 noncompliance in the affected vehicles is inconsequential to motor vehicle safety. Accordingly, Mercedes-Benz's petition is hereby granted, and Mercedes-Benz is consequently exempted from the obligation of providing notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicles that Mercedes-Benz no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Mercedes-Benz notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8.)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2026–17611 Filed 8–27–26; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them. The vessels placed on the SDN List have been identified as property in which a blocked person has an interest. Additionally, OFAC is publishing updates to the identifying information of one person currently included on the SDN List.

DATES: This action was issued on August 24, 2026. See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Licensing, 202–622–2480; Assistant Director for Sanctions Compliance, 202–622–2490; or *https://ofac.treasury.gov/contact-ofac.*

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: *https://ofac.treasury.gov.*

Notice of OFAC Actions

A. On August 24, 2026, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

BILLING CODE 4810–AL–P

Individuals

1. MOGHADDAM, Mohammad Hossein Aslani, Tehran, Iran; DOB 06 Jun 1984; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 0063747480 (Iran) (individual) [NPWMD] [IFSR] (Linked To: NOΛVΛRΛN ΛXIS PRIVΛTE JOINT STOCK COMPANY)

   Designated pursuant to section 1(a)(iv) of Executive Order (E.O.) 13382 of June 28, 2005, "Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters," 70 FR 38567, 3 CFR, 2005 Comp., p. 170 (E.O. 13382), for acting or purporting to act for or on behalf of, directly or indirectly, NOAVARAN AXIS PRIVATE JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

2. QIU, Xingyu (Chinese Simplified: 邱星宇), China; DOB 06 May 1985; POB Guangxi Province, China; nationality China; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 450722198505062036 (China) (individual) [NPWMD] [IFSR] (Linked To: BRE INTERNATIONAL LOGISTICS CORPORATION HK LIMITED).

   Designated pursuant to section 1(a)(iv) of E.O. 13382 for acting or purporting to act for or on behalf of, directly or indirectly, BRE INTERNATIONAL LOGISTICS CORPORATION HK LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13382.

3. ZHANG, Limei (Chinese Simplified: 张丽美) (a.k.a. "ZHANG, Susan"), Jiangxi, China; DOB 12 Oct 1979; nationality China; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Female; National ID No. 362326197910120024 (China) (individual) [NPWMD] [IFSR] (Linked To: SWEET OCEAN INDUSTRIAL LIMITED).

   Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, SWEET OCEAN INDUSTRIAL LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13382.

4. LI, Na (Chinese Simplified: 李娜) (a.k.a. "LEE, Lina"; a.k.a. "LI, Ivy"; a.k.a. "LI, Lena"), Shenzhen, Guangdong, China; DOB 13 Sep 1980; POB Zhangsha, Hunan, China; nationality China; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Female; National ID No. 43011119800913332X (China) (individual) [NPWMD] [IFSR] (Linked To: SWEET OCEAN INDUSTRIAL LIMITED).

   Designated pursuant to section 1(a)(iv) of E.O. 13382 for acting or purporting to act for or on behalf of, directly or indirectly, SWEET OCEAN INDUSTRIAL LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13382.

5. TIAN, Jianbai (Chinese Simplified: 天健栢) (a.k.a. "TIAN, Danny"), Shenzhen, Guangdong, China; DOB 12 Apr 1979; POB Zhangsha, Hunan, China; nationality China; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Passport ED5502534 (China) expires 18 Jun 2028; National ID No. 430111197904123334 (China) (individual) [NPWMD] [IFSR] (Linked To: SWEET OCEAN INDUSTRIAL LIMITED).

   Designated pursuant to section 1(a)(iv) of E.O. 13382 for acting or purporting to act for or on behalf of, directly or indirectly, SWEET OCEAN INDUSTRIAL LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13382.

6. TSORIS, Georgios (a.k.a. TSORIS, George), Greece; DOB 06 May 1985; nationality Greece; Gender Male; National ID No. AI576453 (Greece) (individual) [NPWMD] [IFSR] (Linked To: ISLAMIC REPUBLIC OF IRAN SHIPPING LINES).

   Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, ISLAMIC REPUBLIC OF IRAN SHIPPING LINES, a person whose property and interests in property are blocked pursuant to E.O. 13382.

7. FATTOUH, Mohammad Ahmed Suhil (Arabic: محمد أحمد سهيل فتوح) (a.k.a. "CAPTAIN HAMZAH"), United Arab Emirates; DOB 02 Jan 1981; POB Tartous, Syria; nationality Syria; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport N00330931 (Syria) expires 25 Sep 2029; National ID No. 10010062528 (Syria); alt. National ID No. 784-1981-4806537-2 (United Arab Emirates) expires 16 Nov 2034; Citizen's Card Number 141059717 (United Arab Emirates) (individual) [SDGT] [IFSR] (Linked To: NATIONAL IRANIAN OIL COMPANY).

   Designated pursuant to section 1(a)(iii)(C) of Executive Order (E.O.) 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism," 66 FR 49079, 3 CFR, 2001 Comp., p. 786, as amended by Executive Order 13886 of September 9, 2019, "Modernizing Sanctions To Combat Terrorism," 84 FR 48041, 3 CFR, 2019 Comp., p. 356 (E.O. 13224, as amended), for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the NATIONAL IRANIAN OIL COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

8. OBUKHOV, Ivan, United Arab Emirates; DOB 17 Jun 1983; nationality Ukraine; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport GB253946 (Ukraine) expires 29 Sep 2031; alt. Passport PU715824 (Ukraine); alt. Passport RA018981 (Saint Lucia) (individual) [SDGT] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

9. GANDHI, Mansoor Tayabbhai, Singapore; DOB 19 Aug 1975; nationality Singapore; Gender Male; Passport K3654306D (Singapore); National ID No. S7533881C (Singapore) (individual) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of Executive Order 13902 of September 28, 2010, "Imposing Sanctions With Respect to Additional Sectors of Iran," 85 FR 2003, 3 CFR, 2020 Comp., p. 299 (E.O. 13902), for operating in the petroleum sector of the Iranian economy.

10. TSORIS, Almpertos (a.k.a. TSORIS, Alberto), Greece; DOB 07 Jan 1987; nationality Greece; Gender Male; Digital Currency Address - USDT TJCBpxZ3yC7C7oegSRZMFxBcscmUVeSA36; Passport AK205981 (Greece) (individual) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

11. BALUJEH, Saber Shahbazi (Arabic: صابر شهبازی بالوجه), Mianeh, Iran; DOB 21 Apr 1988; POB Mianeh, Iran; nationality Iran; Email Address cekarmehmet@gmail.com; alt. Email Address Hid333n@gmail.com; alt. Email Address Hid3333n@gmail.com; alt. Email Address Hid33333n@gmail.com; alt. Email Address Hid3n.mark@gmail.com; alt. Email Address Hid3n.h4nds@gmail.com; alt. Email Address Hid3n.h4nds@yahoo.com; alt. Email Address Evelyn.kroli00@gmail.com; alt. Email Address alfakhaym@gmail.com; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 1534000151 (Iran) (individual) [CYBER4].

Designated pursuant to section 1(a)(ii)(A) of Executive Order 13694 of April 1, 2015, "Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities," 80 FR 18077, 3 CFR, 2015 Comp., p. 297, as amended by Executive Order 13757 of December 28, 2016, "Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities," 82 FR 1, 3 CFR, 2016 Comp., p. 659, and as further amended by Executive Order 14144 of January 16, 2025, "Strengthening and Promoting Innovation in the Nation's Cybersecurity," 90 FR 6755, and Executive Order 14306 of June 6, 2025, "Sustaining Select Efforts To Strengthen the Nation's Cybersecurity and Amending Executive Order 13694 and Executive Order 14144," 90 FR 24723 (E.O. 13694, as further amended), for being responsible for or complicit in, or having engaged in, directly or indirectly, cyber-enabled activities originating from or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have materially contributed to, a

threat to the national security, foreign policy, or economic health or financial stability of the United States, and that have the purpose of or involve harming, or otherwise compromising the provision of services by, a computer or network of computers that support one or more entities in a critical infrastructure sector.

12. BLAGH, Keyvan Fayyaz Gareh (Arabic: كيوان كريمى), Iran; DOB 19 Dec 1987; POB East Azerbaijan; nationality Iran; Email Address piter.chek0011@gmail.com; alt. Email Address k.pirsa2018@gmail.com; alt. Email Address strompiter@gmail.com; alt. Email Address oliviazyana2@gmail.com; alt. Email Address heamhsm@gmail.com; alt. Email Address keyvan.ajaxtm@yahoo.com; alt. Email Address keyvan.ajaxtm@gmail.com; alt. Email Address Bl4ck.k3yv4n@yahoo.com; alt. Email Address jakjak2017@mail.ru; alt. Email Address jj.kk.44@mail.ru; alt. Email Address aahid@bk.ru; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Digital Currency Address - XBT bc1qf6zxs4lkp9umh6hf087mh70w0ymcyt8cunp58r; alt. Digital Currency Address - XBT bc1qr2pwmvkpq5tc5um2g9uh34yyu6wepwx89rts70; alt. Digital Currency Address - XBT bc1q4ktvxxhhvf8qhs9qkdsm9arcxfmmeex6rl7n50; alt. Digital Currency Address - ETH 0x4060cbf80734193f521a3cc6fd4e985df2825279; alt. Digital Currency Address - ETH 0x56de1527136f76a809e5b14ded6103eecd072ba7; alt. Digital Currency Address - ETH 0x8694ed130432be2cd3efff2e4d9dc52351dc7423; alt. Digital Currency Address - ETH 0xbd3276f265b83b5e828c05f46cde9d10a1521a24; alt. Digital Currency Address - ETH 0xf1c4c44d2dcbcfa704349e3b57628dbd8404e597; Digital Currency Address - TRX TXR4FDAZZLDSvuRxveW9aBMybbaS12WWHk; alt. Digital Currency Address - TRX TP3kVtnFgDSoSqzw178nLJtGWNjrbKNgB6; National ID No. 1520054157 (Iran) (individual) [CYBER4].

Designated pursuant to section 1(a)(ii)(A) of E.O. 13694, as further amended, for being responsible for or complicit in, or having engaged in, directly or indirectly, cyber-enabled activities originating from or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have materially contributed to, a threat to the national security, foreign policy, or economic health or financial stability of the United States, and that have the purpose of or involve harming, or otherwise compromising the provision of services by, a computer or network of computers that support one or more entities in a critical infrastructure sector.

13. GHAL'EH-KUHI, Mojtaba (Arabic: مجتبى قلعه كوهى), Iran; DOB 29 Jun 1988; POB Iran; nationality Iran; Email Address amandalekhaym@gmail.com; alt. Email Address lekhaymp@gmail.com; alt. Email Address lekhaymf@gmail.com; alt. Email Address lekhaymo@gmail.com; alt. Email Address Spamtools.net@gmail.com; alt. Email Address mojtabaurmia@gmail.com; alt. Email Address mehdicfive@yahoo.com; alt. Email Address mojtabaurmia@yahoo.com; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; alt. Digital Currency Address - XBT 1GXeCkFQq7SYo6B7wdLAPkkri6NFTFB7No; Digital Currency Address - ETH 0x1b8579cf6ab12ea6b74ac5fa41f3829a3cb61e6e; National ID No. 2900670063 (Iran) (individual) [CYBER4].

Designated pursuant to section 1(a)(ii)(A) of E.O. 13694, as further amended, for being responsible for or complicit in, or having engaged in, directly or indirectly, cyber-enabled activities originating from or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have materially contributed to, a threat to the national security, foreign policy, or economic health or financial stability of the United States, and that have the purpose of or involve harming, or otherwise compromising the provision of services by, a computer or network of computers that support one or more entities in a critical infrastructure sector.

14. KADKHODA'I, Mohammad Reza (Arabic: محمدرضا کدخدائی), Mianeh, Iran; DOB 13 Feb 1991; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 1520139497 (Iran) (individual) [CYBER4].

    Designated pursuant to section 1(a)(ii)(A) of E.O. 13694, as further amended, for being responsible for or complicit in, or having engaged in, directly or indirectly, cyber-enabled activities originating from or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have materially contributed to, a threat to the national security, foreign policy, or economic health or financial stability of the United States, and that have the purpose of or involve harming, or otherwise compromising the provision of services by, a computer or network of computers that support one or more entities in a critical infrastructure sector.

15. KAHZADIAN, Arman (Arabic: آرمان کهزادیان), 11 KH Ashrafi Eshfahani KH Eskandarzadeh Golestan, Falakeh Dovom Sadehgieh, Tehran, Iran; DOB 11 Feb 1992; POB Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Digital Currency Address - XBT 1JGPiQGK78xTxAVoxA1MjK3Z15M84Rj6BL; alt. Digital Currency Address - ETH 0xeb507efa9ee692a4c774ad1de9f3cb26fc459da3; alt. Digital Currency Address - ETH 0xef85a6fafa5942a964dc618e94e230881d29ce2a; National ID No. 4490181450 (Iran) (individual) [CYBER4].

    Designated pursuant to section 1(a)(ii)(A) of E.O. 13694, as further amended, for being responsible for or complicit in, or having engaged in, directly or indirectly, cyber-enabled activities originating from or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have materially contributed to, a threat to the national security, foreign policy, or economic health or financial stability of the United States, and that have the purpose of or involve harming, or otherwise compromising the provision of services by, a computer or network of computers that support one or more entities in a critical infrastructure sector.

Entities

1. BOSITONG SUPPLY CHAIN SHENZHEN CO LTD (Chinese Simplified: 波斯通供应链深圳有限公司), No. 72, Fuzhong Road, Building A, Fuzhong Industrial Park, Huaide Community, Fuyong Sub-District, Baoan District, Shenzhen, Guangdong 518000, China; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 28 Dec 2023; Unified Social Credit Code (USCC) 91440300MAD9CGTF5C (China) [NPWMD] [IFSR] (Linked To: QIU, Xingyu).

   Designated pursuant to section 1(a)(iv) of E.O. 13382 for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, QIU, Xingyu, a person whose property and interests in property are blocked pursuant to E.O. 13382.

2. BRE INTERNATIONAL LOGISTICS CORPORATION HK LIMITED (Chinese Traditional: 波斯通香港國際物流有限公司), Rm 5 9/F, Golden Indl Building, 16-26 Kwai Tak St, Kwai Chung, Hong Kong, China; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 23 Oct 2019; Business Registration Number 71290579 (Hong Kong) [NPWMD] [IFSR] (Linked To: NOAVARAN AXIS PRIVATE JOINT STOCK COMPANY).

   Designated pursuant to section 1(a)(iv) of E.O. 13382 for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, NOAVARAN AXIS PRIVATE JOINT STOCK COMPANY, a person whose property and interests in property in blocked pursuant to E.O. 13382.

3. DEC PHOTONICS LIMITED (Chinese Traditional: 迪信光電有限公司), Rm B37, 17/F, Chiap King Indl Bldg, 114 King Fuk St, San Po Kong, Kowloon, Hong Kong, China; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 01 Mar 2024; Business Registration Number 76261351 (Hong Kong) [NPWMD] [IFSR] (Linked To: SHENZHEN SWEET OCEAN TECHNOLOGY LIMITED).

   Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, SHENZHEN SWEET OCEAN TECHNOLOGY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13382.

4. HK JIATAI TECHNOLOGY LIMITED (Chinese Traditional: 香港嘉泰科技有限公司), Rm 728, 7/F, Liven Hse, 61-63 King Yip St, Kwun Tong, Kowloon, Hong Kong, China; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 10 Nov 2009; Business Registration Number 51391181 (Hong Kong) [NPWMD] [IFSR] (Linked To: SWEET OCEAN INDUSTRIAL LIMITED).

   Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or

goods or services in support of, SWEET OCEAN INDUSTRIAL LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13382.

5. NOAVARAN AXIS PRIVATE JOINT STOCK COMPANY (Arabic: شركت نوآوران اكسيس) (a.k.a. AXIS INNOVATIONS PRIVATE JOINT STOCK COMPANY; a.k.a. NOAVARAN AXIS BRE; a.k.a. NOAVARAN AXIS INTERNATIONAL TRANSPORTATION COMPANY; a.k.a. "BEYOND THE REALITY EXPRESS"; a.k.a. "BRE"; a.k.a. "BRE EXPRESS"; a.k.a. "BRE INTERNATIONAL COURIER AND EXPRESS SERVICE"; a.k.a. "BRE INTERNATIONAL SHIPPING AND EXPRESS COMPANY"; a.k.a. "BRE LINE"; a.k.a. "IRAN BRE EXPRESS"), BRE Building, No. 2, Second Boostan, between Dadman St and Darya St, Saadat Abad, Farahzadi Blvd, Tehran, Iran; Ground Floor, No. 648, Taha Building, Corner of Mahdavieh Alley, North Taleghani Blvd, Azadegan Square, Karaj, Iran; Website www.bre-line.com; alt. Website www.bre-line.co; alt. Website www.bre-line.org; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 14 May 2012; National ID No. 10320768375 (Iran); Registration Number 425353 (Iran) [NPWMD] [IFSR] (Linked To: MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS).

   Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS, a person whose property and interests in property are blocked pursuant to E.O. 13382.

6. RPT TECHNOLOGY LIMITED (Chinese Traditional: 瑞普達科技有限公司), B37, 17/F, Chiap King Indl Bldg, 114 King Fuk St, San Po Kong, Hong Kong, China; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 04 Mar 2025; Business Registration Number 77790062 (Hong Kong) [NPWMD] [IFSR] (Linked To: LI, Na).

   Designated pursuant to section 1(a)(iv) of E.O. 13382 for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, LI, Na, a person whose property and interests in property are blocked pursuant to E.O. 13382.

7. SHENZHEN BOSITONG LOGISTICS CO LTD (Chinese Simplified: 深圳波斯通物流有限公司) (a.k.a. SHENZHEN PERSIAN LOGISTICS CO LTD), 101, Building 35, Cuigang Industrial Zone 5, Huaide Community, Fuyong Street, Bao'an District, Shenzhen, Guangdong 518000, China; No. 72, Huaidefu Middle Road, Fuyong, Bao'an District, Shenzhen, China; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 19 Jun 2015; Registration Number 440306113174026 (China); Unified Social Credit Code (USCC) 91440300342827438E (China) [NPWMD] [IFSR] (Linked To: QIU, Xingyu).

   Designated pursuant to section 1(a)(iv) of E.O. 13382 for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or

indirectly, QIU, Xingyu, a person whose property and interests in property are blocked pursuant to E.O. 13382.

8. SHENZHEN HUAMEI LIANYUN INTERNATIONAL LOGISTICS CO LTD (Chinese Simplified: 深圳市华美联运国际物流有限公司) (a.k.a. HUAMEI INTERNATIONAL LOGISTICS CO LTD; a.k.a. SHENZHEN HUAMEI INTERMODAL LOGISTICS CO LTD), Room 102, No. 3, Lane 6, Xiantian Second District, Huaide Community, Fuyong Street, Bao'an District, Shenzhen, Guangdong, China; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 20 Mar 2014; Unified Social Credit Code (USCC) 91440300093890283T (China) [NPWMD] [IFSR] (Linked To: NOAVARAN AXIS PRIVATE JOINT STOCK COMPANY).

   Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, NOAVARAN AXIS PRIVATE JOINT STOCK COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

9. VAST MART SDN BHD, Arcoris Soho A2-6-10, Arcoris 10, Jalan Kiara, Mont Kiara, Wilayah Persekutuan 50480, Malaysia; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 20 Nov 2020; Registration Number 202001037871 (Malaysia) [NPWMD] [IFSR] (Linked To: SWEET OCEAN INDUSTRIAL LIMITED).

   Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, SWEET OCEAN INDUSTRIAL LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13382.

10. SWEET OCEAN INDUSTRIAL LIMITED (Chinese Traditional: 思源實業有限公司), Workshop 60, 3/F, Block A, East Sun Industrial Centre, No. 16 Shing Yip Street, Kowloon, Hong Kong, China; Rm No. 2 G/F, Kwai Shun Industrial Centre, No. 51-63 Container Port Road, Kwai Chung, N.T., Hong Kong, China; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 06 Mar 2009; Company Number 1312848 (Hong Kong); Business Registration Number 50358562 (Hong Kong) [NPWMD] [IFSR] (Linked To: MALEK ASHTAR UNIVERSITY OF TECHNOLOGY).

    Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, MALEK ASHTAR UNIVERSITY OF TECHNOLOGY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

11. MT TRADING AND LOGISTICS HK LIMITED (Chinese Traditional: 尚乘商貿物流有限公司), G/F, 13 Shek Kip Mei Street, Sham Shui Po, Kowloon, Hong Kong, China; Website www.mttlhk.com; Additional Sanctions Information - Subject to Secondary Sanctions; Organization

Established Date 25 Aug 2011; Business Registration Number 58953766 (Hong Kong) [NPWMD] [IFSR] (Linked To: SHENZHEN SWEET OCEAN TECHNOLOGY LIMITED).

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, SHENZHEN SWEET OCEAN TECHNOLOGY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13382.

12. SHENZHEN SWEET OCEAN TECHNOLOGY LIMITED (Chinese Simplified: 深圳市晨涛科技有限公司) (a.k.a. SHEN ZHEN SWEET OCEAN TECHNOLOGY LIMITED; a.k.a. SHENZHEN CHENTAO TECHNOLOGY CO LTD), 2103C, Block 1, Tower AB, Hengming Bay Chuanghui Center, Huilongpu Community, Longcheng Subdistrict, Longgang District, Shenzhen, China (Chinese Simplified: 恒明湾创新中心 1 栋 AB 座 2103C, 龙城街道回龙埔社区, 龙岗区, 深圳市, China); Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 21 Oct 2011; Unified Social Credit Code (USCC) 91440300584098952E (China) [NPWMD] [IFSR] (Linked To: TIAN, Jianbai).

Designated pursuant to section 1(a)(iv) of E.O. 13382 for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, TIAN, Jianbai, a person whose property and interests in property are blocked pursuant to E.O. 13382.

13. TIANY TECHNOLOGY LIMITED (Chinese Traditional: 天毅科技有限公司), Room 30, 3/F, Block A, East Sun Industrial Center, 16 Shing Yip Street, Kwun Tong, Kowloon, Hong Kong, China; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 29 Apr 2021; Business Registration Number 72940723 (Hong Kong) [NPWMD] [IFSR] (Linked To: SHENZHEN SWEET OCEAN TECHNOLOGY LIMITED).

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, SHENZHEN SWEET OCEAN TECHNOLOGY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13382.

14. FEILI CO LIMITED (Chinese Traditional: 乏得有限公司), Flat 1512, 15/F, Lucky Centre, No. 165-171, Wan Chai Road, Wan Chai, Hong Kong, China; Organization Established Date 07 Mar 2022; Company Number 3133079 (Hong Kong) [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of Executive Order 13902 of January 10, 2020, "Imposing Sanctions With Respect to Additional Sectors of Iran," 85 FR 2003, 3 CFR, 2020 Comp., p. 299 (E.O. 13902), for operating in the financial sector of the Iranian economy.

15. FEISU LIMITED (Chinese Traditional: 沸俗有限公司), Room 1508, 15/F., Office Tower Two, Grand Plaza, 625 Nathan Road, Kowloon, Hong Kong, China; Organization Established Date 15 Mar 2022; Company Number 3135085 (Hong Kong) [IRAN-EO13902].

    Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

16. GUSKA CO LIMITED (Chinese Traditional: 谷思卡有限公司), Room 5003, Floor 5, Yau Lee Centre, 45 Hoi Yuen Road, Kwun Tong, Hong Kong, China; Organization Established Date 24 Jan 2022; Company Number 3123905 (Hong Kong); Business Registration Number 73753179 (Hong Kong) [IRAN-EO13902].

    Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

17. MINVUR LIMITED (Chinese Traditional: 明霧有限公司), Room 1006, 10/F., Po Yip Building, 23 Hing Yip Street, Kwun Tong, Kowloon, Hong Kong, China; Organization Established Date 26 Sep 2022; Company Number 3193564 (Hong Kong) [IRAN-EO13902].

    Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the financial sector of the Iranian economy.

18. AMDEH SHIP MANAGEMENT AND OPERATION CO. L.L.C (Arabic: أمده لإدارة السفن وتشغيلها شركة الشخص الواحد ذ م م), Business Bay, Dubai, United Arab Emirates; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 11 Dec 2023; License 1274903 (United Arab Emirates) [SDGT] (Linked To: FATTOUH, Mohammad Ahmed Suhil).

    Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, MOHAMMAD AHMED SUHIL FATTOUH, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

19. FOSCOM FZE (Arabic: فوسكوم م م ح), First Floor, C1 Building, Ajman Free Zone, Ajman, United Arab Emirates; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 15 Sep 2015; Company Number 10315473 (United Arab Emirates); License 15735 (United Arab Emirates); Chamber of Commerce Number 85499 (United Arab Emirates) [SDGT] (Linked To: OBUKHOV, Ivan).

    Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, IVAN OBUKHOV, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

20. GOOD LUCK SHIPPING LLC (Arabic: ش.م.ذ شيبينج لاك جو), Office 207, Spectrum Building, Block B, Oud Metha, Dubai, United Arab Emirates; Organization Established Date 15 Jun 2011; License 655319 (United Arab Emirates); Chamber of Commerce Number 194069 (United Arab Emirates); Business Registration Number 1077919 (United Arab Emirates); Economic Register Number (CBLS) 10871867 (United Arab Emirates) [NPWMD] [IFSR] (Linked To: ISLAMIC REPUBLIC OF IRAN SHIPPING LINES).

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, ISLAMIC REPUBLIC OF IRAN SHIPPING LINES, a person whose property and interests in property are blocked pursuant to E.O. 13382.

21. TARGET HORIZON SHIPPING LLC (Arabic: ش.م.ذ تارجيت هوريزون للشحن), 1st Floor, Spectrum Building, Block A, Oud Metha, Bur Dubai, Dubai, United Arab Emirates; Office No 302-063, Oud Metha, Bur Dubai, Dubai, United Arab Emirates; P.O. Box 114644, Dubai, United Arab Emirates; Organization Established Date 23 Feb 2019; License 827208 (United Arab Emirates); Chamber of Commerce Number 316692 (United Arab Emirates); Business Registration Number 1394643 (United Arab Emirates); Economic Register Number (CBLS) 11338289 (United Arab Emirates) [NPWMD] [IFSR] (Linked To: ISLAMIC REPUBLIC OF IRAN SHIPPING LINES).

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, ISLAMIC REPUBLIC OF IRAN SHIPPING LINES, a person whose property and interests in property are blocked pursuant to E.O. 13382.

22. UNIQUE OASIS SHIPPING SERVICES LLC (Arabic: ش.م.ذ الشحن لخدما يونيك اوسيس), Office No 01-902, Naif, Deira, Dubai, United Arab Emirates; Organization Established Date 22 Apr 2022; License 1053964 (United Arab Emirates); Chamber of Commerce Number 398706 (United Arab Emirates); Economic Register Number (CBLS) 11871593 (United Arab Emirates) [NPWMD] [IFSR] (Linked To: ISLAMIC REPUBLIC OF IRAN SHIPPING LINES).

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, ISLAMIC REPUBLIC OF IRAN SHIPPING LINES, a person whose property and interests in property are blocked pursuant to E.O. 13382.

23. ARC CHARTERING PTE. LTD., 1 Maritime Square #12-19 Harbourfront Centre, Singapore 099253, Singapore; Organization Established Date 20 May 2014; Business Registration Number 201414506Z (Singapore) [IRAN-EO13902] (Linked To: GANDHI, Mansoor Tayabbhai).

Designated pursuant to section 1(a)(iv) of E.O. 13902 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or

indirectly, MANSOOR TAYABBHAI GANDHI, a person whose property and interests in property are blocked pursuant to E.O. 13902.

24. AZURE SHIPPING PTE. LTD., 52 Telok Blangah Road, #03-07, Telok Blangah House, Singapore 098829, Singapore; Organization Established Date 20 May 2014; Business Registration Number 201414464Z (Singapore) [IRAN-EO13902].

    Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

25. ESTANICA TRADING LTD, 2, Athenaeum Road, London N20 9AE, United Kingdom; Organization Established Date 2025; Identification Number IMO 0451162; Company Number 16617090 (United Kingdom) [IRAN-EO13902].

    Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

26. LA NIVERNAISE DE RAFFINAGE SAS, 3 Rue Auguste Lambiotte, Premery, Bourgogne Franche Comte 58700, France; Organization Established Date 17 Jul 2024; Identification Number 931085575-00021 (France) [IRAN-EO13902] (Linked To: WELLBRED TRADING SA).

    Designated pursuant to section 1(a)(iv) of E.O. 13902 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, WELLBRED TRADING SA, a person whose property and interests in property are blocked pursuant to E.O. 13902.

27. LILIMOON NAVIGATION INC, Room 1204, Building S2, BFC, Zhongshan Dong'erlu, Huangpu Qu, Shanghai 200000, China; Organization Established Date 2026; Identification Number IMO 0428792 [IRAN-EO13902].

    Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

28. RIQUEZA GROUP LTD, Room 20, Unit B3, 7th Floor, Tuen Mun Industrial Centre, San Ping Circuit, Hong Kong, China; Organization Established Date 25 Mar 2022; Identification Number IMO 6311376; Business Registration Number 73893636 (Hong Kong) [IRAN-EO13902].

    Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

29. SHIP FUELS AND TRADE DMCC (Arabic: شيب فيولز أند ترايد ش م ح) (a.k.a. SHIP FUELS AND TRADE FZCO), Unit No. 3101 A, Jumeirah Bay Tower X2, Parcel JLT-PH2-X2A, Dubai, United Arab Emirates; Organization Established Date 04 Mar 2019; License DMCC-649512 (United Arab Emirates); Registration Number DMCC160040 (United Arab Emirates) [IRAN-EO13902].

    Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

30. SHIPOIL FZCO (Arabic: شيبويل ش م ح) (a.k.a. SHIPOIL DMCC), Unit No. 3101 B, Jumeirah Bay 2, Plot No. JLT-PH2-X2A, Dubai, United Arab Emirates; Organization Established Date 21 Jan 2022; License DMCC-835128 (United Arab Emirates); Registration Number DMCC192409 (United Arab Emirates) [IRAN-EO13902].

    Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

31. SHIPOIL LIMITED, 28/F United 28-25 The Lee Garden Two, 28 Yun Ping Road, Causeway Bay, Hong Kong, China; Organization Established Date 15 Oct 2014; Business Registration Number 63936193 (Hong Kong) [IRAN-EO13902].

    Designated pursuant to section 1(a)(iii) of E.O. 13902 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SHIPOIL FZCO.

32. SIFRA SHIPPING COMPANY, Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro 96960, Marshall Islands; Organization Established Date 21 Aug 2025; Identification Number IMO 0319857; Business Registration Number 133491 (Marshall Islands) [IRAN-EO13902].

    Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

33. SKY OIL AND GAS ASIA LIMITED (Chinese Traditional: 天石油天然氣亞洲有限公司), Room 1203, 12/F Tower 3, 33 Canton Road TSIM Sha Tsui, Hong Kong, China; Organization Established Date 19 Mar 2026; Business Registration Number 80004511 (Hong Kong) [IRAN-EO13902] (Linked To: GANDHI, Mansoor Tayabbhai).

    Designated pursuant to section 1(a)(iv) of E.O. 13902 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, MANSOOR TAYABBHAI GANDHI, a person whose property and interests in property are blocked pursuant to E.O. 13902.

34. VIENNA SHIPPING CO., LIMITED (Chinese Traditional: 維也納航運有限公司), Office A105, First Floor, New East Industrial Building, Shing Yip Street, Kowloon, Hong Kong, China; Organization Established Date 15 Sep 2022; Identification Number IMO 6359173; Business Registration Number 74425199 (Hong Kong) [IRAN-EO13902].

    Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

35. WELLBRED CAPITAL PTE. LTD. (a.k.a. MIDWAY FACTORY PARTNERS PTE. LTD.; a.k.a. WELLBRED INTERNATIONAL LLC), Republic Plaza, #35-04, Singapore 048619, Singapore; Website www.wellbred.com; Organization Established Date 07 Feb 2012; Legal Entity Number 549300SBTBBLS3IWG738;

Registration Number 201202925N (Singapore) [IRAN-EO13902] (Linked To: SHAMKHANI, Mohammad Hossein).

Designated pursuant to section 1(a)(iv) of E.O. 13902 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, MOHAMMAD HOSSEIN SHAMKHANI, a person whose property and interests in property are blocked pursuant to E.O. 13902.

36. WELLBRED TRADING FZCO (Arabic: ويلبريد تريدينغ ش م ح) (a.k.a. WELLBRED TRADING DMCC), Unit No: 2002 Uptown Tower, Plot No: DMCC-UD-T2, Uptown, Dubai, United Arab Emirates; Website www.wellbred.com; Organization Established Date 01 Aug 2019; License DMCC-716928 (United Arab Emirates); Legal Entity Number 9845002CDA0EA04BKA17 [IRAN-EO13902] (Linked To: WELLBRED CAPITAL PTE. LTD.).

    Designated pursuant to section 1(a)(iv) of E.O. 13902 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, WELLBRED CAPITAL PTE. LTD., a person whose property and interests in property are blocked pursuant to E.O. 13902.

37. WELLBRED TRADING SA, 10 Rue de Rive, Geneva 1204, Switzerland; Website www.wellbred.com; Organization Established Date 09 Sep 2018; Tax ID No. CHE215617096 (Switzerland); Legal Entity Number 894500H7QHLWL62ZKC38; Registration Number CHE66028760184 (Switzerland) [IRAN-EO13902] (Linked To: WELLBRED CAPITAL PTE. LTD.).

    Designated pursuant to section 1(a)(iv) of E.O. 13902 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, WELLBRED CAPITAL PTE. LTD., a person whose property and interests in property are blocked pursuant to E.O. 13902.

Vessels

1. G SILVER LPG Tanker Cameroon flag; Former Vessel Flag Panama; Vessel Year of Build 1997; Vessel Registration Identification IMO 9139696 (vessel) [IRAN-EO13902] (Linked To: VIENNA SHIPPING CO., LIMITED).

    Identified as property in which VIENNA SHIPPING CO., LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

2. QUANTUM HOPE (YJRQ4) Crude Oil Tanker Vanuatu flag; Vessel Year of Build 2002; Vessel Registration Identification IMO 9233650; MMSI 577708000 (vessel) [IRAN-EO13902] (Linked To: RIQUEZA GROUP LTD).

    Identified as property in which RIQUEZA GROUP LTD, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

3. SIFRA LPG Tanker Botswana False flag; Former Vessel Flag Comoros; Vessel Year of Build 1999; Vessel Registration Identification IMO 9185346 (vessel) [IRAN-EO13902] (Linked To: SIFRA SHIPPING COMPANY).

   Identified as property in which SIFRA SHIPPING COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

4. TELA (C5J926) Crude Oil Tanker Gambia flag; Vessel Year of Build 2000; Vessel Registration Identification IMO 9189110; MMSI 629009824 (vessel) [IRAN-EO13902] (Linked To: ESTANICA TRADING LTD).

   Identified as property in which ESTANICA TRADING LTD, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

5. VOYAGE ELITE (C5J66) Crude Oil Tanker Gambia flag; Vessel Year of Build 2005; Vessel Registration Identification IMO 9286138; MMSI 629009052 (vessel) [IRAN-EO13902] (Linked To: LILIMOON NAVIGATION INC).

   Identified as property in which LILIMOON NAVIGATION INC, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

B. On August 24, 2026, OFAC updated the SDN List entry for the following person, whose property and interests in property subject to U.S. jurisdiction continue to be blocked. The listing below reflects the amended entry on the SDN List.

—From—

MESRI, Behzad (a.k.a. "Skote Vahshat"), Iran; DOB 26 Aug 1988; alt. DOB 27 Aug 1988; POB Naghadeh, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male (individual) [HRIT-IR] [CYBER2] (Linked To: NET PEYGARD SAMAVAT COMPANY).

—To—

MESRI, Behzad (Arabic: بهزاد مصری) (a.k.a. "Skote Vahshat"), Iran; DOB 26 Aug 1988; alt. DOB 27 Aug 1988; POB Naghadeh, Iran; nationality Iran; Email Address skotc.vahshat@gmail.com; alt. Email Address Aynaz.hamidi1@gmail.com; alt. Email Address 3xp10it.db@gmail.com; alt. Email Address smtptest2023@gmail.com; alt. Email Address Alexmary895@gmail.com; alt. Email Address B14ck.m4rk3t1@gmail.com; alt. Email Address Findemail.io@gmail.com; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; alt. Digital Currency Address - XBT 12aNKp2iDKuhEde2YfPdd4DFGenRUTKupL; alt. Digital Currency Address - ETH 0x252a8bd2319d8a555b872990601221b3a2053bce; alt. Digital Currency Address - ETH 0x1CAb8177ACe78b1B6B1c393371F4f2dCAE40CbEB; alt. Digital Currency Address - ETH 0x6Fac4D18c912343BF86fa7049364Dd4E424Ab9C0;

alt. Digital Currency Address - ETH 0xA40cFBFc8534FFC84E20a7d8bBC3729B26a35F6f; alt. Digital Currency Address - ETH 0x7F03679B56d8772530EFA516b58Bb83d4829E881; alt. Digital Currency Address - ETH 0x8ac5381FCD9e7395D14e02986c344aADA84B4bC6; alt. Digital Currency Address - ETH 0x9697749A9e8D6C119D8EEb0d6268a1b99C40684c; alt. Digital Currency Address - ETH 0x9DD7fA4B4950154F7e75BdD8A77266B99b94Ec08; alt. Digital Currency Address - ETH 0xb5A69Da691670F62510793F79a9B36c7db1A7b7c; alt. Digital Currency Address - ETH 0x6B0736Fed0634e15E19CC57fBA19cd179c13AbCA; alt. Digital Currency Address - ETH 0xd81414ABc631C6CADAe1C6198b0c2b15a9B4fDe5; alt. Digital Currency Address - ETH 0xF45Ecc3a59C7911181C659cE9115854c6175Be91; alt. Digital Currency Address - TRX TAbbVaBKgH4VBLXgWqACuwoKF4cH1HinQh; alt. Digital Currency Address - TRX TEsxMcVocweTM82Mdmc5diKC6qyCWqSpPv (individual) [HRIT-IR] [CYBER2] (Linked To: NET PEYGARD SAMAVAT COMPANY).

(Authorities: E.O. 13382, E.O. 13224, as amended, E.O. 13902, E.O. 13694, as further amended)

Bradley T. Smith,

Director, Office of Foreign Assets Control.

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Part II

Equal Employment Opportunity Commission

29 CFR Part 1614
Federal Sector Equal Employment Opportunity; Proposed Rule

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1614

RIN 3046–AB46

Federal Sector Equal Employment Opportunity

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed rule.

SUMMARY: The Equal Employment Opportunity Commission (EEOC) proposes revising Federal sector EEO complaint rules to streamline processing, improve effectiveness, and implement the Cummings Act. The rule would end mandatory pre complaint counseling and remove the option to request administrative judge proceedings before a final agency decision. Complainants could seek such proceedings only on appeal, and the EEOC would order them only when necessary or efficient. The rule would bar administrative class complaint adjudication while preserving putative class assertions for exhaustion. The rule also allows joint processing of related individual complaints and updates pleading standards, mixed case procedures, attorney fee provisions, and required reports.

DATES: Comments must be received on or before September 28, 2026.

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

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

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

FOR FURTHER INFORMATION CONTACT: Raymond Peeler, Associate Legal Counsel, Equal Employment Opportunity Commission, (202) 921–3240, *raymond.peeler@eeoc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Equal Employment Opportunity Commission (''EEOC'' or ''Commission'') administers and enforces the Federal-sector equal employment opportunity (EEO) complaint process under section 717 of title VII of the Civil Rights Act of 1964, as amended, and related statutes prohibiting discrimination in employment. EEOC regulations at part 1614 of title 29 of the Code of Federal Regulations currently govern the processing and adjudication of EEO complaints filed by Federal employees and applicants. The regulations at part 1614 also establish standards for agency EEO programs.

The Federal-sector EEO complaint process has roots long predating current part 1614. Title VII, as originally enacted in 1964, did not apply to the Federal government. At the time, EEO in the Federal sector was addressed through Executive Order, as it had been for many years. *See* Executive Order No. 9980, 13 FR 4,311 (July 28, 1948); Executive Order No. 10590, 20 FR 409 (Jan. 19, 1955); Executive Order No. 10925, 26 FR 1,977 (Mar. 8, 1961); Executive Order No. 11246, 30 FR 12,319 (Sept. 28, 1965); Executive Order No. 11478, 34 FR 12,985 (Aug. 12, 1969). The EEOC, itself just created in 1964, initially had no role in administering these Executive Orders. Responsibility instead fell to the Civil Service Commission, which in 1966 codified its Federal-sector EEO complaint procedures at 5 CFR part 713. Those procedures largely reflected pre-existing procedures promulgated outside the traditional rule-making process under the earlier Executive Orders.

In 1972, Congress amended title VII to add section 717. This new section extended title VII coverage to employees and applicants at most Federal agencies, mandating that ''[a]ll personnel actions affecting employees or applicants for employment [in covered agencies] shall be made free from any discrimination based on race, color, religion, sex, or national origin.'' 42 U.S.C. 2000e–16(a). And the new section gave Federal employees and applicants the right to file a de novo civil action under title VII after exhausting administrative remedies. *Id.* § 2000e–16(d).

Authority to regulate this new administrative process was placed in the Civil Service Commission—not the EEOC. *Id.* § 2000e–16(b) (1972). The Civil Service Commission largely retained the sequence and structure from its 1966 procedural regulations, *supra,* including initial counseling, filing a complaint with the respondent agency, designated opportunities for informal resolution, investigation by the respondent agency, an administrative hearing, final action by the respondent agency, and an appeal to an outside agency.

The Civil Service Commission's oversight of the Federal-sector EEO complaint process lasted just a few years. The Civil Service Reform Act of 1978 abolished the Civil Service Commission. Pursuant to Reorganization Plan No. 1 of 1978 and Executive Order 12106, the EEOC assumed the Civil Service Commission's title VII responsibilities. EEOC also received Federal-sector responsibilities under the Equal Pay Act, the Age Discrimination in Employment Act, and the Rehabilitation Act.

When EEOC assumed these functions, it retained the Civil Service Commission's procedures and standards for EEO complaints. These procedures and standards were simply re-styled and re-codified under part 1613 of title 29 of the Code of Federal Regulations.

In 1989, the EEOC proposed a new framework, to be housed under part 1614, that promised to ''fundamentally restructure[] the Federal sector equal employment opportunity complaint process.'' 54 FR 45747, 45747 (Oct. 31, 1989). Under the new framework, at the conclusion of the hearing process, an EEOC administrative judge would issue a recommended decision. If the agency's ensuing final action rejected the EEOC administrative judge's recommended decision, the complainant could appeal to the EEOC. The final rule, adopted in 1992, confirmed this shift. 57 FR 12634, 12634–12662 (Apr. 10, 1992).

The Commission has revised part 1614 several times since 1992. Revisions in 1999 responded to concerns that the process was too long, involved too many layers of review, encouraged fragmentation of claims, and allowed agencies to revise administrative judge decisions in ways that undermined confidence in impartiality. *See* 64 FR 37644 (July 12, 1999). The 1999 revisions dramatically expanded the role and authority of administrative judges by limiting agencies to issuing final orders stating whether they would fully implement an administrative judge's decision, rather than rewriting that decision. And if an agency did not fully implement an administrative judge's decision, the agency had to simultaneously file an appeal with the Commission.

Part 1614 was last revised in 2012. Those revisions add compliance-review tools, permit agency pilot projects with Commission approval, require notices when investigations were not timely completed, require digital submission of appeal records, and make administrative judge decisions on the merits of class

complaints final subject to appeal. *See* 77 FR 43498 (July 25, 2012).

II. Purpose and Justification of Proposed Rulemaking

The purpose of the Federal-sector EEO complaint process is to ''encourag[e] quicker, less formal, and less expensive resolution of disputes within the Federal Government and outside of court.'' *West* v. *Gibson,* 527 U.S. 212, 219 (1999). The Federal-sector EEO complaint process, in its current form, strays from this purpose. Mandatory pre-complaint counseling, a longstanding fixture of the EEO complaint process, consistently fails to provide employees and applicants with effective resolutions. A regrettably common result of counseling is for employees and applicants to simply abandon their claims. When employees and applicants do file complaints, their claims are routed to an ineffective and unmanageable EEOC hearing process. Proceedings before EEOC administrative judges are too long, too formal, and too adversarial, for both complainants and agencies. These burdens cannot be justified since, in the Commission's experience, the great majority of complaints can be resolved fairly and accurately by agencies based on the existing investigative file without duplicative involvement from an EEOC administrative judge.

The Commission proposes to revise the Federal-sector EEO complaint process to, among other things, rescind mandatory pre-complaint counseling, reserve administrative judge proceedings, including hearings, for cases identified by the EEOC on appeal for targeted referral, clarify standards for attorney's fees, and implement requirements under the Cummings Act.

A. Mandatory EEO Counseling Does Not Produce Results

The current rule mandates pre-complaint EEO counseling in every case ''in order to try to resolve the [allegedly discriminatory] matter.'' 29 CFR 1614.105(a). Counseling has not, however, proved an effective means to this end. From 2017 to 2021, Federal agencies conducted on average 35,618 counselings a year. Despite the high volume, each year on average only 385 cases settled at the pre-complaint stage through EEO counseling. This amounts to 1% of all counselings. In contrast, agency ADR programs—a process wholly separate from EEO counseling and not involving an EEO counselor—resulted in an average of 3,924 pre-complaint settlements each year. This amounts to 11% of pre-complaint matters. EEO counseling's low success rate—both at the bottom line and compared to agency ADR programs—does not justify its substantial burdens.

The EEOC proposes transitioning to a direct filing model. In other words, employees and applicants would be permitted to file complaints without first going through mandatory pre-complaint counseling with the agency. The EEOC invites comments on alternatives to direct filing, including alternative ways, other than mandatory counseling, that complainants and agencies could use the pre-complaint period to resolve complaints before they are filed.

B. Current Administrative Judge Proceedings Are Ineffective

Under the current rule, complainants always have the option to request a hearing and litigate their complaints before an EEOC administrative judge. Consequently, administrative judges preside over thousands of complaints a year. From fiscal year 2017 through fiscal year 2025, the EEOC received an average of 7,514 hearing requests per year. This is not to say the EEOC conducted 7,514 hearings each year. Given the limited resources granted by Congress each year, it would be impossible for the EEOC to conduct a full hearing whenever one is requested. Instead administrative judge proceedings primarily entail filtering and disposing of cases without a hearing, with dismissal or summary judgment in an agency's favor as the most common mechanisms. In application, however, this approach has ossified into a process that is too long, too formal, and too adversarial.

1. The Hearing Process Is Too Long

From fiscal year 2021 through fiscal year 2025, complaints in the EEOC hearing process took an average of 442 days from docketing the hearing request to a decision by the administrative judge. Phrased differently, it takes the EEOC on average 1.21 years to process a single complaint in its hearing process. A process that takes over a year is hardly expeditious.[1]

The overall average, however, does not tell the whole story. Cases naturally vary in complexity and impact. But it should go without saying that those cases where a complainant has a meritorious claim, meaning they have been a victim of unlawful employment discrimination, are the most important. Here the need for expeditious justice is most acute. Yet the EEOC hearing process has utterly failed to deliver timely outcomes. From fiscal year 2021 through fiscal year 2025, successful complainants—in other words victims of unlawful discrimination—had to wait on average an astonishing 962 days, or 2.63 years, before receiving a decision and relief from an EEOC administrative judge. And this is just the average. One in four successful complainants had to wait 1190 days, or 3.26 years, or more to receive a decision and relief. One in ten had to wait 1661 days, or 4.55 years, or more. A process that requires victims of unlawful discrimination to wait so long for their due justice cannot be defended.

These prolonged processing times do not mean that EEOC administrative judges are putting in years of work into each individual case. Rather, to the Commission's observation, much of this time is spent simply waiting on an administrative judge to act. Repeatedly the Commission has found cases ripe for decision simply idling for months on administrative judge dockets. Even cases where liability is clear or likely will sit in docket purgatory as administrative judges prioritize easier closures.

For all this, the quality and accuracy of the eventual decisions by administrative judges do not appear materially superior to what an agency's independent EEO office could have produced at the outset. Returning decision-making to the agency in the first instance and placing a firm deadline on that decision will give complainants and agencies the expeditious results they deserve. This is much more in line with title VII's straightforward requirement that complainants first receive ''final action'' from their employing agency. 42 U.S.C. 2000e–16(c). And should an agency's ''final action'' be incorrect, complainants may still ''appeal'' to the EEOC as contemplated by the statute. *Id.* A targeted appellate process will give the EEOC increased flexibility, compared to the current summary judgment model, to expeditiously identify and resolve potentially meritorious claims.

2. Discovery and Summary Judgment Are Too Formal and Too Adversarial for the Needs of the EEO Process

As the Supreme Court observed in *West, supra,* the EEOC's administrative complaint process is intended to be quicker, less formal, and less expensive than a civil action in Federal district court. 527 U.S. at 219. Yet contrary to this purpose, current EEOC procedures effectively mirror the traditional civil

[1] This figure does not include time spent by the agency during counseling, investigation, implementing or appealing an administrative judge's decision, etc. Overall processing time for a complaint will therefore be even longer.

action, particularly when it comes to discovery and summary judgment. This makes the EEO process costlier, more formal, and more adversarial than it needs to be.

Under the current rule, both parties before the administrative judge have ''the right to seek [pre-hearing] discovery . . . . through interrogatories, depositions, and requests for admissions, stipulations or production of documents.'' 29 CFR 1614.109(d). The EEOC has never defined the right to discovery with precision, leading to significant variability amongst regional offices and individual administrative judges. What is common is that both sides, agencies and complainants, abuse the open-ended discovery process for litigation advantage. Extensive and intrusive discovery from an agency can successfully pressure a complainant into withdrawing their hearing request, particularly if they do not have attorney representation. Alternatively, agencies can often convince the administrative judge to dismiss the hearing request as a sanction when a pro se complainant has not fully responded to the letter of the agency's highly technical discovery requests. On the other side of the ledger, complainants can use the high costs of discovery, including the potential for crippling attorney fees, to leverage their settlement demands and secure substantial payouts from the defending agency on even marginal claims. And when both sides hold their ground in discovery, the administrative judge is often left to untangle competing and acrimonious motions to compel. Discovery disputes consume an unjustified share of an administrative judge's time, leaving less time and resources to consider the actual merits of complaints.

Summary judgment is an additional procedural barrier under the current rule. 29 CFR 1614.109(g). The standard and process are virtually identical to summary judgment under Rule 56 of the Rules of Federal Procedure, with a full and lengthy briefing period. This means agencies must invest substantial resources and legal expertise drafting summary judgment motions in order to defend against meritless complaints. For their part, complainants must respond in detail to each agency assertion and argument. Many pro se complainants end up not responding at all, with the consequence that administrative judges routinely consider the motion unopposed and automatically grant judgment in the agency's favor. And even when complainants do respond, administrative judges routinely adopt the agency's motion as their decision, providing no statement of facts or legal analysis of their own. This common practice among administrative judges effectively allows agency defense counsel to write their own decisions. The upshot is that agencies, rather than administrative judges, are already doing most of the heavy lifting on decision-making.

3. Complaints Requiring Hearings Are Rare

The current automatic hearing-request model requires the Commission to maintain—and agencies to litigate—a full docket of thousands of cases each year even though the core function that justifies that docket—an evidentiary hearing—is needed in only a small fraction of matters. From fiscal year 2017 through fiscal year 2025, the EEOC received an average of 7,514 hearing requests per year. Yet, during that same period, only an average of 304 evidentiary hearings per year were held—approximately 4.0 percent of hearing requests. And only an average of 128 cases per year resulted in a finding of liability against an agency—approximately 1.7 percent of hearing requests. Put differently, the automatic hearing-request model generated roughly twenty-five hearing requests for every case that actually went to a hearing, and nearly fifty-nine hearing requests for every case that resulted in agency liability.

4. Reforming Administrative Judge Proceedings

The low hearing rate, coupled with the length, formality, and adversarial nature of administrative judge proceedings, force agencies, complainants, and administrative judges to put nearly all their time, resources, and expertise into cases without merit. The result is an enormous mismatch between the resources consumed by the automatic hearing-request model and the adjudicatory value the model actually delivers. This mismatch is even more concerning when we consider the years it takes administrative judges to address the cases that do have merit. To reiterate, a *successful* complainant ends up waiting on average over two-and-a-half years for a decision from an administrative judge.

The proposed rule addresses the mismatch by replacing the automatic hearing-request model with a targeted referral model. Under the proposed rule, the agency would still be responsible for developing an appropriate factual record through investigation, after which it would issue a prompt final agency decision. A complainant can appeal the final agency decision to the Commission. Through an appeal a complainant can request referral to an administrative judge for a hearing, explaining why a hearing would be necessary or efficient to decide the appeal. Granting the request would be discretionary, with the Commission considering factors such as whether the appeal raises genuine disputes of fact or credibility that cannot be fairly resolved on the current record. The Commission's appellate review would be de novo, and on appeal the Commission may decide the matter on the administrative record, order targeted supplementation of the record, remand for further agency action, or refer the complaint to an administrative judge for proceedings, including a hearing, when necessary or efficient.

When the Commission does refer a matter to an administrative judge, the proceedings would not amount to a wholesale retrial of the complaint but would be limited to an appropriate scope by the Commission's referral order. The purpose of the administrative judge proceedings would be to assist the Commission in resolving the appeal, and to that end, the administrative judge would provide the Commission with a recommended decision, recommended findings, or report. The Commission could adopt, reject, or modify the administrative judge's recommendation as appropriate in arriving at its final decision on the appeal.

Administrative judge proceedings would therefore remain available, but would only occur when the Commission determines that such proceedings are necessary or efficient to resolve an appeal—for example, where there is a genuine dispute of material fact or a material credibility issue that cannot be fairly resolved on the current record, an incomplete record that can be more efficiently supplemented before an administrative judge, or a likely finding of discrimination requiring further remedial proceedings. This approach preserves administrative judge resources for the cases in which they are most likely to add decisional value, while avoiding the costs of routing thousands of cases each year into a decisional structure that, in most cases, does not culminate in a hearing.

The revised process otherwise preserves impartial agency investigations, final agency decisions, Commission de novo appellate review, remedies, compliance procedures, and civil action rights, while allowing the Commission to focus administrative judge resources on cases where live testimony, credibility findings, targeted discovery, or other proceedings are necessary or efficient.

The revised rule would not alter statutory civil action rights. A complainant may file a civil action in Federal district court within the time periods authorized by law and § 1614.407. Filing a civil action terminates Commission processing, including any administrative judge proceedings.

The EEO complaint process was never meant to replace or mirror the civil action. Its purpose is to complement the civil action by providing an alternative avenue for speedy and informal resolution. Conversely, if a complaint requires lengthy formal proceedings or extensive record development through discovery, then a civil action is the more appropriate avenue.

The proposed revisions to part 1614 restore the appropriate balance between the Commission-overseen EEO complaint process and the civil action in Federal court. Complainants and agencies will no longer be subjected to unduly formal and adversarial proceedings before administrative judges by default. When complaints are heard by an administrative judge after a hearing referral on appeal, the judge will promptly reach the merits without bogging the parties down in motion practice. And if this speedier, less formal process does not suit the needs of a particular complainant, they always retain the right to file a de novo civil action in Federal court.

C. Class Complaints

The EEOC has also experienced recurring difficulty in the processing and adjudication of class complaints. Class complaints often require extensive case management, class-definition analysis, notice procedures, discovery management, settlement oversight, and numerous individualized remedial proceedings. The EEOC's Federal-sector administrative process was designed principally to resolve complaints by identified employees and applicants. It has not demonstrated the resources, institutional structure, or specialized capability to adjudicate large classes effectively. Class complaints consequently have remained a perennial source of delay, complexity, and uncertainty for complainants, agencies, and the EEOC. In some cases, the EEOC has taken more than a decade to resolve even threshold certification issues in class complaints.

This proposed rule would revise part 1614 to focus on individual complaints in alignment with the Commission's resources and institutional role. Among other changes, the proposed rule would eliminate administrative class complaints under part 1614, while preserving the ability of an identified complainant to assert a putative class claim for exhaustion purposes. And the proposed rule would preserve the ability of agencies and the Commission to jointly process related individual complaints where joint processing would promote fair, efficient, and timely resolution.

D. Attorney's Fees

Under the current framework, the EEOC has observed significant variability in attorney fee awards. The proposed rule retains the lodestar model but clarifies that rates are determined based on prevailing market rates for work comparable to the EEO administrative process. Fee matrices developed outside the EEO administrative process, such as the *Laffey* Matrix, would generally not be appropriate evidence of the prevailing market rate for work comparable to the EEO administrative process.

E. Cummings Act Implementation

The proposed rule also implements requirements made by the Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020 (''Cummings Act''), enacted as subtitle B of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021. The Cummings Act amended the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (''No FEAR Act'') to strengthen accountability, transparency, and tracking of discrimination and retaliation findings in the Federal Government.

First, the Cummings Act requires the head of a Federal agency subject to a final finding of discrimination, including retaliation, to post a public notice not later than 90 days after the relevant final agency decision or other final agency action, final Commission decision, or court judgment becomes final after exhaustion of appeals. The notice must be posted on the agency's public website in a clear and prominent location linked directly from the homepage, must state that a finding of discrimination or retaliation has been made, and must remain posted for not less than one year. The notice also must identify the date of the finding, the date of each discriminatory or retaliatory act, the law violated, and the rights and protections available to Federal employees.

Second, the Cummings Act requires agencies to report disciplinary action information to the Commission. Not later than 120 days after an agency takes final action, or receives a final Commission decision, involving a finding of discrimination or retaliation, the agency must submit a report to the Commission stating whether disciplinary action has been proposed against a Federal employee as a result of the violation and the reasons for any proposed disciplinary action.

Third, the Cummings Act expands public data posting requirements. Agencies must post additional information concerning findings of discrimination, including the date of the finding, the affected agency, the law violated, and whether a disciplinary action decision has been made. The Act also requires agencies to post data regarding each class action complaint filed against the agency alleging discrimination or retaliation, including the filing date, a general summary of allegations, an estimate of the number of plaintiffs or class members if known, the current status of the complaint, whether a class has been certified, and case numbers for civil actions in which discrimination or retaliation has been found.

Fourth, the Cummings Act requires each Federal agency to establish a system to track each discrimination complaint adjudicated through the EEO process from filing through resolution, including whether a disciplinary-action decision has been made as a result of any finding of discrimination. It also requires an agency that takes an adverse action covered by 5 U.S.C. 7512 against a Federal employee for discriminatory or retaliatory conduct to include, after all appeals of that adverse action have been exhausted, a notation of the adverse action and the reason for it in the employee's personnel record.

Finally, the Cummings Act requires agencies to be responsible for the fair and impartial processing and resolution of employment-discrimination complaints and to establish model EEO programs that are not under the structural or practical control of the agency's human capital office, general counsel's office, or equivalent offices. The Act further requires the head of each agency's EEO program to report directly to the head of the agency.

Accordingly, this proposed rule would update subpart G of part 1614 to implement the Cummings Act's public-notice, reporting, data-posting, complaint-tracking, and personnel-record-notation requirements. It also would revise agency-program requirements in subpart A to reflect the Cummings Act's direction that the agency EEO Director report directly to the agency head and that the EEO program operate independently of offices whose responsibilities may create actual or perceived conflicts in

the fair and impartial processing of discrimination complaints.

III. Section-by-Section Analysis

Authority Citation for Part 1614

The proposed rule would revise the authority citation for part 1614. The revised citation would add 5 U.S.C. 2301 note, reflecting the No FEAR Act and the Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020, and would retain the Commission's existing statutory and Executive Order authorities for Federal-sector EEO complaint processing and agency EEO programs.

Nomenclature Change—Office of Federal Sector

Throughout part 1614, the proposed rule would remove the words ''Office of Federal Operations'' wherever they appear and add, in their place, the words ''Office of Federal Sector.'' This nomenclature change would update the regulatory text to reflect the new name of the Commission office responsible for, among other things, appellate review and oversight functions under this part. The change is non-substantive: it would not alter the office's functions, responsibilities, or authority to act on behalf of the Commission under part 1614. References in prior Commission decisions, orders, management directives, and guidance to the Office of Federal Operations should be understood as references to the Office of Federal Sector. Consistent with this change, all proposed regulatory text in this document refers to the Office of Federal Sector.

Section 1614.102—Agency Program

The proposed rule would amend § 1614.102(a)(8) to modernize the terminology from the outdated ''employees with handicaps'' to the more modern terminology ''employees with disabilities.''

The proposed rule would insert a new paragraph (a)(9) to recognize agencies' obligation to provide reasonable accommodation for pregnancy, childbirth, or related medical conditions unless the accommodation would impose an undue hardship on the agency's program. Current sub-paragraphs (9) through (13) would be renumbered (10) through (14) but otherwise remain the same.

Paragraph (b)(2) of § 1614.102 would continue to require each agency to establish or make available an alternative dispute resolution program. However, the Commission proposes to amend the qualification that such program must ''be available for both the pre-complaint process and the formal complaint process.'' With the removal of mandatory EEO counseling, there will no longer be a delineated ''pre-complaint process.'' To reflect this change, the provision would read: ''be available before and after a complaint is filed.''

Paragraph (b)(4) would revise the requirements for the agency EEO Director. The proposed rule would require the EEO Director to report directly to, and be under the immediate supervision of, the agency head. Reporting to an intermediate official would not satisfy this requirement. This change would implement the independence and reporting-relationship requirements reflected in the Cummings Act and would reinforce the separation of the EEO program from offices whose duties may create actual or perceived conflicts with impartial complaint processing and adjudication.

In addition, the proposed rule would revise § 1614.102(b)(4) to require each agency to designate an EEO Director ''and such other personnel as may be necessary to carry out the functions described in this part,'' rather than listing specific categories of staff such as EEO Officers, Special Emphasis Program Managers, and clerical and administrative support. The Commission proposes to replace that list with the more general term ''other personnel'' while retaining the substantive requirement that agencies designate sufficient staff to carry out part 1614 functions in all organizational units and at all agency installations. The existing list reflects legacy terminology and examples that may no longer correspond to the way all agencies organize their EEO programs. The proposed language also avoids the possible inference that the positions named in the current rule are either mandatory in every agency or exclusive of other necessary EEO functions. A single regulatory list of titles is therefore both underinclusive and potentially over-prescriptive. The more general phrase ''other personnel'' better captures the range of staff an agency may need to carry out the functions of part 1614.

Paragraph (b)(6) would continue to require agencies to ensure full cooperation by agency employees with agency EEO personnel in the processing and resolution of complaints, and full cooperation with the Commission in appeals, including by providing access to personnel records and other agency records when required in connection with an investigation. However, the Commission proposes to eliminate specific references to EEO counselors and pre-complaint processing, as the Commission proposes to eliminate the requirement for pre-complaint processing including required contact with an EEO counselor.

Paragraph (b)(7) would revise agency notice obligations. Agencies would be required to publicize and keep readily accessible the name and contact information of the EEO Director, instructions for requesting pre-complaint technical assistance, instructions for initiating and filing a complaint, available filing methods, and notice of applicable deadlines and procedural requirements. Agencies also would be required to make this information available through appropriate employee communications channels, including electronic means, and to ensure accessibility to employees in headquarters, field, remote, and other duty locations. The Commission proposes to eliminate specific references to EEO counselors, EEO officers, and Special Emphasis Program managers in alignment with the removal of the requirement for pre-complaint contact with an EEO counselor and to eliminate the suggestion that specific positions (other than EEO Director) are required, so as to give agencies more flexibility in structuring their EEO programs.

The proposed rule would add paragraph (b)(8) to state that each agency shall ''maintain a process for employees and applicants to request and receive appropriate and effective pre-complaint technical assistance.''

Paragraph (c)(4) would be revised to conform to the proposed rule's elimination of administrative class complaints. The Commission also proposes to revise this paragraph to remove the requirement that the agency EEO Director be responsible for providing ''counseling for aggrieved individuals'' to conform with the proposed elimination of pre-complaint processing.

Section 1614.103—Complaints of Discrimination Covered by This Part

Paragraph (a) would provide that complaints may be jointly processed as provided in §§ 1614.204 and 1614.606, but that putative class claims may be asserted only as provided in § 1614.204(b) for administrative exhaustion and may not be processed as class complaints under this part.

The proposed amendments to paragraphs (b)(3), (b)(6), and (d)(2) would update references to covered and excluded entities, including the United States Postal Service, Postal Regulatory Commission, Tennessee Valley Authority, Government Publishing

Office, and Government Accountability Office.

Section 1614.104—Agency Processing

The proposed rule would make conforming changes to § 1614.104(a) to reflect the proposed elimination of administrative class complaints.

The proposed rule would add paragraph (c) to allow agencies to petition the Commission for permission to adopt an internal hearing process as part of its complaint adjudication responsibilities. The Director, Office of Federal Sector, would decide petitions and annually review approved internal hearing processes for effectiveness and impartiality. The Director may revoke approval for non-compliant processes upon reasonable notice to the agency and opportunity to demonstrate compliance. The Commission intends that approved hearing processes will be rare and reserved for agencies with compelling needs and reliable pre-existing hearing infrastructure.

The Commission recognizes that in circumstances of compelling need, such as when national security interests are implicated, waiting for a determination from the Commission whether to conduct a hearing or not can negatively impact agency performance and readiness. For these agencies, allowing them to voluntarily support a complainant's request for a hearing on appeal may not be effective enough. If an agency would be negatively impacted by delay, and if the agency already has an effective means to conduct hearings, it makes sense to allow the agency to early on develop evidence through its own hearing before issuing the final agency decision. Proposed paragraph (c) anticipates and meets this need.

By conducting early hearings, approved agencies will likely be able to self-impose liability, and provide relief to the complainant, earlier than would have been achieved through the normal EEOC appeal process. If an agency conducts a hearing and declines liability, the EEOC will benefit from a more robustly developed record on appeal than it otherwise would have. And if the agency declines to conduct a hearing, the EEOC on appeal can still order a hearing before one of its own administrative judges where necessary or efficient.

Section 1614.105—Pre-Complaint Processing

The proposed rule would remove and reserve § 1614.105. Under the proposed rule, the separate pre-complaint counseling provision would be eliminated as a required step. The filing requirements for individual complaints would now be set forth in proposed § 1614.106. Agencies would remain obligated to establish or make available ADR programs and to make reasonable efforts to resolve complaints informally, but the proposed rule would no longer maintain the existing pre-complaint counseling section as a separate regulatory prerequisite.

Section 1614.106—Individual Complaints

The proposed rule would revise § 1614.106 in full. Proposed paragraph (a) would require a complaint to be filed with the agency that allegedly discriminated against the complainant.

Proposed paragraph (b) would establish a 60-day filing period. A complaint, amendment, or supplementation would have to be filed within 60 days of the date of the matter alleged to be discriminatory, or, in the case of a personnel action, within 60 days of the effective date of the action, or, in the case of a hostile work environment or other continuing violation, within 60 days of the most recent act alleged to have contributed to the violation.

Proposed paragraph (c) would specify the required contents of a complaint. A complaint would have to contain a signed statement from the aggrieved person or that person's attorney, identify the complainant and respondent agency, and include sufficient factual information to identify the challenged action, omission, policy, practice, or matter; the alleged basis or bases; the approximate date or time period; and the relief sought, if known. The proposed rule would state that a complaint need not use technical legal terminology, but it must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face based on discrimination prohibited under part 1614.

A plausibility standard is intended to distinguish between complaints that warrant the expenditure of administrative resources and complaints that consist only of labels, conclusions, speculation, or an unadorned assertion that the agency acted unlawfully. The current rule already authorizes dismissal of complaints that fail to state a claim, and the proposed rule would make that screening function more precise by requiring factual allegations sufficient to permit a plausible inference that the challenged agency action, omission, policy, practice, or matter may have been discriminatory.

Once a complaint is accepted, the agency must define the claims, gather documents, obtain testimony, prepare an investigative file, issue a final agency decision, and, if appealed, submit the matter for Commission review. The plausibility standard will ensure that those agency resources are devoted to matters in which the alleged facts, if true, would support a cognizable discrimination claim, rather than to matters that are merely conceivable, conclusory, unrelated to a protected basis, or based on mere disagreement with ordinary workplace decisions unconnected to unlawful discrimination.

Proposed paragraph (d) would govern amendments and supplementations. Current procedures for adding claims to a complaint do not distinguish between claims existing at the time of the original complaint and claims arising after the original complaint. This leads to the anomalous result that a complainant can wait until very late in the investigatory process to ''amend'' their complaint to include claims that were known to exist to the complainant at the time they filed the original complaint. The proposed changes would now properly distinguish between amendments and supplementations and clearly instruct complainants when to file.

A complainant could amend a complaint within 21 days after filing to include claims or issues existing at the time the complaint was filed that are like or related to those raised in the complaint. Before the final agency decision, a complainant could supplement a complaint to include claims or issues arising after the complaint was filed that are like or related to those raised in the complaint. The agency would be required to acknowledge amendments and supplementations and include them in the complaint record. A decision declining to accept an amendment or supplementation would not be immediately reviewable by the Commission but can be reviewed on appeal from the final agency decision on the original complaint.

Proposed paragraph (e) would prescribe the agency's acknowledgment and notice of rights. The agency would be required to acknowledge receipt of a complaint in writing, identify the filing date, and advise the complainant of the agency's duty to conduct an impartial and appropriate investigation and issue a final agency decision. The notice also would explain the applicable deadlines for investigation and decision, the right to appeal the final agency decision to the Commission, the Commission's authority on appeal to decide the matter on the record, supplement the record, remand, or refer the matter to an

administrative judge, and the right to file a civil action.

Section 1614.107—Dismissals of Complaints

The proposed rule would amend § 1614.107 to conform dismissal standards to the proposed revised complaint-processing procedures. Proposed paragraph (a) would continue to identify grounds for dismissal of an entire complaint. The proposed revisions would provide for dismissal where a complaint fails to state a claim under § 1614.103, fails to satisfy the pleading requirements of § 1614.106(c), states the same claim pending before or decided by the agency or Commission, or fails to comply with the filing time limits in § 1614.106.

The proposed rule also would revise paragraph (a)(5) to provide that an agency shall dismiss a complaint that is moot or that alleges that a proposal to take a personnel action, or another preliminary step to taking a personnel action, is discriminatory, unless the complaint alleges a retaliation claim that is plausible on its face.

Proposed paragraph (b) would govern partial dismissals. When an agency determines that some but not all claims should be dismissed, the agency would have to notify the complainant in writing, identify the claims that will not be accepted, explain the rationale, and place the notice in the complaint record. The agency would continue processing any remaining accepted claims.

A partial dismissal would not be immediately reviewable by the Commission but could be reviewed on appeal from the final agency decision on the remainder of the complaint.

Section 1614.108—Investigation of Complaints

The proposed rule would revise § 1614.108 in full. The Commission proposes to add paragraph headings to paragraphs (a) and (b). Current paragraph (a) says the agency shall ''conduct'' the investigation, creating confusion whether an agency may engage in workshare agreements with other agencies for investigations or may use contract investigators. Paragraph (a) would be revised to clearly convey that the agency is ''responsible'' for investigating the complaint. Paragraph (b) would otherwise continue to read the same.

The proposed revision to § 1614.108(c)(3) would preserve the existing duty to cooperate with an EEO investigation but would restate the consequences of noncooperation in a more tailored and legally precise way. Current § 1614.108(c)(3) permits an investigator to note that, when a complainant, agency, or agency employee fails without good cause to respond fully and timely to investigative requests, the decisionmaker or the Commission may draw adverse inferences, deem matters established, exclude evidence, issue a decision fully or partially in favor of the opposing party, or take other appropriate action. The proposed rule would replace that formulation with language allowing the investigator to document the failure and allowing the agency or Commission to consider the failure in evaluating the evidence, draw appropriate nonmonetary evidentiary inferences, exclude untimely produced evidence, or take other nonmonetary procedural or evidentiary action consistent with part 1614 and applicable law.

Proposed paragraph (d) would address classified information and other information requiring special handling. Investigations involving such information would have to be conducted by investigators with appropriate credentials, authorizations, or security clearances, and the Commission would supply the name of an appropriately cleared investigator upon request.

Proposed paragraph (e) would establish investigation deadlines. The agency generally would be required to complete the investigation within 135 days of the filing of an individual complaint. This deadline would be extended to 180 days for an introductory period, until January 1, 2028, to allow agencies time to adapt their EEO programs to the new procedures.

For supplemented complaints, the agency would be required to complete the investigation by the earlier of 135 days after the last accepted supplementation or 270 days after the original complaint was filed.

The complainant and agency could voluntarily extend these deadlines by written agreement for not more than 90 days. The agency also could unilaterally extend the deadline by not more than 30 days where sanitization of a complaint file is necessary because the file may contain classified or other protected information, provided the agency notifies the complainant.

Proposed paragraph (f) would allow the parties to submit additional evidence to the investigator within 15 days of receiving the investigative file. This will allow both parties a full and fair chance to fill in any gaps in the investigatory record before a final agency decision. After the time for supplementing the investigative file elapses, the record is closed.

Proposed paragraph (g) would set the deadline for the agency to issue its final agency decision under § 1614.110 following an investigation. The decision would be due within 30 days of the record closing.

Proposed paragraph (h) would address situations where an agency cannot complete the investigation or issue a final agency decision within the applicable time limits. In such situations, the agency must issue a written notice to the complainant explaining why the investigation or final agency decision has not been completed, estimating when the delayed action will be completed, and informing the complainant of the right to file a civil action. The agency remains responsible for completing the investigation and issuing a final agency decision unless the complainant files a civil action or the Commission otherwise directs. The agency would also be required to simultaneously inform the Office of Federal Sector of delays. This will allow the Office of Federal Sector to monitor compliance in real time and more proactively intervene if an agency misses its deadlines without good cause.

Section 1614.109—Offers of Resolution

The proposed rule substantially revises and renames § 1614.109. Standards for administrative judge proceedings, including hearings, would be moved to § 1614.406 under Subpart D—Appeals and Civil Actions, *infra.* Proposed § 1614.109 would solely address offers of resolutions. The current offer-of-resolution procedure is contained in § 1614.109(c). The existing provision is tied to the hearing process and contains different timing rules depending on whether the complainant is represented by an attorney and whether an administrative judge has been appointed. In the Commission's experience, that provision has been rarely used, notwithstanding its potential to promote settlement and reduce unnecessary attorney fees and costs.[2] The proposed rule would make the procedure more useful by making it available after a written complaint has been filed and at any stage of administrative processing, and specifying the contents and consequences of a valid offer.

[2] *See, e.g.,* EEOC, *The Offer of Resolution Settlement Procedure in the Federal Sector* (March 2023), available at *https://www.eeoc.gov/offer-resolution-settlement-procedure-federal-sector* (describing the existing offer-of-resolution procedure as ''an often overlooked tool'' and stating that the EEOC has seen ''few appeal filings'' raising the procedure since its inception in 1999).

The proposed rule would preserve the settlement-promoting purpose of the existing provision while making it more predictable and enforceable. A valid offer must identify the complaint, claims, and parties to be resolved; state the monetary and nonmonetary relief offered with sufficient specificity; provide for reasonable attorney fees and costs incurred through the end of the acceptance period; remain open for at least 30 days; state whether fees and costs are included in or excluded from the offer; and clearly explain the consequences of rejection. An accepted offer resolves the complaint to the extent stated in the offer and is enforceable under § 1614.504. An accepted offer does not constitute an admission of liability unless the offer expressly so provides.

If a complainant rejects a valid offer and the relief finally obtained is not more favorable than the offer, the complainant may not recover attorney fees or costs incurred after the acceptance period expires, except where the offer was invalid, unenforceable, materially incomplete, or where application of the limitation is prohibited by the governing fee statute. The proposed rule also specifies how the comparison between the offer and the relief finally obtained is to be made. The comparison must be objective, must consider both monetary and nonmonetary relief, must evaluate nonmonetary relief according to practical effect and enforceability, and must exclude post-offer attorney fees and costs from the relief finally obtained. The agency bears the burden of proving both that the offer was valid and that the relief finally obtained was not more favorable.

These revisions are intended to make offers of resolution a practical settlement tool at all stages of the administrative process rather than a rarely used hearing-stage device. The proposed rule encourages agencies to make serious, complete, and enforceable settlement offers early enough to avoid unnecessary administrative expense. It encourages complainants and representatives to evaluate such offers realistically. And it reduces collateral disputes by specifying in the rule the timing, required contents, acceptance procedure, fee consequences, comparison methodology, limitations, treatment of multiple offers, and evidentiary effect of an unaccepted offer.

Section 1614.110—Final Agency Decisions

The proposed rule would retitle § 1614.110 to reflect that the final agency decision is the ordinary adjudication mechanism for all complaints. The proposed rule would revise § 1614.110 in full to replace the current hearing-election structure with a model where the agency must always promptly issue a final agency decision following its investigation, unless the matter is subject to earlier dismissal.

Current § 1614.110 is built around two paths: if an administrative judge issues a decision, the agency issues a final order within 40 days stating whether it will fully implement the administrative judge's decision, and, if it will not, the agency simultaneously appeals; in other cases, the agency issues a final agency decision only for a dismissal, after a complainant's request for an immediate decision, after a complainant's failure to respond to the post-investigation notice offering a hearing or immediate final decision, or as ordered by the Commission.

The proposed section reforms that fractured structure. Because the proposed rule removes the option to request an administrative judge hearing *before* the final agency decision, the agency's ordinary obligation will be to complete the investigation on an accepted complaint and issue a final agency decision on the merits within the time limits proposed by § 1614.108(e). Alternatively, the agency shall issue an immediate final agency decision dismissing the entire complaint for the reasons stated in § 1614.107.

Proposed paragraph (a) would require the agency to issue an immediate final agency decision where the entire complaint is subject to dismissal for the reasons stated in § 1614.107. The final agency decision would describe the dismissed claims, provide the rationale for dismissal, and advise the complainant of appeal rights, civil action rights, and notice that the Commission may decide an appeal on the record, supplement the record, remand the matter to the agency, or refer the matter to an administrative judge.

Proposed paragraph (b) would require the agency to issue a final agency decision on the merits of the accepted complaint within the time limits proposed by § 1614.108(e). The final agency decision would be decided on a preponderance of the evidence standard. The final agency decision would describe the claims, provide rationales for findings of discrimination or no discrimination, provide relief when discrimination is found, and advise the complainant of appeal rights, civil action rights, and notice that the Commission may decide an appeal on the record, supplement the record, remand the matter to the agency, or refer the matter to an administrative judge. If discrimination is found, the agency would provide appropriate remedies and relief under subpart E.

Proposed paragraph (c) would allow an agency that believes administrative judge proceedings would be necessary or efficient if the complainant appeals to include a referral request in or with the final agency decision. The request would have to identify the issues for referral and explain why referral would be necessary or efficient. Such a request would not affect the finality of the agency's decision or the complainant's appeal or civil action rights.

Proposed paragraph (d) would state that a final agency decision issued under § 1614.110 is final agency action for purposes of subparts D and E, subject to Commission review if timely appealed and subject to termination of administrative processing if a civil action is filed.

Section 1614.203—Rehabilitation Act

The proposed rule would amend § 1614.203(d)(3)(iii)(D) to conform the reasonable-accommodation denial-notice provision to the proposed rescission of mandatory pre-complaint EEO counseling. Current § 1614.203(d)(3)(iii)(D) requires agencies to notify individuals denied reasonable accommodation that they must initiate contact with an EEO Counselor under § 1614.105 within 45 days. Because the proposed rule would remove § 1614.105 and establish direct filing of complaints under § 1614.106, the proposed amendment would instead require the denial notice to explain that the individual may file a complaint under § 1614.106 and to identify the applicable filing deadline and procedural requirements.

Section 1614.204—No Class Complaints; Assertion of Putative Class Claims for Administrative Exhaustion; Joint Processing of Related Individual Complaints

The proposed rule would revise § 1614.204 in full. The revised section would eliminate administrative class complaints under part 1614 while preserving limited mechanisms for presenting putative class claims for administrative exhaustion purposes and for jointly processing related individual complaints.

Proposed paragraph (a) would provide that complaints under part 1614 may be filed, accepted, investigated, heard, decided, resolved, appealed, and enforced only as complaints of identified aggrieved persons, except that related complaints or claims may be

processed together under § 1614.204 or § 1614.606. No complaint may be filed, maintained, certified, processed, adjudicated, resolved, appealed, or enforced as a class complaint. Agencies, administrative judges, and the Commission under this part may not certify a class, appoint or recognize a class agent, issue class notice, approve or disapprove a class settlement, adjudicate a class complaint, issue a decision binding absent persons, or award individual relief to persons who are not identified complainants.

Proposed paragraph (b) would allow a complainant to assert a putative class claim in a written complaint, amendment, or supplementation for the purpose of presenting the claim to the agency or Commission for administrative exhaustion purposes. A putative class claim asserted under this paragraph would not be a class complaint and would not make the complainant a class agent or representative. The agency would include the putative class claim in the record and notify the complainant that it will not be certified, heard, decided, resolved, appealed, or enforced as a class complaint. The agency would not investigate the claim as a class complaint, but could investigate the alleged policy, practice, action, or matter to the extent relevant to the complainant's own claim or jointly processed individual claims.

Proposed paragraph (c) would allow two or more identified complainants to file a single joint written complaint or separate complaints concerning substantially similar allegations or the same agency policy, practice, action, or matter. Each identified complainant would have to satisfy the applicable requirements of § 1614.106.

Proposed paragraph (d) would permit identified complainants to request joint processing. It provides that a request should identify the complaints, claims, and complainants proposed for joint processing, describe common questions or relationships among the claims, and explain why joint processing would promote fair, efficient, and timely resolution.

Proposed paragraph (e) would allow the agency or Commission, on its own initiative or on request, to process related individual complaints or claims together where appropriate. Joint processing could include coordinated ADR, investigation, development of a common factual record, discovery, hearings, agency final action, appeals, compliance proceedings, or other case-management procedures.

Proposed paragraph (f) would allow the agency or Commission to decline, limit, discontinue, modify, or sever joint processing where joint processing would cause delay, prejudice, conflicts of interest, privacy or confidentiality concerns, materially different facts or legal issues, classified or protected information issues, or otherwise fail to promote fair, efficient, and timely processing.

Proposed paragraph (g) would preserve the right to receive a decision on an individual complaint. Joint processing and assertion of a putative class claim would not create a class, class representative, class member, opt-in class, opt-out class, or class-wide presumption of discrimination. Joint processing also would not alter any complainant's obligation to satisfy part 1614 requirements or election-of-remedies rules.

Proposed paragraph (h) would govern decisions, settlements, and relief. Findings and determinations would be made as to each identified complainant and claim. The agency or Commission would not make class-wide findings or determine the rights of absent persons. Settlements would have to be in writing, identify the complainants and claims resolved, and bind only the parties to the agreement. Individual relief could be awarded only to identified complainants who are parties to the complaint or proceeding.

Proposed paragraph (i) would clarify the relationship between § 1614.204 and § 1614.606. Complaints processed together would remain individual complaints, and § 1614.204 would supplement the consolidation and joint-processing authority in § 1614.606 without permitting class complaints or class-wide adjudication.

Section 1614.301—Negotiated Grievance Procedures

The proposed rule makes subpart C of part 1614 simpler by reorganizing mixed-case and related-process rules around the questions employees and agencies actually need answered: Which forum may the employee choose? When is the choice made? What must the agency do next? Where does any appeal go? When may the employee go to court? Current subpart C spreads those answers across §§ 1614.301 through 1614.310, including separate provisions for petition contents, EEOC consideration procedures, Special Panel referral, Special Panel organization, Special Panel procedures, and Special Panel enforcement. Many of these provisions simply repeat procedural requirements already clearly stated in the governing statute. To avoid confusion, the proposed rule adopts these requirements by reference to the statute rather than superfluously restating them. The proposal would remove and reserve §§ 1614.304 through 1614.309 and consolidate the operative rules into revised §§ 1614.301, 1614.302, 1614.303, and 1614.310.

Starting with negotiated grievance procedures, the proposed rule would revise § 1614.301 in full. Proposed paragraph (a) would clarify that the section applies only when 5 U.S.C. 7121(d) applies, that is when an aggrieved employee is affected by a prohibited personnel practice described in 5 U.S.C. 2302(b)(1), the matter falls within a negotiated grievance procedure, and that procedure permits discrimination allegations to be raised.

Proposed paragraph (b) would clarify election of remedies. An employee may raise the matter either under part 1614 or under the negotiated grievance procedure, but not both. Election under part 1614 would occur when the employee files a written complaint under § 1614.106. Seeking pre-filing information, technical assistance, or ADR before filing a written complaint would not constitute an election. Election under the negotiated grievance procedure would occur when the employee timely files a written grievance, and the first election would control.

Proposed paragraph (c) would require dismissal of a complaint, or portion of a complaint, that concerns a matter previously elected for processing under a covered negotiated grievance procedure. The dismissal would be without prejudice to the employee's rights in the negotiated grievance process, including rights to seek Merit Systems Protection Board (MSPB) or Commission review of a final grievance decision where available.

Proposed paragraph (d) would state that, where 5 U.S.C. 7121(d) does not apply, the existence or use of a negotiated grievance procedure does not bar processing under part 1614 unless another statute requires an election of remedies.

Section 1614.302—Mixed Cases: Election and Agency Processing

The proposed rule would revise § 1614.302 in full. Proposed paragraph (a) would define a mixed case as a matter in which an employee or applicant is affected by an action appealable to the MSPB and alleges that a basis for the action was discrimination covered by 5 U.S.C. 7702(a)(1)(B) or another statute requiring treatment under 5 U.S.C. 7702.

Proposed paragraph (b) would define ''mixed case complaint'' as a mixed case filed with an agency under part 1614

and ''mixed case appeal'' as a mixed case filed with MSPB.

Proposed paragraph (c) would state the election rule. An employee or applicant may initially file either a mixed case complaint with the agency or a mixed case appeal with MSPB, but not both. The first filing would control, subject to 5 U.S.C. 7702(f) and proposed paragraph (f).

Proposed paragraph (d) would govern agency processing of mixed case complaints. Agencies would process mixed case complaints under subpart A, except that the agency would issue a final decision within 120 days after filing, the complainant would not be entitled to a hearing before a Commission administrative judge, and the final decision would advise the complainant of the right to appeal to MSPB or file a civil action, but not both. If the agency fails to issue a final decision within 120 days, the complainant could appeal to MSPB or file a civil action.

Proposed paragraph (e) would require dismissal of a mixed case complaint, or portion of a complaint, concerning the same matter previously filed as a mixed case appeal with MSPB, unless further agency processing is required by 5 U.S.C. 7702(f) or proposed paragraph (f).

Proposed paragraph (f) would address MSPB dismissals for lack of jurisdiction. Proposed subparagraphs (f)(i) through (f)(iii) lay out clear instructions for individuals to return their cases to the EEO complaint process should the MSPB lack jurisdiction. An individual can return to the EEO complaint process by filing with the agency or Commission, depending on the procedural posture, within 30 days of receipt of the MSPB's dismissal for lack of jurisdiction. Provided the returned matter meets the usual prerequisites, the agency or Commission would process as a non-mixed matter consistent with this part.

Proposed paragraph (g) would clarify that mixed cases first raised under negotiated grievance procedures are governed by § 1614.301, 5 U.S.C. 7121(d), 5 U.S.C. 7702, applicable MSPB regulations, and subpart D as applicable.

Section 1614.303—Commission Consideration of MSPB Decisions in Mixed Cases

The proposed rule would revise § 1614.303 in full. The revised § 1614.303 would simplify Commission review of MSPB decisions by keeping only the essential procedural rule in part 1614: an employee or applicant who receives a final MSPB decision in a mixed case may petition EEOC within 30 days, and the petition must identify the alleged error concerning the discrimination issue.

Proposed paragraph (a) would allow an employee or applicant who receives a final MSPB decision in a mixed case to petition the Commission to consider the Board's decision. The petition would have to be filed within 30 days after receipt of notice of the Board's final decision.

Proposed paragraph (b) would prescribe the petition's form and service requirements. The petition would have to identify the petitioner and MSPB decision and state the alleged error concerning the discrimination issue.

Proposed paragraph (c) would provide that Commission consideration of an MSPB mixed-case decision is governed by 5 U.S.C. 7702, including whether to consider the petition, review of the MSPB record, supplementation, Commission concurrence or disagreement, and referral to MSPB.

Proposed paragraph (d) would provide that MSPB action following a Commission decision that differs from the MSPB decision, certification to the Special Panel, Special Panel proceedings, interim relief, and enforcement are governed by 5 U.S.C. 7702 and applicable MSPB regulations.

Proposed paragraph (e) would state that a Commission determination not to consider an MSPB decision has the effect provided by 5 U.S.C. 7702 and may not be used as evidence on any discrimination issue in a judicial proceeding.

Sections 1614.304 Through 1614.309

The proposed rule would remove and reserve §§ 1614.304 through 1614.309. These provisions would be reserved because the proposed rule would consolidate and streamline the mixed-case rules in revised §§ 1614.302, 1614.303, and 1614.310.

Section 1614.310—Civil Actions in Mixed Cases

The proposed rule would revise § 1614.310 in full. Proposed paragraph (a) would state that an individual with a mixed case may file a civil action in an appropriate United States district court as authorized by 5 U.S.C. 7702 and 7703(b)(2).

Proposed paragraph (b) would identify when a civil action in a mixed case may be filed: within 30 days after receipt of notice of a judicially reviewable action under 5 U.S.C. 7702; after 120 days from filing a mixed case complaint with an agency if there has been no judicially reviewable action and no MSPB appeal; after 120 days from filing a mixed case appeal with MSPB if there has been no judicially reviewable action, subject to 5 U.S.C. 7702(e)(1)(B); or after 180 days from filing a petition with the Commission under § 1614.303 if there has been no final action under 5 U.S.C. 7702(b), (c), or (d).

Proposed paragraph (c) would clarify that § 1614.310 applies only to mixed cases and that civil actions in non-mixed cases are governed by subpart D and applicable law.

Section 1614.401—Appeals to the Commission

The proposed rule would revise § 1614.401 in full. Proposed paragraph (a) would provide that a complainant may appeal an agency's final agency decision.

Proposed paragraph (b) would generally prohibit agency appeals. In other words, an agency may not appeal its own final agency decision.

Proposed paragraph (c) would allow an agency to participate in a complainant's appeal and request referral to an administrative judge under § 1614.406. Such a request would not be an appeal, would not affect the finality of the agency's decision, and would not extend, toll, or restrict the complainant's appeal or civil action rights.

Proposed paragraph (d) would govern grievance appeals. A grievant could appeal a final decision of the agency, arbitrator, or Federal Labor Relations Authority on a grievance when an issue of employment discrimination was raised in a negotiated grievance procedure that permits such issues. A grievant could not appeal under part 1614 while the matter remains pending in the negotiated grievance process, arbitration, or before FLRA; where the matter is appealable to MSPB; or where the matter is not subject to 5 U.S.C. 7121(d).

Proposed paragraph (e) would allow a complainant to appeal from an agency determination on alleged agency noncompliance with a settlement agreement or final agency decision under § 1614.504.

Section 1614.402—Time for Appeals to the Commission

The proposed rule would revise § 1614.402 in full. Proposed paragraph (a) would establish a 30-day deadline for appeals described in § 1614.401(a), (d), and (e), measured from receipt of the applicable dismissal, decision, final action, grievance decision, arbitration decision, FLRA decision, or agency compliance determination. The paragraph would clarify that an agency request for administrative judge

proceedings under §§ 1614.110, or 1614.403, or 1614.406 is not an appeal and does not create an independent appeal period.

Proposed paragraph (b) would provide that, if the complainant is represented by an attorney of record, the appeal period is calculated from receipt by the attorney; otherwise, it is calculated from receipt by the complainant.

Section 1614.403—How To Appeal

The proposed rule would revise § 1614.403 in full. Proposed paragraph (a) would require appeals to be filed with the Director of the Office of Federal Sector in a digital format acceptable to the Commission, through the EEOC Public Portal, FedSEP where applicable, or another Commission-prescribed method. It provides that the appellant should use EEOC Form 573 or a successor form and identify the decision, action, dismissal, or determination being appealed. A complainant could include a request for administrative judge proceedings under § 1614.406 and would have to explain why such proceedings are necessary or efficient. The Commission may deem the issue waived if a complainant fails to request administrative judge proceedings or fails to support a request with an explanation.

The proposed rule adds paragraph headings to paragraphs (b) and (c) but does not alter their content.

Proposed § 1614.403(d) would update the briefing rule for Commission appeals to conform to the proposed appellate model. It would retain the existing rule that a complainant's supporting statement or brief is due within 30 days after filing the notice of appeal, unless the Commission provides otherwise. Current § 1614.403(d) already uses that 30-day deadline for complainant briefs. The principal change is to remove language governing an agency brief ''in support of its appeal.'' Under the proposed rule, agencies generally may not appeal their own final agency decisions.

The paragraph also adds a new function for agency briefs: the agency may ask the Commission to refer the matter, or specified claims or issues, to an administrative judge under § 1614.406. The agency must explain why such proceedings are necessary or efficient.

Finally, the proposed paragraph omits the current facsimile-transmission language and 10-page fax limit. That change fits with the proposed digital-filing structure in § 1614.403(a), (e), and (g), under which appeals, briefs, complaint files, final agency decisions, referral requests, and other filings generally would be submitted in a digital format acceptable to the Commission.

Proposed § 1614.403(e) would revise the agency record submission requirement for Commission appeals. The current rule requires an agency to submit the complaint file within 30 days after notice of a complainant's appeal or within 30 days after an agency appeal. The proposed rule would retain the 30-day deadline after notice of a complainant appeal, but would specify that the agency must submit the complete complaint file, any investigative file, the final agency decision, and any agency request for administrative judge proceedings. The revision also removes the reference to agency appeals, consistent with proposed § 1614.401, and treats any agency request for administrative judge proceedings as part of the complainant's appeal record. Finally, the proposed rule would require the agency to identify any portion of the record that is classified, privileged, protected by law, or subject to special handling so that the Commission can protect sensitive information and manage the record appropriately during appellate review.

Proposed paragraph (f) would set deadlines for opposition briefs. Proposed paragraph (g) would require complainants and agencies to submit complaint files, investigative files, final agency decisions, referral requests, appeal briefs, and other filings digitally absent good cause,.

Section 1614.404—Appellate Procedure

The proposed rule would revise § 1614.404 in full. Proposed paragraph (a) would provide that the Office of Federal Sector reviews the complaint file, investigative file, final agency decision or action, any administrative judge referral record, and party submissions. The Commission could supplement the record by letters, memoranda, targeted requests for information, investigation, remand, referral to an administrative judge, or other procedures consistent with part 1614.

Proposed paragraph (b) would require parties providing supplemental information to serve the other party unless the Commission orders otherwise to protect classified, privileged, protected, or specially handled information.

Proposed paragraph (c) would authorize the Commission to require agencies, complainants, or other persons to provide evidence necessary to resolve an appeal. Where a party or Federal employee fails without good cause to respond fully and timely, the Commission could consider the failure in its decision-making and take appropriate nonmonetary procedural or evidentiary action, including adverse inferences, deeming factual issues established, excluding evidence, limiting argument or evidence, or taking other tailored nonmonetary action.

Proposed paragraph (d) would clarify that § 1614.404 does not authorize the Commission to impose monetary sanctions against a Federal agency except to the extent Congress has expressly waived sovereign immunity for that specific monetary remedy.

Section 1614.405—Decisions on Appeals

The proposed rule would revise § 1614.405 in full. Proposed paragraph (a) would allow the Director, Office of Federal Sector, on behalf of the Commission, to issue a written decision setting forth the reasons for the Commission's decision, except that summary affirmance could be used where the appeal presents no material factual dispute, no colorable legal error, and no issue warranting written discussion. A summary affirmance would constitute the Commission's final decision. The Commission would review agency final decisions de novo on the administrative record and decide factual issues by a preponderance of the evidence.

Proposed paragraph (b) would identify available appellate dispositions. The Commission could affirm, reverse, or modify the agency's decision; find discrimination or no discrimination; order appropriate remedies; order targeted supplementation; remand; refer the matter or specified issues to an administrative judge; or take other action consistent with part 1614.

Proposed paragraph (c) would govern final Commission decisions after administrative judge proceedings. The Commission could adopt, modify, or reject the administrative judge's recommended decision, findings, or report. If discrimination is found, the decision would include appropriate remedies and, where appropriate, entitlement to interest, attorney fees, or costs.

Proposed paragraph (d) would set appellate time standards. The Commission would use best efforts to issue a decision within 180 days after receipt of the appeal. If a matter is referred to an administrative judge, the Commission would use best efforts to issue a decision within 90 days after the Office of Federal Sector receives the administrative judge's recommendation

and hearing record. These standards would not limit civil action rights.

Proposed paragraph (e) would retain reconsideration standards. A Commission decision would be final unless a timely request for reconsideration is filed. A party could request reconsideration within 30 days, and the Commission could grant reconsideration where the party demonstrates a clearly erroneous interpretation of material fact or law or that the decision will substantially affect agency policies, practices, or operations.

Section 1614.406—Administrative Judge Proceedings

The proposed rule would revise § 1614.406 in full and retitle it ''Administrative judge Proceedings.'' The proposed rule would replace the current automatic entitlement to request a hearing before an EEOC administrative judge with a targeted referral-based model in which administrative judge proceedings may occur only when authorized by the Commission during its appellate process.

Proposed paragraph (a) would state that a complainant is not entitled to a hearing before an administrative judge.

Proposed paragraph (b) would authorize the Office of Federal Sector, on behalf of the Commission, to refer a complaint, claim, or issue to an administrative judge in an appeal from a final agency decision where the Commission determines that administrative judge proceedings are necessary or efficient to resolve the appeal.

Proposed paragraph (c) would allow complainants to request administrative judge proceedings in their appeal or supporting statement and would allow agencies to request such proceedings in the final agency decision, accompanying notice, or response to an appeal. Any request would have to identify the issues for which proceedings are sought and explain why proceedings are necessary or efficient.

Proposed paragraph (d) would identify grounds for referral, including genuine disputes of material fact or material credibility determinations that cannot be fairly resolved on the appellate record, materially incomplete investigative records where targeted administrative judge proceedings would be more efficient than remand, complex or significant legal or factual issues, likely findings of discrimination requiring further remedial proceedings, agency requests that would materially assist fair and efficient resolution, and other circumstances promoting fair, efficient, and timely resolution.

Proposed paragraph (e) would allow the Commission to limit the referral to specified claims, issues, remedies, witnesses, documents, time periods, or factual questions. The administrative judge would be required to conduct proceedings within the scope of the referral unless the Commission modifies it.

Proposed paragraph (f) would define an administrative judge's authority in referred matters. Within the scope of the referral order, the administrative judge could order limited discovery or record supplementation, require production of evidence, administer oaths, conduct conferences and evidentiary hearings, limit cumulative or burdensome evidence, take nonmonetary procedural or evidentiary measures to address noncompliance, compile the hearing record, issue recommended decisions or findings, and take other actions authorized by the Commission.

Proposed paragraph (g) would clarify that administrative judge proceedings are part of the Commission's appellate review process. Proceedings would be limited to what is necessary or efficient to resolve the appeal.

Proposed paragraph (h) would govern discovery. Parties may not conduct discovery unless authorized by the administrative judge. Any discovery authorized by the administrative judge would be limited to what is necessary and proportional to resolve the matters referred by the Commission.

Proposed paragraph (i) would govern hearings. Hearings would be limited to the claims, issues, remedies, witnesses, documents, time periods, or factual questions identified in the Commission's referral order. The administrative judge would regulate the hearing, limit unnecessary or cumulative evidence, and may use virtual means where appropriate. Attendance would be limited to specified participants and others whose presence is necessary for a fair, efficient, and orderly hearing. Hearings would be closed to the public. The rules of evidence would not apply strictly, and the administrative judge could exclude irrelevant, immaterial, cumulative, repetitious, privileged, protected, unduly burdensome, or out of scope evidence.

Proposed paragraph (j) would require the agency to arrange and pay for a verbatim transcript, unless otherwise ordered by the administrative judge. The paragraph would specify how exhibits and other materials become part of the hearing record, how materials are provided to the parties subject to protective limitations, and how the hearing record is transmitted to the Office of Federal Sector.

Proposed paragraph (k) would provide that, unless the Commission directs otherwise, the administrative judge issues recommended decisions, recommended findings, or reports to the Office of Federal Sector. Proposed paragraph (m) would provide that the Director, Office of Federal Sector issues the final Commission decision under § 1614.405 after considering the administrative judge's input and the administrative record. Proposed paragraph (n) would clarify that referral to an administrative judge does not restrict civil action rights and that filing a civil action terminates Commission processing under § 1614.409.

Section 1614.407—Civil Actions: Title VII, ADEA, Rehabilitation Act, GINA, and PWFA

The proposed rule would revise § 1614.407 to improve organization and conform the civil action provision to the proposed restructuring of part 1614. The revised section adds paragraph headings that separate the principal civil-action rules from related procedural issues: authorization and filing deadlines, withdrawal of an appeal after agency final action, withdrawal of a request for reconsideration, exhaustion of putative class claims, and the effect of an administrative judge referral. This structure makes the provision easier to use by placing each civil action consequence in a discrete paragraph.

The proposed rule also removes references to administrative class complaints and replaces them with language consistent with proposed § 1614.204. Under the proposed rule, a complainant may file a civil action after filing an individual complaint, including an individual complaint that asserted a putative class claim for exhaustion purposes. The revision makes clear that asserting a putative class claim in the administrative process is sufficient to present that claim for purposes of part 1614, but does not decide whether a court will certify a class, permit a class claim to proceed, apply tolling, or find exhaustion satisfied in a later civil action.

Proposed paragraph (d) would address exhaustion of putative class claims. A complainant who follows the withdrawal procedures in paragraphs (b) or (c) would be deemed to have exhausted administrative remedies under part 1614. A complainant who asserts a putative class claim under § 1614.204(b) would be deemed to have presented that putative class claim in the administrative process for purposes of part 1614. The proposed rule would

not determine whether a court will certify a class, permit a class claim to proceed, apply tolling, or find administrative exhaustion satisfied in a civil action.

Proposed paragraph (e) would provide that referral to an administrative judge under § 1614.406 does not extend, restrict, or otherwise alter civil action rights.

Section 1614.409—Effect of Filing a Civil Action

The proposed rule would revise § 1614.409 to provide that filing a civil action under § 1614.407, § 1614.408, or § 1614.310 terminates Commission processing of the complaint, appeal, request for reconsideration, and any administrative judge proceedings concerning the same claims. The proposed rule would further provide that a Commission decision issued after the complainant files suit will not be enforceable by the Commission. If suit is filed after an appeal and before a final Commission decision, the complainant should notify the Commission in writing.

Section 1614.501—Remedies and Relief

The proposed rule would amend § 1614.501 to update remedies and relief provisions to conform them to the proposed individual-complaint framework and to comply with the mixed-motive provisions in the Civil Rights Act of 1991.

Section 1614.501 currently applies a ''clear and convincing'' standard of proof for agencies raising a same-decision defense. *See* § 1614.501(b)(1)(i); (b)(2); (c)(1); (c)(2). A heightened standard of proof for this limited defense is inconsistent with the Civil Rights Act of 1991. The Act precludes ''[an] award of damages or issu[ance] [of] an order requiring any admission, reinstatement, hiring, promotion, or payment'' if ''a respondent demonstrates the respondent would have taken the same action in the absence of the impermissible motivating factor.'' 42 U.S.C. 2000e–5(g)(2)(B). The key word is ''demonstrates,'' which the Supreme Court has construed under title VII to indicate a ''preponderance of the evidence'' standard of proof. *Desert Palace, Inc.* v. *Costa,* 539 U.S. 90, 100 (2003). Accordingly, an agency's same-decision defense is established by showing on a preponderance of the evidence that the agency would have taken the same action absent the impermissible motive. *See Porter* v. *Natsios,* 414 F.3d 13, 22 (D.C. Cir. 2005). Establishing the same-decision defense does not avoid liability for the agency, but it does limit the relief and remedies available to the complainant as the prevailing party consistent with Section 2000e–5 of title VII.

Proposed paragraph (a) would clarify that, when an agency or the Commission finds discrimination in an individual case, the agency must provide full relief to the identified applicant or employee. Proposed paragraphs (a)(3) and (a)(4) would refer to each identified complainant who is a victim of discrimination and would require appropriate placement and make-whole payment for lost earnings.

Proposed paragraph (b) would revise applicant relief provisions. Where an applicant has been discriminated against, the agency would offer the position the applicant would have occupied absent discrimination or a substantially equivalent position, unless a preponderance of the evidence establishes the applicant would not have been selected even absent discrimination. The paragraph would specify written-offer, acceptance, retroactive appointment, back pay, interest where sovereign immunity has been waived, service-credit, and declination rules. Where discrimination existed but the applicant would not have been hired even absent discrimination, the agency would still be required to eliminate the discriminatory practice and ensure it does not recur.

Proposed paragraph (c) would revise relief for employees. When discrimination is found, the agency would provide relief, including nondiscriminatory placement with back pay unless a preponderance of the evidence establishes the personnel action would have occurred even absent discrimination. Interest would be included where sovereign immunity has been waived, and back pay liability under title VII or the Rehabilitation Act would be limited to two years before the complaint was filed. If the agency proves the same action would have been taken absent discrimination, the agency still would be required to eliminate the discriminatory practice and prevent recurrence.

Proposed paragraph (d) would codify mitigation principles. The complainant would have a duty to make reasonable efforts to mitigate damages where required by law, and the agency would bear the burden to prove failure to mitigate and the amount by which any award should be reduced.

Proposed paragraph (e) would comprehensively revise attorney fee and cost rules. It would identify fee-eligible claims, compensable legal services, prevailing-party requirements, presumptions and limitations, the lodestar method, reasonable hours, documentation requirements, reasonable rates, treatment of fee matrices, fee agreements and nonprofit or pro bono representation, limited success, unsuccessful claims, fees for fee litigation, enhancements, mixed-motive cases, covered and noncovered claims, timing of compensable services, fee petition procedures, decisions on fee petitions, and costs and witness fees. The proposed rule would emphasize that fees and costs are available only to the extent authorized by statute and must be reasonable, documented, and tied to the relief obtained.

Proposed paragraph (f) would prohibit monetary sanctions against Federal agencies unless Congress has expressly waived sovereign immunity for the specific monetary remedy. The paragraph would clarify that this prohibition does not limit awards of back pay, compensatory damages, equitable relief, attorney fees, or costs otherwise authorized by statute as relief for a proven violation of law.

Section 1614.504—Compliance With Settlement Agreements and Final Agency Decisions

The proposed rule would retitle and amend § 1614.504(c). Proposed paragraph (c) would allow the Commission, before rendering a compliance determination, to request additional information, direct the agency to develop additional information, or refer the matter for administrative judge proceedings under § 1614.406. The Commission would decide compliance based on the written record and any additional information or administrative judge record developed.

If the Commission determines that the agency is not complying with a settlement agreement or final agency decision, and the noncompliance is not attributable to the complainant, the Commission could order compliance. For noncompliance with a settlement agreement, the Commission could order specific implementation or reinstate the complaint for further processing from the point processing ceased. Allegations that subsequent acts of discrimination violate a settlement agreement would be processed as separate complaints under § 1614.106.

Section 1614.505—Interim Relief

The proposed rule would remove and reserve § 1614.505. The current interim-relief provision is tied to agency appeals from administrative judge decisions and temporary or conditional relief pending appeal. Because the proposed rule

would eliminate the existing model in which agencies appeal administrative judge decisions and would replace it with final agency decisions followed by Commission appellate review and discretionary administrative judge referral, the interim-relief provision would no longer be necessary in its current form.

Section 1614.602—Reports to the Commission

The proposed rule would amend § 1614.602(a) to require each agency to report to the Commission information concerning the status, processing, and disposition of complaints under part 1614, including investigations, final agency decisions, appeals, compliance proceedings, settlements, administrative judge referrals, and other matters, at the times and in the manner prescribed by the Commission. This change would align agency reporting obligations with the proposed revised complaint-processing and appellate structure.

Section 1614.603—Voluntary Settlement Attempts

The proposed rule would revise § 1614.603 to require each agency to make reasonable efforts to voluntarily settle complaints of discrimination as early as possible in, and throughout, administrative processing. Any settlement would have to be in writing, signed by both parties, and identify the claims resolved. This provision would reinforce early and continuing voluntary resolution while ensuring enforceable written settlement terms.

Section 1614.604—Filing and Computation of Time

The proposed rule would amend § 1614.604(c), (d), and (e) to address digital filing and service. Paragraph (c) would provide that complaints, appeals, requests for reconsideration, requests for administrative judge proceedings, briefs, or other documents filed by complainants using the EEOC Public Portal or by agencies using FedSEP are deemed filed on the date uploaded. Timeliness would be determined based on the time zone from which the document was submitted.

Paragraph (d) would provide that a document transmitted through the Public Portal or FedSEP is deemed received when accessed, or within five days after the document is uploaded, whichever occurs first. When a document is transmitted through email or other digital means, and is not returned as undeliverable, it is deemed received when accessed, or within five days after the document was transmitted, whichever occurs first.

Paragraph (e) would clarify that, for specified provisions, regulatory terms such as file, issue, notify, receive, serve, submit, and transmit include digital transmissions through FedSEP, the EEOC Public Portal, or email.

Section 1614.605—Representation and Official Time

The proposed rule would amend § 1614.605(a) to clarify that the complainant's right to be accompanied, represented, and advised by a representative of choice applies at any stage of processing under part 1614, including filing, investigation, final agency decision, appeal, administrative judge proceedings, reconsideration, compliance, and settlement.

Section 1614.606—Joint Processing and Consolidation of Complaints

The proposed rule would revise § 1614.606 in full. Complaints filed by two or more complainants consisting of substantially similar allegations or relating to the same matter could be jointly processed by the agency or Commission after appropriate notice to the parties. Two or more complaints filed by the same complainant could be consolidated after appropriate notice to the complainant. When complaints are jointly processed or consolidated, the agency would be required to complete the investigation and issue a final agency decision within the time limits in § 1614.108 unless extended under part 1614. Administrative judge proceedings could occur only as provided in § 1614.406. The proposed rule would clarify that joint processing and consolidation do not create a class complaint, class representative, class member, or class-wide adjudication.

Section 1614.607—Delegation of Authority

The proposed rule would revise § 1614.607 to provide that an agency head may delegate authority under part 1614 to one or more designees, except where law, Executive Order, or regulation requires action by the agency head. The proposed rule would also clarify that delegation does not alter the EEO Director reporting relationship required by § 1614.102(b)(4).

Section 1614.701—Purpose and Scope

The proposed rule would revise § 1614.701 to update subpart G. Proposed paragraph (a) would state that subpart G implements the public posting, data, reporting, tracking, and accountability requirements of the No FEAR Act, as amended, including the Cummings Act.

Proposed paragraph (b) would describe the scope of subpart G, including agency and Commission responsibilities to post complaint data and notices on public websites, maintain and report complaint and finding information, provide comparative data, track complaints from filing through resolution, report disciplinary action information following findings of discrimination or retaliation, and maintain required records concerning certain disciplinary actions.

Proposed paragraph (c) would clarify that subpart G's reporting requirements do not create, extend, limit, or otherwise alter rights, remedies, time limits, appeal rights, civil action rights, or complaint-processing requirements under part 1614.

Section 1614.702—Definitions

The proposed rule would revise § 1614.702 to define terms for subpart G. The proposed definitions would include agency or Federal agency, Commission, complaint, investigation, final agency decision or final agency action, final agency decision or action involving a finding of discrimination, administrative judge proceedings, appeal, basis of alleged discrimination, issue of alleged discrimination, finding of discrimination, final finding of discrimination, disciplinary-action decision, class action complaint, and subordinate component. These definitions would support uniform reporting, posting, and tracking under the No FEAR Act and Cummings Act provisions.

Section 1614.703—Manner and Format of Posted Data and Notices

The proposed rule would add or revise § 1614.703 to establish the manner and format for agency postings. Agencies would be required to post information required by subpart G on their public websites in a clear, prominent, and readily accessible location, with a link from the homepage. Data under §§ 1614.704 and 1614.705 would be identified as ''No FEAR Act Data,'' and notices under § 1614.706(a) would be identified as ''Notification of Findings of Discrimination or Retaliation.''

The proposed rule would require postings to be accessible, searchable, downloadable, and compliant with section 508 of the Rehabilitation Act. Agencies would identify the date of the latest update, post separate data for subordinate components, post current fiscal year data cumulatively, report processing times in calendar days, take reasonable steps to ensure searchability,

provide URLs to the Commission, and protect personally identifiable information, medical information, confidential settlement information, classified information, privileged information, and other legally protected information.

Section 1614.704—Information To Be Posted—All Federal Agencies

The proposed rule would revise § 1614.704 to specify quarterly public posting requirements for agencies. Not later than 30 days after the end of each fiscal quarter, each agency would post cumulative current fiscal year data regarding complaints filed under part 1614.

The posted data would include the number of complaints filed, number of individual filers, and number of individuals filing two or more complaints. Agencies also would post the number of complaints raising each basis and issue of alleged discrimination or retaliation, including non-EEO bases.

The proposed rule would require posting of agency processing and disposition data, including average time from filing to completion of investigation, average time from filing to final agency decision or other final agency action, the number of dismissals and average pendency before dismissal, and the number of withdrawn complaints.

Agencies also would post findings data, including the number and percentage of final agency decisions or actions involving findings of discrimination or retaliation, the number and percentage by basis and issue, and, for each finding, the date of the finding, affected agency or subordinate component, law violated, and whether a disciplinary-action decision has been made.

The proposed rule also would require pending-inventory and timeliness data, including the number of complaints pending at the beginning of the fiscal year, filed, closed, and pending at the end of the reporting period; the number of older pending complaints and associated filers; the number pending at specified processing steps; and the number in which the agency has not completed the investigation and issued final action within required time limits.

Finally, agencies would post data regarding each class action complaint filed against the agency alleging discrimination or retaliation, including filing date, a general summary of allegations, an estimate of plaintiffs or class members if known, current status including certification status, and the case number for any civil action in which discrimination or retaliation has been found.

Section 1614.705—Comparative Data To Be Posted by Agencies

The proposed rule would revise § 1614.705 to require annual comparative data. No later than January 31 of each year, each agency would post year-end data corresponding to the categories in § 1614.704 for each of the five immediately preceding completed fiscal years, or for the fiscal years for which data are available. Agencies would post a separate figure for each fiscal year included in the comparative data.

Section 1614.706—Cummings Act Notices, Reports, Tracking, and Other Data

The proposed rule would revise § 1614.706 to implement Cummings Act requirements. Proposed paragraph (a) would require the head of an agency subject to a final finding of discrimination or retaliation to post a public notice within 90 days after the final finding. The notice would have to be posted on the agency's public website in a clear and prominent location linked directly from the homepage and remain posted for at least one year.

Proposed paragraph (b) would require the notice to state that a finding of discrimination or retaliation has been made and identify the date of the finding, the date of each discriminatory or retaliatory act, the law violated by each act, and the rights and protections available to Federal employees and applicants under the laws covered by part 1614.

Proposed paragraph (c) would require agencies, not later than 120 days after taking final action or receiving a final Commission decision involving a finding of discrimination or retaliation, to submit a report to the Commission stating whether disciplinary action has been proposed against a Federal employee as a result of the violation and the reasons for any proposed disciplinary action.

Proposed paragraph (d) would require each agency to maintain a system to track each discrimination or retaliation complaint adjudicated through the EEO process from filing through resolution, including whether a disciplinary-action decision has been made as a result of any finding.

Proposed paragraph (e) would require an agency that takes an adverse action covered by 5 U.S.C. 7512 against a Federal employee for discriminatory or retaliatory conduct to include, after all appeals relating to that adverse action have been exhausted, a notation in the employee's personnel record of the adverse action and the reason for it.

Section 1614.707—Data To Be Posted by EEOC

The proposed rule would revise § 1614.707 to update Commission posting obligations. Proposed paragraph (a) would require the Commission, not later than 30 days after the end of each fiscal quarter, to post current fiscal year statistics regarding matters referred to administrative judges under § 1614.406. The required statistics would include the number of appeals involving referrals, the number of complainants whose matters were referred, pending and completed referred matters, completions with and without evidentiary hearings, administrative judge recommendations by disposition, average time from referral to transmission of the recommendation or report, and the number of matters not completed within applicable Commission timeframes.

Proposed paragraph (b) would require the Commission to post quarterly current fiscal year appeals data. The required data would include the number of appeals filed, number of individual appellants, appeals by basis and issue, pending inventory, decided appeals, average time to appellate decision, appellate decisions involving findings of discrimination and their percentage of all appellate decisions, findings by basis and issue, and older pending appeals.

IV. Expected Impact

A. Statement of Need

The Commission proposes to revise 29 CFR part 1614 to modernize and streamline the Federal-sector EEO complaint process, to better align the administrative process with the Commission's resources and institutional role, to clarify the obligations of Federal agencies and complainants, and to implement statutory requirements enacted by the Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020. The Cummings Act amended the No FEAR Act to add requirements concerning public notice of final findings of discrimination or retaliation, reporting of disciplinary-action information to the Commission, complaint tracking, personnel-record notations for certain adverse actions, and structural independence of agency EEO programs.

The current part 1614 process requires agencies to conduct pre-complaint counseling, investigate formal complaints, and, upon a

complainant's request, transmit matters to the Commission for a hearing before an administrative judge. In practice, however, most matters that enter the administrative judge process do not result in an evidentiary hearing. From fiscal year 2017 through fiscal year 2025, the Commission received, on average, 7,514 hearing requests per year. During that period, 27.1 percent of cases ended in settlement, an average of 2,283 per year; 4 percent proceeded to hearing, an average of 304 per year; and 1.7 percent resulted in a finding of liability against an agency, an average of 128 per year. These data indicate that the current automatic hearing-request model devotes substantial administrative resources to proceedings in which evidentiary hearings occur in only a small minority of cases.

The Commission also has determined that the administrative class complaint process has become a recurring source of delay and complexity. Class complaints require specialized procedures for class certification, notice, discovery, settlement review, class-wide remedial determinations, and individual relief. The Commission's Federal-sector complaint process was designed principally to resolve complaints by identified Federal employees and applicants. The Commission has not had the resources, institutional structure, or specialized capacity to adjudicate large administrative classes effectively. The proposed rule would therefore eliminate administrative class complaints under part 1614 while permitting complainants to assert putative class claims for exhaustion purposes and preserving the ability of agencies and the Commission to jointly process related individual complaints where joint processing would promote fair, efficient, and timely resolution.

The proposed rule also would revise the administrative judge process. Rather than providing an automatic entitlement to a hearing before final agency action, the rule would require agencies to investigate accepted individual complaints and issue final agency decisions within applicable time limits. A complainant could then appeal the agency's final agency decision to the Commission. In an appeal, the Office of Federal Sector, on behalf of the Commission, could decide the matter on the administrative record, order targeted supplementation, remand the matter, or refer a complaint, claim, or issue to an administrative judge when administrative judge proceedings are necessary or efficient to resolve the appeal.

The Commission proposes these changes to reduce unnecessary procedural layers, focus administrative judge resources on matters in which live testimony, credibility determinations, record supplementation, or targeted evidentiary proceedings would materially assist fair resolution, improve the timeliness of Federal-sector EEO adjudication, and preserve civil action rights. The proposed rule also would clarify pleading standards, clarify mixed-case and negotiated-grievance election rules, revise fee and cost standards, prohibit monetary sanctions absent an express waiver of sovereign immunity, and update digital filing and service provisions to reflect the Commission's current use of the EEOC Public Portal and FedSEP. EEOC's FedSEP system allows agencies to submit MD–715 reports, Form 462 complaint-processing data, and complaint files for hearings and appeals, while the EEOC Public Portal allows Federal employees and applicants to file and manage hearing and appeal matters electronically.

B. Costs

The Commission preliminarily estimates the proposed rule would result in approximately $16.1 million in one-time transition costs and approximately $9.2 million in annual recurring costs, before accounting for offsetting savings from eliminating mandatory pre-complaint counseling, eliminating automatic administrative judge proceedings, eliminating administrative class complaint processing, reducing duplicative discovery, and streamlining appeals. Annualized over 10 years, the estimated cost is approximately $11.1 million per year using a 3-percent discount rate and approximately $11.5 million per year using a 7-percent discount rate.

These estimates do not include transfer payments, such as back pay, compensatory damages, attorney fees, costs, or settlement amounts paid to complainants. The estimates also do not quantify expected cost savings, which the Commission expects to be substantial because the proposed rule would eliminate automatic hearing requests, reserve administrative judge proceedings for matters referred by the Commission, remove administrative class complaint processing, and require more focused electronic appeal records.

For purposes of this estimate, the Commission uses 278 Federal agencies and subcomponents as the number of entities expected to incur implementation costs. EEOC's FY 2021 Annual Report on the Federal Workforce relied on data from 278 Federal agencies and subcomponents that filed Form 462 reports. The Commission uses 12,226 formal complaints per year as a proxy for annual complainant volume, based on FY 2021 Federal-sector complaint filings. The Commission uses 4,343 appeals per year as a proxy for annual Federal-sector appeals volume, based on EEOC's FY 2023 appellate intake. The Commission uses 7,514 hearing requests per year as the annual average for FY 2017 through FY 2025.

The Commission estimates Federal employee labor costs using 2026 Washington-Baltimore-Arlington locality rates as a conservative proxy. OPM's 2026 salary table lists hourly rates of $55.62 for GS–12, step 5; $66.14 for GS–13, step 5; $78.15 for GS–14, step 5; and $91.93 for GS–15, step 5. The Commission multiplies those rates by 1.6 to account for benefits and overhead, producing loaded hourly rates of approximately $88.99 for GS–12, $105.82 for GS–13, $125.04 for GS–14, and $147.09 for GS–15. For complainant time, the Commission uses BLS's March 2026 average civilian total compensation rate of $49.32 per hour. For attorney familiarization time, the Commission uses BLS's May 2024 median lawyer wage of $72.67 per hour, multiplied by a 1.46 benefits-and-overhead factor derived from the BLS civilian compensation-to-wage ratio, producing a loaded attorney rate of approximately $106.10 per hour. Dollar amounts are rounded to the nearest dollar.

The Commission estimates that agencies and subcomponents would incur approximately $14,316,878 in one-time transition costs. These costs include rule familiarization, revision of procedures and templates, training, information-technology and website updates, Cummings Act reporting setup, and limited organizational adjustments.

First, the Commission estimates $834,267 for agency rule familiarization. This estimate assumes that each of the 278 agencies and subcomponents would require 24 hours of GS–14 time to review the final rule and identify necessary implementation steps. The calculation is: 278 agencies × 24 hours × $125.04 = $834,267.

Second, the Commission estimates $3,650,385 for revisions to agency procedures, forms, notices, templates, and internal guidance. This estimate assumes that each agency or subcomponent would require 40 hours of GS–14 time, 60 hours of GS–13 time, and 20 hours of GS–12 time. The calculation is: 278 agencies × [(40 hours × $125.04) + (60 hours × $105.82) + (20 hours × $88.99)] = $3,650,385. This category accounts for updates to agency EEO procedures, complaint-filing

instructions, reasonable-accommodation denial notices, acknowledgment letters, dismissal templates, final agency decision templates, appeal notices, settlement templates, offer-of-resolution templates, and internal guidance.

Third, the Commission estimates $1,176,763 for initial training of EEO, human resources, counsel, and related personnel. This estimate assumes that each agency or subcomponent would train 20 employees for 2 hours, using the GS–13 loaded hourly rate. The calculation is: 278 agencies × 20 employees × 2 hours × $105.82 = $1,176,763. This category accounts for initial training of staff responsible for complaint intake, investigations, final agency decisions, appeals, compliance, settlement, reasonable accommodation, and No FEAR Act reporting.

Fourth, the Commission estimates $3,743,971 for information-technology, electronic filing, website, and internal case-management updates. This estimate assumes that each agency or subcomponent would require 80 hours of GS–13 time and 40 hours of GS–14 time. The calculation is: 278 agencies × [(80 hours × $105.82) + (40 hours × $125.04)] = $3,743,971. This category accounts for changes to agency electronic filing workflows, complaint-tracking systems, public-facing web pages, internal case-management systems, and record-submission procedures.

Fifth, the Commission estimates $4,733,562 for Cummings Act and No FEAR Act tracking, posting, and reporting setup. This estimate assumes that each agency or subcomponent would require 40 hours of GS–14 time, 80 hours of GS–13 time, and 40 hours of GS–12 time. The calculation is: 278 agencies × [(40 hours × $125.04) + (80 hours × $105.82) + (40 hours × $88.99)] = $4,733,562.

Sixth, the Commission estimates $177,931 for EEO Director reporting structure review and conforming organizational documents. This estimate assumes that approximately 56 agencies or subcomponents—20 percent of the 278 covered entities—would need additional review or conforming changes, and that each such entity would require 8 hours of GS–15 time and 16 hours of GS–14 time. The calculation is: 56 agencies × [(8 hours × $147.09) + (16 hours × $125.04)] = $177,931.

Adding these categories yields total estimated one-time agency transition costs of $14,316,878.

The Commission estimates that agencies and subcomponents would incur approximately $8,098,451 in annual recurring costs. These costs principally reflect preparation of final agency decisions in matters that otherwise would have entered the automatic administrative judge hearing process, submission of more complete appeal records, Cummings Act and No FEAR Act posting and reporting, complaint tracking, and annual refresher training.

The largest estimated recurring cost is $5,348,525 for incremental final agency decision preparation in cases that otherwise would have entered the automatic administrative judge process. This estimate uses 7,514 hearing requests per year and assumes 6 hours per matter, consisting of 4 hours of GS–14 attorney or EEO management time and 2 hours of GS–13 EEO specialist time. The calculation is: 7,514 hearing requests × [(4 hours × $125.04) + (2 hours × $105.82)] = $5,348,525. This estimate is conservative because agencies already expend resources in these cases under the current process, including preparing litigation positions, engaging in motion practice before administrative judges, participating in discovery, responding to administrative judge orders, engaging in settlement discussions, preparing for hearings, and issuing final orders after administrative judge decisions.

The Commission estimates $919,187 for appeal record submission and identification of classified, privileged, protected, or special-handling material. This estimate assumes 4,343 appeals per year and 2 hours of GS–13 time per appeal. The calculation is: 4,343 appeals × 2 hours × $105.82 = $919,187.

The Commission estimates $217,069 for agency requests for administrative judge proceedings. This estimate assumes that agencies will request referral in approximately 10 percent of appeals, or 434 requests per year, and that each request will require 4 hours of GS–14 time. The calculation is: 434 requests × 4 hours × $125.04 = $217,069.

The Commission estimates $668,623 for quarterly No FEAR Act and Cummings Act data postings. This estimate assumes that each of the 278 agencies and subcomponents will make four quarterly postings per year, and that each quarterly posting will require 4 hours of GS–13 time and 2 hours of GS–12 time. The calculation is: 278 agencies × 4 quarters × [(4 hours × $105.82) + (2 hours × $88.99)] = $668,623.

The Commission estimates $176,514 for annual comparative data postings. This estimate assumes that each agency or subcomponent will require 6 hours of GS–13 time annually. The calculation is: 278 agencies × 6 hours × $105.82 = $176,514.

The Commission estimates $110,535 for disciplinary-action reports to the Commission following findings of discrimination or retaliation. This estimate assumes 221 findings per year and 4 hours of GS–14 time per report. The calculation is: 221 findings × 4 hours × $125.04 = $110,535.

The Commission estimates $82,902 for public notices of final findings. This estimate assumes 221 findings per year and 3 hours of GS–14 time per notice. The calculation is: 221 findings × 3 hours × $125.04 = $82,902.

The Commission estimates $272,004 for complaint tracking from filing through resolution. This estimate assumes 12,226 complaints per year and 0.25 hours of GS–12 time per complaint. The calculation is: 12,226 complaints × 0.25 hours × $88.99 = $272,004.

The Commission estimates $8,899 for personnel-record notations for covered adverse actions. This estimate assumes 50 covered adverse actions per year and 2 hours of GS–12 time per action. The calculation is: 50 actions × 2 hours × $88.99 = $8,899.

Finally, the Commission estimates $294,191 for annual refresher training. This estimate assumes that each of the 278 agencies and subcomponents will provide 1 hour of annual refresher training to 10 employees at the GS–13 loaded hourly rate. The calculation is: 278 agencies × 10 employees × 1 hour × $105.82 = $294,191.

Adding these categories yields total estimated annual recurring agency costs of $8,098,451.

The Commission estimates that it would incur approximately $624,874 in one-time transition costs.

The Commission estimates $442,512 for EEOC Public Portal, FedSEP, appellate intake, and data-system updates. This estimate assumes 3,000 hours of GS–13 time and 1,000 hours of GS–14 time. The calculation is: (3,000 hours × $105.82) + (1,000 hours × $125.04) = $442,512.

The Commission estimates $129,450 for revision of Management Directives, public guidance, templates, referral protocols, and training materials. This estimate assumes 800 hours of GS–14 time and 200 hours of GS–15 time. The calculation is: (800 hours × $125.04) + (200 hours × $147.09) = $129,450.

The Commission estimates $52,912 for initial training of Commission staff. This estimate assumes 250 employees receiving 2 hours of training at the GS–13 loaded hourly rate. The calculation is: 250 employees × 2 hours × $105.82 = $52,912.

Adding these categories yields total estimated one-time Commission costs of $624,874. These costs include

modifications to FedSEP, the EEOC Public Portal, appeal intake procedures, administrative judge referral protocols, appeal templates, public guidance, internal training materials, and Commission data-posting systems. The proposed rule would require the Commission to process appeals under a revised model, consider requests for administrative judge proceedings, issue referral orders where appropriate, and publish data concerning administrative judge referrals and appeals.

The Commission estimates that it would incur approximately $542,464 in annual recurring costs.

The Commission estimates $271,524 for incremental review of appeals for possible administrative judge referral. This estimate assumes 4,343 appeals per year and 0.5 hours of GS–14 time per appeal. The calculation is: 4,343 appeals × 0.5 hours × $125.04 = $271,524.

The Commission estimates $217,069 for preparation of administrative judge referral orders. This estimate assumes 434 referrals per year and 4 hours of GS–14 time per referral. The calculation is: 434 referrals × 4 hours × $125.04 = $217,069.

The Commission estimates $53,870 for quarterly Commission posting of administrative judge referral and appeal data. This estimate assumes four quarterly postings per year, each requiring 80 hours of GS–13 time and 40 hours of GS–14 time. The calculation is: 4 quarters × [(80 hours × $105.82) + (40 hours × $125.04)] = $53,870.

Adding these categories yields total estimated annual recurring Commission costs of $542,464. This estimate counts only incremental costs associated with the proposed rule. It does not include costs the Commission already incurs to process Federal-sector appeals, manage hearing inventories, review administrative judge decisions, or maintain FedSEP and the Public Portal under the current process. It also does not subtract expected Commission savings from reducing the number of cases assigned to administrative judges under the current automatic hearing request model.

The Commission estimates that complainants and representatives would incur approximately $1,121,849 in one-time transition and familiarization costs and approximately $560,924 in annual recurring familiarization costs.

For one-time complainant familiarization, the Commission estimates $602,986. This estimate assumes 12,226 complainants and 1 hour per complainant at the $49.32 civilian total compensation rate. The calculation is: 12,226 complainants × 1 hour × $49.32 = $602,986.

For one-time representative familiarization, the Commission estimates $518,863. This estimate assumes that 40 percent of the 12,226 complainants will be represented or consult a representative, and that each representative will spend 1 hour becoming familiar with the revised process at the loaded attorney rate of approximately $106.10. The calculation is: 12,226 complainants × 40 percent × 1 hour × $106.10 = $518,863.

Adding those two categories yields total estimated one-time complainant and representative costs of $1,121,849.

For annual complainant familiarization, the Commission estimates $301,493. This estimate assumes 12,226 complainants and 0.5 hours per complainant at the $49.32 civilian total compensation rate. The calculation is: 12,226 complainants × 0.5 hours × $49.32 = $301,493.

For annual representative familiarization, the Commission estimates $259,431. This estimate assumes that 40 percent of complainants will be represented or consult a representative, and that each representative will spend 0.5 hours on familiarization at the loaded attorney rate of approximately $106.10. The calculation is: 12,226 complainants × 40 percent × 0.5 hours × $106.10 = $259,431.

Adding those two annual categories yields total estimated annual complainant and representative costs of $560,924.

The estimate assumes that each complainant will spend one hour during the first year becoming familiar with the revised complaint-filing deadline, complaint-content requirements, amendment rules, final-agency-decision process, appeal procedures, administrative judge referral standard, and civil-action provisions. The estimate further assumes that 40 percent of complainants will be represented or will consult a representative, and that each such representative will spend one hour during the first year becoming familiar with the revised process. For subsequent years, the Commission estimates one-half hour per complainant and one-half hour per represented matter.

These estimates are conservative in some respects because the proposed rule also would simplify the process for complainants by eliminating mandatory EEO Counselor contact, establishing direct filing, clarifying complaint contents, preserving equitable tolling, requiring clearer final agency decisions and appeal notices, and allowing complainants to request administrative judge proceedings on appeal.

The Commission estimates total one-time costs of $16,063,600, consisting of $14,316,878 in one-time agency costs, $624,874 in one-time Commission costs, and $1,121,849 in one-time complainant and representative costs.

The Commission estimates total annual recurring costs of $9,201,839, consisting of $8,098,451 in recurring agency costs, $542,464 in recurring Commission costs, and $560,924 in recurring complainant and representative costs.

Annualized over 10 years, the one-time cost of $16,063,600 equals $1,883,144 per year using a 3-percent discount rate. Adding the estimated annual recurring cost of $9,201,839 yields a total annualized cost of approximately $11,084,983 per year at a 3-percent discount rate.

Using a 7-percent discount rate, the one-time cost of $16,063,600 annualizes to $2,287,095 per year. Adding the estimated annual recurring cost of $9,201,839 yields a total annualized cost of approximately $11,488,934 per year at a 7-percent discount rate.

C. Benefits

The Commission preliminarily expects the proposed rule to produce important administrative, fiscal, and programmatic benefits. The principal expected benefit is a more focused, efficient, and effective Federal-sector complaint process. By replacing the automatic administrative judge hearing-request model with Commission-directed administrative judge referrals on appeal, the proposed rule would allow the Commission to concentrate administrative judge resources on cases in which targeted proceedings are necessary or efficient to resolve material factual disputes, credibility issues, incomplete records, complex issues, or remedial questions.

This reallocation of resources is expected to reduce delay and unnecessary process. Under the current system, thousands of hearing requests are filed each year, but only a small share of cases proceed to hearing. The proposed rule would better align process with actual case outcomes by requiring agencies to complete investigations and issue final agency decisions, while allowing the Commission to refer cases to administrative judges when additional proceedings are warranted. This structure is expected to reduce unnecessary discovery, case-management proceedings, and hearing preparation in cases that can be resolved on the administrative record, through targeted supplementation, through

remand, through settlement, or through civil action.

The proposed rule also is expected to improve the quality and usefulness of agency investigations and final agency decisions. Because the final agency decision would become the ordinary completion point for agency processing, agencies would have greater incentives to develop an impartial and appropriate record, address accepted claims, explain dismissals, and provide clear notice of appeal and civil action rights. This, in turn, should improve the record available for Commission appellate review and reduce the need for duplicative proceedings.

Moreover, the proposed rule provides a mechanism for agencies with compelling needs to voluntarily contribute to the hearing process by petitioning the Commission for permission to adopt an internal hearing process as part of its adjudication responsibilities. Where an agency already has a reliable pre-existing hearing structure, an early hearing by the agency is more efficient than a late one by the Commission. And allowing an agency to conduct early hearings would likely improve the quality and accuracy of its final decisions, benefitting both complainants and the agencies themselves.

Granting such a petition would be reserved for agencies with a compelling need for resolutions earlier than what the EEOC can usually provide, for instance agencies for whom drawn out proceedings would interfere with national security interests. The availability of an internal hearing process would be without prejudice to a complainant's right to appeal to the Commission, and approval of an agency's internal hearing process would not prevent the Commission from referring a matter on appeal to one of its own administrative judges.

The proposed elimination of administrative class complaints is expected to produce substantial process benefits. The administrative class mechanism has required extensive Commission and agency resources while often producing delay and procedural uncertainty. The proposed rule would preserve the ability of identified complainants to present their own claims, assert putative class allegations for exhaustion purposes, and seek joint processing of related individual complaints. It would avoid administrative class certification, class notice, class-wide discovery, class settlement review, and class-wide remedial proceedings in a forum that has not proved well suited to large-class adjudication.

The proposed rule also is expected to increase transparency and accountability by implementing the Cummings Act. Public notices of final findings of discrimination or retaliation, disciplinary-action reports to the Commission, complaint tracking, personnel-record notations for certain adverse actions, and expanded public data postings are expected to improve agency accountability and provide Congress, the Commission, Federal employees, applicants, agencies, and the public with more useful information about Federal-sector EEO compliance. The No FEAR Act's existing public data-posting framework was designed to assist Congress, agencies, and the public in assessing whether agencies are meeting their EEO responsibilities.

Other expected benefits include increased clarity, predictability, and consistency. The proposed revisions to mixed-case and negotiated-grievance provisions would clarify election rules. The proposed revisions to attorney-fee standards would provide more detailed guidance concerning prevailing-party status, reasonable hours, reasonable rates, fee documentation, fee matrices, limited success, unsuccessful claims, fee litigation, and covered versus noncovered claims. These clarifications should reduce disputes over procedure, remedies, attorney fees, and sanctions.

The proposed digital-filing provisions are expected to reduce mailing costs, improve timeliness, increase transparency, and facilitate electronic record management. The Commission has already expanded use of the EEOC Public Portal and FedSEP for Federal-sector hearings, appeals, document exchange, and case tracking. Codifying and expanding digital-filing rules should reduce uncertainty over filing dates, receipt dates, service, and electronic transmissions.

D. Alternatives Considered

The Commission considered taking no regulatory action. Under that alternative, the existing Federal-sector complaint process would remain in place, including mandatory pre-complaint counseling, the automatic option to request a hearing before an administrative judge, administrative class complaint procedures, existing remedial provisions, and the current No FEAR Act regulations. The Commission rejected this alternative because it would not implement the Cummings Act fully, would not address recurring delay and resource-allocation concerns in the counseling and administrative judge processes, and would not address the Commission's experience with administrative class complaints.

The Commission considered retaining the automatic entitlement to request an administrative judge hearing but imposing more stringent discovery limits, case-management standards, summary-judgment procedures, or hearing-selection criteria. The Commission rejected that alternative because it would leave in place the basic incentive to route large numbers of cases to the administrative judge process even though very few cases benefit from a hearing. The Commission preliminarily believes that a referral-based model better aligns administrative judge proceedings with the cases in which those proceedings are necessary or efficient.

The Commission considered eliminating administrative judge proceedings entirely and resolving all appeals on the written record, subject to remand to the agency or targeted supplementation. The Commission rejected that alternative because some appeals present material factual disputes, credibility issues, incomplete records, complex or recurring issues, or remedial questions that may be resolved more fairly and efficiently through limited proceedings before an administrative judge. The proposed rule therefore preserves administrative judge proceedings as a targeted appellate tool.

The Commission considered retaining administrative class complaints while revising certification standards, discovery rules, settlement-approval procedures, or remedial procedures. The Commission rejected that alternative because the principal difficulties with administrative class complaints arise from the very nature of large-class adjudication. The Commission preliminarily believes that identified individual complaints, putative class assertions for exhaustion purposes, and joint processing of related individual claims provide a more administrable framework that preserves individual rights while avoiding the burdens and delays of administrative class adjudication.

The Commission considered creating a specialized administrative class unit or separate class adjudication process. The Commission rejected that alternative because it would require substantial new staffing, specialized expertise, data systems, case-management capacity, and funding. The Commission preliminarily believes that its limited resources should be directed toward timely resolution of individual complaints, targeted administrative judge referrals, and effective oversight of agency EEO programs.

The Commission considered retaining mandatory pre-complaint counseling

while making other changes to the complaint process. The proposed rule instead would remove § 1614.105 and establish a 60-day period for filing written complaints. The Commission preliminarily believes that direct filing will reduce delay, simplify procedural requirements, and avoid disputes over counseling deadlines while preserving agency obligations to provide ADR and make reasonable efforts to resolve complaints informally.

The Commission considered imposing mandatory ADR. The Commission rejected that alternative because ADR is most effective when participation is appropriate for the circumstances of the case and consistent with voluntary resolution principles. The proposed rule would continue to require agencies to establish or make available ADR programs and to make reasonable efforts to settle complaints as early as possible and throughout processing.

The Commission requests comment on these and other alternatives, including whether particular provisions should be phased in, whether additional transition rules are needed, and whether any alternative would achieve the Commission's objectives at lower cost or with greater benefit.

E. Reliance Interests

The Commission recognizes that Federal agencies, complainants, agency representatives, complainants' representatives, administrative judges, and other participants have structured their practices around the existing part 1614 process. Existing reliance interests include agency procedures for pre-complaint counseling, formal complaints, investigations, hearing requests, administrative judge proceedings, agency final orders, class complaints, settlement agreements, fee petitions, appeals, compliance proceedings, and No FEAR Act postings.

The Commission has considered these reliance interests in developing the proposed rule. The proposed rule preserves core features of the Federal-sector EEO administrative process, including agency investigation of accepted complaints, final agency decisions, Commission appellate review, representation rights, settlement enforcement, civil action rights, remedies for proven discrimination, and attorney-fee awards where authorized by statute. The proposal also preserves administrative judge proceedings when the Commission determines that such proceedings are necessary or efficient to resolve an appeal.

The proposed rule addresses reliance interests associated with class complaints by permitting complainants to assert putative class claims for exhaustion purposes and by preserving joint processing of related individual complaints. The Commission recognizes that some complainants and representatives may have relied on existing administrative class procedures. The Commission preliminarily concludes, however, that reliance on a particular administrative mechanism does not outweigh the Commission's interest in adopting a more administrable process that preserves individual claims, allows putative class allegations to be presented for exhaustion purposes, and leaves questions of class certification to the courts in subsequent civil actions.

The Commission also recognizes reliance interests associated with existing administrative judge hearing procedures. The proposed rule mitigates those interests by preserving Commission authority to refer matters to administrative judges when needed, preserving civil action rights, requiring agencies to issue final agency decisions, and permitting complainants and agencies to request administrative judge proceedings on appeal.

The Commission does not intend the proposed rule to reopen final Commission decisions, final agency decisions, other final agency actions, settlement agreements, or court judgments that became final before the effective date of a final rule. The Commission requests comment on whether the final rule should include additional transition provisions for complaints, hearing requests, appeals, class complaints, compliance matters, or fee petitions pending on the effective date.

F. Severability

The Commission intends that the provisions of this rule be severable. The proposed rule contains several distinct reforms, including revisions to agency EEO program requirements, complaint filing, investigations, final agency decisions, administrative judge proceedings, class complaints, mixed cases, appeals, remedies, settlement compliance, digital filing, consolidation, and No FEAR Act/Cummings Act reporting. Each of these provisions serves independent regulatory purposes and can operate independently of the others.

If any provision of the final rule, or the application of any provision to any person, agency, complaint, claim, issue, or circumstance, is held invalid or stayed, the Commission intends that the remaining provisions and applications remain in effect to the fullest extent permitted by law. For example, the provisions implementing the Cummings Act can operate independently of the provisions governing administrative judge referrals; and the provisions governing individual complaint filing can operate independently of the provisions governing attorney fees.

The Commission would have adopted the remaining provisions of this rule even if any particular provision were held invalid. The Commission therefore intends that any reviewing court give maximum effect to the rule's severability and preserve all valid provisions and applications.

V. Regulatory Compliance

A. Regulatory Review

Executive Orders 12866 and 13563 direct agencies to assess the benefits and costs of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits to the extent permitted by law. Executive Order 13563 reaffirms Executive Order 12866 and emphasizes quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14192 directs agencies to reduce regulatory costs and requires offsetting certain new regulatory costs through elimination of existing regulatory costs, consistent with law. Executive Order 14215 requires proposed and final significant regulatory actions, including those of independent agencies, to be submitted to the Office of Information and Regulatory Affairs (OIRA) before publication in the **Federal Register**.

This proposed rule has been reviewed in accordance with Executive Orders 12866 and 13563. The proposed rule would revise procedures governing Federal-sector EEO complaint processing and agency EEO program obligations. It would apply principally to Federal agencies, Federal employees, and applicants for Federal employment. It would not directly regulate private employers, consumers, markets, or State, local, or Tribal governments.

The Commission preliminarily estimates that this proposed rule is not likely to have an annual effect on the economy of $100 million or more or otherwise meet the threshold for a significant economic effect under Executive Order 12866 section 3(f)(1). The Commission recognizes the proposed rule raises important legal and policy issues concerning the structure of the Federal-sector EEO administrative process. The proposed rule has been submitted to OIRA for review under Executive Order 12866. OIRA has

determined the rule is otherwise significant under section 3(f).

For purposes of Executive Order 14192, the Commission preliminarily expects that the proposed rule would not be an Executive Order 14192 regulatory action. The proposed rule would remove or reduce several procedural burdens, including the automatic administrative judge hearing-request process, administrative class complaint procedures, and certain monetary-sanction and fee-related consequences. The proposed rule also would impose or clarify certain agency obligations, including final agency decision requirements and Cummings Act reporting, tracking, posting, and personnel-record-notation requirements. Many of those obligations implement statutory requirements imposed by the Cummings Act.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 through 612, requires agencies to consider the economic impact of a rule on small entities and, where required, to prepare an initial regulatory flexibility analysis unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The proposed rule would govern Federal-sector EEO complaint processing and agency EEO program obligations. It would apply to Federal agencies and to Federal employees and applicants for Federal employment. It would not directly regulate small businesses, small organizations, or small governmental jurisdictions. The proposed rule therefore would not impose compliance obligations on a substantial number of small entities.

Accordingly, the Commission certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. An initial regulatory flexibility analysis is not required. The Commission invites comment on this certification and on any potential indirect effects on small entities.

C. Federalism

The Commission has reviewed this proposed rule under Executive Order 13132, ''Federalism.'' The proposed rule would govern Federal-sector EEO complaint processing and Federal agency EEO program obligations. It would 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.

The proposed rule would not impose requirements on State or local governments and would not preempt State law. Accordingly, the Commission has determined that the proposed rule does not have federalism implications within the meaning of Executive Order 13132.

D. Civil Justice Reform

The Commission has reviewed this proposed rule under Executive Order 12988, ''Civil Justice Reform.'' The proposed rule is intended to provide a clear, administrable framework for Federal-sector EEO complaint processing; reduce ambiguity; clarify filing, investigation, final decision, appeal, administrative judge, class-claim, mixed-case, remedies, and fee standards; and reduce unnecessary procedural disputes.

The proposed rule specifies the administrative process that applies to individual Federal-sector discrimination and retaliation complaints, preserves civil action rights as provided by statute, and clarifies the effect of filing a civil action on administrative processing. The proposed rule also clarifies that it does not determine whether a court will certify a class, permit a class claim to proceed, apply tolling, or find administrative exhaustion satisfied in a civil action.

The Commission has endeavored to draft the proposed rule to minimize litigation, eliminate ambiguity, and provide clear legal standards. The proposed rule would not have retroactive effect except to the extent expressly provided in a final rule or required by law.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531 through 1538, requires agencies to assess the effects of Federal mandates on State, local, and Tribal governments and the private sector under specified circumstances.

This proposed rule would govern Federal-sector EEO complaint processing and Federal agency EEO program responsibilities. It would not impose enforceable duties on State, local, or Tribal governments or on the private sector. The proposed rule would not result in expenditures by State, local, or Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, adjusted for inflation. The proposed rule also would not significantly or uniquely affect small governments.

Accordingly, the Commission has determined that no written statement is required under the Unfunded Mandates Reform Act.

F. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 through 808, requires agencies to submit a rule report to each House of Congress and to the Comptroller General before a final rule may take effect. The Commission will submit the required report and other information to Congress and the Comptroller General before any final rule takes effect.

The Commission will also submit the final rule to OIRA for a determination whether the rule is a ''major rule'' under 5 U.S.C. 804(2). The Commission preliminarily expects that the rule would not be a major rule because it is 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. The Commission requests comment on this preliminary assessment.

G. Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. 3501 through 3521, requires agencies to consider the burden of information collections and obtain approval from the Office of Management and Budget where required. A person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The proposed rule contains provisions that relate to complaint filing, agency acknowledgment of complaints, final agency decisions, appeals, requests for administrative judge proceedings, agency submission of complaint files, No FEAR Act data postings, Cummings Act notices, disciplinary-action reports to the Commission, complaint tracking, personnel-record notations, and Commission posting of appeal and administrative judge referral data. Some of these provisions modify existing Federal-sector EEO complaint-processing and reporting practices, including agency reporting through FedSEP and annual complaint-processing data reported through EEOC Form 462. EEOC's FedSEP system is currently used by agencies to submit MD–715 reports, Form 462 complaint-processing data, and complaint files for hearings and appellate cases.

To the extent the proposed rule modifies an existing approved collection of information or creates a new collection of information subject to the Paperwork Reduction Act, the Commission will submit the required

information collection request, revision request, or other appropriate request to OMB. The Commission preliminarily expects that much of the information required by the proposed rule is already collected, maintained, or reported by agencies under existing part 1614, the No FEAR Act, the Cummings Act, FedSEP reporting, EEOC Form 462 reporting, agency complaint files, and agency public data-posting practices.

List of Subjects in 29 CFR Part 1614

Administrative practice and procedures; Equal employment opportunity, Government employees, Individuals with disabilities, Race discrimination, Religious discrimination, Sex discrimination.

Equal Employment Opportunity Commission.

Andrea Lucas,

Chair.

For the reasons stated in the preamble, the Equal Employment Opportunity Commission proposes to amend 29 CFR part 1614 as follows:

PART 1614—FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

■ 1. The authority citation for part 1614 is revised to read as follows:

Authority: 5 U.S.C. 2301 note, 29 U.S.C. 206(d), 633a, 791, and 794a; 42 U.S.C. 2000e–16, 2000ff–6(e), and 2000gg–2(e); E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218; E.O. 11222, 3 CFR, 1964–1965 Comp., p. 306; E.O. 11478, 3 CFR, 1969 Comp., p. 133; E.O. 12106, 3 CFR, 1978 Comp., p. 263; Reorg. Plan No. 1 of 1978, 3 CFR, 1978 Comp., p. 321.

■ 2. Throughout part 1614, remove the words ''Office of Federal Operations'' wherever they appear and add, in their place, the words ''Office of Federal Sector''.

Subpart A—Agency Program To Promote Equal Employment Opportunity

■ 3. Amend § 1614.102 by revising paragraphs (a)(8), (b)(2), (b)(4), (b)(6), (b)(7), and (c)(4), adding paragraphs (a)(9) and (b)(8), and renumbering current paragraphs (a)(9) through (a)(13) to read as follows:

§ 1614.102 Agency program.

(a) * * *

(8) Provide reasonable accommodation to qualified applicants and employees with disabilities as required by Section 501 of the Rehabilitation Act, unless the accommodation would impose an undue hardship on the operation of the agency's program;

(9) Provide reasonable accommodation to qualified applicants and employees for pregnancy, childbirth, or related medical conditions as required by the Pregnant Workers Fairness Act, unless the accommodation would impose an undue hardship on the operation of the agency's program;

(10) Provide recognition to employees, supervisors, managers and units demonstrating superior accomplishment in equal employment opportunity;

(11) Establish a system for periodically evaluating the effectiveness of the agency's overall equal employment opportunity effort;

(12) Provide the maximum feasible opportunity to employees to enhance their skills through on-the-job training, work-study programs and other training measures so that they may perform at their highest potential and advance in accordance with their abilities;

(13) Inform its employees and recognized labor organizations of the affirmative equal employment opportunity policy and program and enlist their cooperation; and

(14) Participate at the community level with other employers, with schools and universities and with other public and private groups in cooperative action to improve employment opportunities and community conditions that affect employability.

* * * * *

(b) * * *

(2) Establish or make available an alternative dispute resolution program to be available before and after a complaint is filed.

* * * * *

(4) Designate a Director of Equal Employment Opportunity (EEO Director) and such other personnel as may be necessary to carry out the functions described in this part in all organizational units of the agency and at all agency installations. The EEO Director shall report directly to, and be under the immediate supervision of, the agency head. A reporting relationship to an intermediary official, including a deputy, chief operating officer, chief human capital officer, general counsel, or equivalent official, does not satisfy this requirement;

* * * * *

(6) Ensure that full cooperation is provided by all agency employees to agency EEO personnel in the processing and resolution of complaints, investigations, final agency decisions, appeals, compliance proceedings, and other proceedings under this part, and that full cooperation is provided to the Commission in the course of appeals, compliance proceedings, and other matters under this part, including providing access to personnel records and other agency records when required in connection with an investigation, appeal, compliance proceeding, or other proceeding under this part; and

(7) Publicize to all employees, and maintain in a current and readily accessible format, the name, title, business telephone number, business email address, and business mailing address of the agency EEO Director; instructions for requesting pre-complaint technical assistance; instructions for filing a complaint under this part, including any electronic portal, email address, mailing address, forms, or other approved filing method; and a notice of applicable filing deadlines and procedural requirements. Agencies must make this information available through appropriate employee communications channels, including electronic means, and must ensure that the information is accessible to employees in headquarters, field, remote, and other duty locations.

(8) Maintain a process for employees and applicants to request and receive appropriate and effective pre-complaint technical assistance.

(c) * * *

(4) Providing for the receipt and processing of individual complaints of discrimination, including complaints that assert putative class claims for exhaustion purposes under § 1614.204(b) and complaints jointly processed under §§ 1614.204 and 1614.606; and

* * * * *

■ 4. Amend § 1614.103 by revising paragraphs (a), (b)(3), (b)(6), and (d)(2) to read as follows:

§ 1614.103 Complaints of discrimination covered by this part.

(a) Individual complaints of employment discrimination and retaliation prohibited by title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.* (discrimination on the basis of race, color, religion, sex, or national origin); the Age Discrimination in Employment Act, 29 U.S.C. 621 *et seq.* (discrimination on the basis of age when the aggrieved individual is at least 40 years of age); the Rehabilitation Act, 29 U.S.C. 791 *et seq.* (discrimination on the basis of disability); the Equal Pay Act, 29 U.S.C. 206(d) (sex-based wage discrimination); the Genetic Information Nondiscrimination Act, 42 U.S.C. 2000ff *et seq.* (discrimination on the basis of genetic information); or the Pregnant Workers Fairness Act, 42 U.S.C. 2000gg *et seq.* (discrimination on the basis of pregnancy, childbirth, or related medical conditions), shall be processed in accordance with this part.

Complaints alleging retaliation prohibited by these statutes are considered complaints of discrimination for purposes of this part. Complaints may be jointly processed as provided in §§ 1614.204 and 1614.606. Putative class claims may be asserted only as provided in § 1614.204(b) and shall not be processed as class complaints under this part.

(b) * * *

(3) The United States Postal Service, Postal Regulatory Commission, and Tennessee Valley Authority;

* * * * *

(6) The Government Publishing Office, except for complaints under the Rehabilitation Act; and

* * * * *

(d) * * *

(2) Employees of the Government Accountability Office;

* * * * *

■ 5. Amend § 1614.104 by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 1614.104 Agency processing.

(a) Each agency subject to this part shall adopt procedures for processing individual complaints of discrimination, including complaints that assert putative class claims for exhaustion purposes under § 1614.204(b) and complaints jointly processed under §§ 1614.204 and 1614.606, that are consistent with §§ 1614.106 through 1614.110 and § 1614.204 and all other applicable provisions of this part, along with the instructions for complaint processing contained in the Commission's Management Directives.

* * * * *

(c) An agency may petition the Commission for permission to adopt an internal hearing process as part of its individual complaint processing procedures. For example, an agency could petition to conduct hearings on its own initiative before issuing a final agency decision or it could petition to adopt procedures for complainants to request the agency conduct a hearing before issuing a final agency decision.

(1) The agency's petition shall be directed to and decided by the Director, Office of Federal Sector. In addition to considering any requirements set by the Commission's Management Directives, the Director may approve an internal hearing process upon satisfactory demonstration from the agency that the process will be impartial and will improve the quality and accuracy of final agency decisions.

(2) The Commission intends that approved internal hearing processes will be reserved for agencies with a reliable pre-existing hearing infrastructure and a compelling need for resolution through a hearing at an earlier stage than can be provided through the Commission's appellate process. A compelling need can be demonstrated by national security interests or obligation of comparable significance.

(3) The Director, Office of Federal Sector, will annually review all approved agency internal hearing processes. The Director may revoke approval for a deficient agency internal hearing process upon providing the agency with notice and a reasonable opportunity to correct and demonstrate compliance.

(4) Approval of an internal hearing process is without prejudice to a complainant's right to appeal a final agency decision to the Commission under § 1614.401. On appeal from a final decision by an agency with an approved internal hearing process, the Commission may remand a matter to the agency with instructions for further proceedings within the agency's internal hearing process. Alternatively, the Commission may refer a matter to an administrative judge under the criteria at § 1614.406(d).

■ 6. Remove and reserve § 1614.105.

§ 1614.105 [Reserved]

■ 7. Amend § 1614.106 to read as follows:

§ 1614.106 Individual complaints.

(a) *Agency with which to file.* A complaint must be filed with the agency that allegedly discriminated against the complainant.

(b) *Time for filing.* A complaint, amendment, or supplement to a complaint must be filed within 60 days of the date of the matter alleged to be discriminatory; in the case of a personnel action, within 60 days of the effective date of the action; or, in the case of a hostile work environment or other continuing violation, within 60 days of the most recent act alleged to have contributed to the violation.

(c) *Contents of complaint.* A complaint must contain a signed statement from the person claiming to be aggrieved or that person's attorney. The signed statement must identify the complainant and the agency and must contain sufficient factual allegations to identify the action, omission, policy, practice, or matter being challenged; the protected bases alleged; the approximate date or time period of the action, omission, policy, practice, or matter being challenged; and the relief sought. The complaint need not use technical legal terminology, but it must contain sufficient factual allegations, accepted as true, to state a claim for relief that is plausible on its face based on discrimination addressed under this part. The complaint must also contain a telephone number, email address, mailing address, or other contact information where the complainant and the complainant's attorney or representative can be contacted.

(d) *Amending or supplementing the complaint.*

(1) A complainant may amend a complaint within 21 days after the complaint was filed to include issues or claims existing at the time the complaint was filed that are like or related to those raised in the original complaint. An amendment that is like or related to the original complaint relates back to the date the original complaint was filed for purposes of the time limits in paragraph (b) of this section. The agency shall decline to accept an amendment if it is untimely, is not like or related to the issues or claims in the original complaint, or is otherwise subject to dismissal under § 1614.107.

(3) The agency shall acknowledge the amendment request in writing, identify the date on which the amendment was filed, explain whether the amendment was accepted or declined, and include the amendment request and determination in the complaint record. An agency's determination to decline an amendment is not immediately reviewable by the Commission but may be considered by the Commission on an appeal from the final agency decision on the original complaint.

(4) A complainant may supplement a complaint at any time before the agency issues a final agency decision to include issues or claims arising after the complaint was filed that are like or related to those raised in the original complaint. A supplementation does not relate back to the date the original complaint was filed for purposes of the time limits in paragraph (b) of this section. The agency may decline to accept an otherwise valid supplementation if the proceedings are advanced and accepting the supplementation would unduly delay the final agency decision on the original complaint. The agency shall decline to accept a supplementation if it is untimely, is not like or related to the issues or claims in the original complaint, or is otherwise subject to dismissal under § 1614.107.

(5) The agency shall acknowledge the supplementation request in writing, identify the date on which the supplementation was filed, explain whether the supplementation was

accepted or declined, and include the supplementation request and determination in the complaint record. An agency's determination to decline a supplementation request is not immediately reviewable by the Commission but may be considered by the Commission on an appeal from the final agency decision on the original complaint.

(6) If an agency declines to accept an amendment or supplementation, and the claims raised therein are timely and not otherwise subject to dismissal under § 1614.107, the agency shall accept and process the claims as a separate complaint.

(e) *Acknowledgment of complaint and notice of rights.* The agency shall acknowledge receipt of a complaint in writing and inform the complainant of the date on which the complaint was filed. If the agency accepts the complaint, the acknowledgment shall advise the complainant that:

(1) The agency will conduct an impartial and appropriate investigation of the accepted complaint, including any accepted amendment or supplementation, and issue a final agency decision in accordance with §§ 1614.108 and 1614.110;

(2) When a complaint has been supplemented, the agency shall complete the investigation within the earlier of 135 days after the last accepted supplementation to the complaint or 270 days after the filing of the original complaint, unless the time period is extended in accordance with § 1614.108;

(3) The complainant has the right to appeal a final agency decision to the Commission in accordance with subpart D of this part;

(4) In an appeal, the Commission may decide the matter on the administrative record, order supplementation of the record, remand the matter to the agency, or refer the matter, or specified claims or issues, to an administrative judge under § 1614.406 when the Commission determines that administrative judge proceedings are necessary or efficient; and

(6) The complainant has the right to file a civil action in accordance with §§ 1614.407 and 1614.408, as applicable.

■ 8. Amend § 1614.107 by revising paragraph (a) introductory text, paragraphs (a)(1), (a)(2), and (a)(5), and paragraph (b) to read as follows:

§ 1614.107 Dismissals of complaints.

(a) *Dismissal of entire complaint.* The agency shall issue a final agency decision dismissing an entire complaint:

(1) That fails to state a claim under § 1614.103 or fails to satisfy the pleading requirements of § 1614.106(c), or states the same claim that is pending before or has been decided by the agency or the Commission;

(2) That fails to comply with the applicable time limits contained in § 1614.106;

* * * * *

(5) That is moot or alleges that a proposal to take a personnel action, or another preliminary step to taking a personnel action, is discriminatory, unless the complaint states a claim for retaliation based on the proposal or preliminary step that is plausible on its face;

* * * * *

(b) *Partial dismissal of claims.* Where the agency concludes that some but not all of the claims in a complaint should be dismissed for the reasons contained in paragraphs (a)(1) through (9) of this section, the agency shall notify the complainant in writing of its determination, identify the accepted and dismissed claims, explain the rationale for the determination, and include a copy of the notice in the complaint record. The agency shall continue processing any remaining accepted claims in accordance with this part. A determination under this paragraph is not immediately reviewable by the Commission but may be considered by the Commission on an appeal from the final agency decision on the remainder of the complaint.

■ 9. Revise § 1614.108 to read as follows:

§ 1614.108 Investigation of complaints.

(a) *Agency is responsible for investigation.* The agency against which the complaint has been filed shall be responsible for investigating the complaint.

(b) *Development of factual record.* In accordance with any additional instructions contained in the Commission's Management Directives, the agency shall ensure development of an impartial and appropriate factual record upon which to issue a final agency decision under § 1614.110 and upon which the Commission may conduct review under subpart D of this part. An appropriate factual record is one that allows a reasonable fact finder to draw conclusions as to whether discrimination occurred. Agencies may use an exchange of letters or memoranda, interrogatories, investigations, affidavits, declarations, requests for information, fact-finding conferences, or any other fact-finding methods that efficiently and thoroughly address the matters at issue. Agencies are encouraged to incorporate alternative dispute resolution techniques into their investigative efforts to promote early resolution of complaints.

(c) *Investigative procedures.* The procedures in paragraphs (c)(1) through (3) of this section apply to the investigation of complaints:

(1) The complainant, the agency, and any employee of a Federal agency shall produce such documentary and testimonial evidence as the investigator deems necessary.

(2) Investigators are authorized to administer oaths. Statements of witnesses shall be made under oath or affirmation or, alternatively, by written statement under penalty of perjury.

(3) When a party or current Federal employee fails without good cause to respond fully and timely to an investigator's request for evidence, the investigator may document the failure in the investigative record. The agency in a final decision or the Commission on appeal may consider the failure in evaluating the complaint and may draw appropriate nonmonetary evidentiary inferences, exclude evidence not timely produced, or take other nonmonetary procedural or evidentiary measures consistent with this part and applicable law. Neither an agency nor the Commission can compel a response from a non-party, former employee who has left Federal service; such failure to respond should not raise an inference of discrimination.

(d) *Classified information.* Any investigation involving classified information or other information requiring special handling shall be conducted by investigators with appropriate credentials, authorizations, or security clearances. The Commission will, upon request, supply the agency with the name of an investigator with appropriate credentials, authorizations, or security clearances, as applicable.

(e) *Time for investigation.*

(1) Except as provided in this paragraph, the agency shall complete its investigation within 135 days of the date of filing of an individual complaint or within the time period contained in an order from the Office of Federal Sector on an appeal from a dismissal pursuant to § 1614.107. For complaints filed after the effective date of this subpart, but before January 1, 2028, the agency shall complete its investigation within 180 days of the date of filing of an individual complaint. By written agreement within those time periods, the complainant and the respondent agency may voluntarily extend the time period for not more than an additional

90 days. The agency may unilaterally extend the time period, or any period of extension, for not more than 30 days where it must sanitize a complaint file that may contain classified information or other protected information, provided the agency notifies the complainant of the extension.

(2) When a complaint has been supplemented under § 1614.106(d)(4), the agency shall complete its investigation within the earlier of 135 days after the last accepted supplementation to the complaint or 270 days after the filing of the original complaint, unless the time period is extended in accordance with this paragraph.

(3) The investigation is deemed complete when the investigative file is transmitted to the complainant and counsel for the respondent agency.

(f) *Supplementing the investigative file before final agency decision.* The parties may submit additional evidence to the investigator within 15 days of receipt of the investigative file. The investigator shall append all timely submitted evidence to the investigative file. The record is closed after the time for submitting additional evidence elapses.

(g) *Time for final agency decision.* The agency shall issue a final agency decision within 30 days of the record closing.

(h) *Delays in completing investigation or issuing final agency decision.* If the agency is unable to complete the investigation or issue a final agency decision within the applicable time limits, the agency shall, within those same time limits, issue a written notice to the complainant explaining why it cannot meet the deadline, estimating the date by which the agency expects to complete the investigation or issue a final agency decision, and informing the complainant of the right to file a civil action in accordance with § 1614.407(a)(2). The agency shall simultaneously inform the Office of Federal Sector of the delay. Commission Management Directive may proscribe the manner and means of the agency's notice to the Office of Federal Sector. The agency remains responsible for completing the investigation and issuing a final agency decision unless the complainant files a civil action or the Commission otherwise directs.

■ 10. Rename and revise § 1614.109 to read as follows:

§ 1614.109 Offers of resolution.

(a) *Timing.* After a written complaint has been filed, the agency may serve a written offer of resolution on the complainant at any stage of administrative processing.

(b) *Contents of a valid offer.* To be effective under this paragraph, an offer must:

(1) Be in writing;

(2) Identify the complaint, claims, and parties to be resolved;

(3) State the monetary relief offered, including back pay, compensatory damages, interest, and other monetary relief, as applicable;

(4) State the nonmonetary relief offered with sufficient specificity to be enforceable;

(5) Provide for payment of reasonable attorney fees and costs incurred through the end of the acceptance period, either in a stated amount or in an amount to be determined under § 1614.501(e) if the parties cannot agree;

(6) State that the offer will remain open for 30 days unless a longer period is specified; and

(7) Clearly explain the consequences of rejection under this paragraph.

(c) *Acceptance.* If the complainant accepts the offer in writing within the acceptance period, the complaint is resolved to the extent stated in the offer. An accepted offer is enforceable under § 1614.504. Acceptance of an offer does not constitute an admission of liability unless the offer expressly so provides.

(d) *Consequence of rejection.* If the complainant does not accept a valid offer and the relief finally obtained by the complainant is not more favorable than the offer, the complainant may not recover attorney fees or costs incurred after the expiration of the acceptance period, except as provided in paragraph (j)(7) of this section.

(e) *Comparison of offer and relief obtained.* In determining whether the relief finally obtained is more favorable than the offer:

(1) The comparison must be made on an objective basis, considering the total monetary and nonmonetary relief offered and the total monetary and nonmonetary relief finally obtained;

(2) Attorney fees and costs incurred after the expiration of the acceptance period must not be considered part of the relief finally obtained;

(3) Attorney fees and costs incurred through the expiration of the acceptance period must be considered only to the extent the offer included such fees and costs in a stated amount or offered to pay reasonable fees and costs as determined under § 1614.501(e);

(4) Nonmonetary relief must be compared according to its practical effect, enforceability, duration, and relationship to the claims at issue; and

(5) The agency bears the burden of establishing that the offer was valid and that the relief finally obtained was not more favorable than the offer.

(f) *Multiple offers.* The agency may make more than one offer. If more than one valid offer is rejected, the limitation on fees and costs applies from the expiration of the acceptance period for the earliest offer that was not less favorable than the relief finally obtained.

(g) *Limitations.* The limitation in paragraph (j)(4) of this section does not apply if the offer was invalid, unenforceable, or materially incomplete, or to the extent application of the limitation is prohibited by the governing fee statute. A claim, event, or request for relief arising after the offer is considered only if it is within the scope of the offer.

(h) *Evidentiary effect.* An unaccepted offer is not admissible to prove liability or the amount of relief, but may be considered in determining attorney fees and costs under this paragraph.

■ 11. Rename and revise § 1614.110 to read as follows:

§ 1614.110 Final agency decisions.

(a) *Final agency decision dismissing entire complaint.* The agency shall issue an immediate final agency decision where the entire complaint is subject to dismissal under § 1614.107. The final agency decision shall include:

(1) A description of the claims;

(2) The rationale for dismissal;

(3) Notice of the complainant's right to appeal to the Commission, including that the appeal may be filed using the EEOC Public Portal, available at *https://publicportal.eeoc.gov;*

(4) Notice that, in an appeal, the Commission may decide the matter on the record, order supplementation, remand the matter, or refer the matter to an administrative judge under § 1614.406;

(5) Notice of the right to file a civil action in federal district court, the name of the proper defendant, and the applicable time limits; and

(6) A copy of EEOC Form 573 or other Commission-prescribed appeal notice.

(b) *Final agency decision on the merits.* The agency shall issue a final agency decision on the merits of an accepted complaint, or partially accepted complaint, after completing the investigation required by § 1614.108. The agency shall issue the final agency decision within the time limits prescribed by § 1614.108(g), unless the complaint is resolved, withdrawn, dismissed, or otherwise terminated. The final agency decision shall consist of findings, decided on a preponderance of the evidence standard, by the agency on the merits of each accepted claim in the complaint. When discrimination is

found, the final agency decision shall provide appropriate remedies and relief in accordance with subpart E of this part. The final agency decision shall include:

(1) A description of the claims, including any claims partially dismissed under § 1614.107;

(2) The rationale for any finding of discrimination or no discrimination;

(3) Any remedies and relief ordered;

(4) Notice of the complainant's right to appeal to the Commission, including that the appeal may be filed using the EEOC Public Portal, available at *https://publicportal.eeoc.gov;*

(5) Notice that, in an appeal, the Commission may decide the matter on the record, order supplementation, remand the matter, or refer the matter to an administrative judge under § 1614.406;

(6) Notice of the right to file a civil action in federal district court, the name of the proper defendant, and the applicable time limits; and

(7) A copy of EEOC Form 573 or other Commission-prescribed appeal notice.

(c) *Agency request for administrative judge proceedings.* If the agency believes that administrative judge proceedings would be necessary or efficient if the complainant appeals, the agency may include in the final agency decision, or in an attachment to the final agency decision, a request for referral under § 1614.406. The request must identify the issues for referral and explain why referral would be necessary or efficient. The request does not affect the finality of the final agency decision, the complainant's appeal period, or the complainant's civil action rights.

(e) *Final agency action.* A final agency decision issued under this section is final agency action for purposes of subparts D and E of this part, subject to review by the Commission if timely appealed, and subject to termination of administrative processing if a civil action is filed.

■ 12. Amend § 1614.203 by revising paragraph (d)(3)(iii)(D) to read as follows:

§ 1614.203 Rehabilitation Act.

* * * * *

(d) * * *

(3) * * *

(iii) * * *

(D) Explains that the individual may file a complaint under § 1614.106 and identifies the applicable filing deadline and procedural requirements under this part.

* * * * *

Subpart B—Provisions Applicable to Particular Complaints

■ 13. Revise § 1614.204 to read as follows:

§ 1614.204 No class complaints; assertion of putative class claims for administrative exhaustion; joint processing of related individual complaints.

(a) *No administrative adjudication of class complaints.*

(1) Complaints under this part may be filed, accepted, investigated, heard, decided, resolved, appealed, and enforced only as individual complaints of identified aggrieved persons, except that related complaints or claims may be processed together as provided in this section or § 1614.606.

(2) Subject only to paragraph (b) of this section, which permits assertion of a putative class claim for administrative exhaustion purposes only, no complaint may be filed, maintained, certified, processed, adjudicated, resolved, appealed, or enforced as a class complaint under this part. No employee, former employee, applicant for employment, representative, or other person may act as a class agent or class representative under this part.

(3) An agency, an administrative judge, or the Commission shall not, under this part, certify a class, appoint or recognize a class agent, issue class notice, approve or disapprove a class settlement, adjudicate a class complaint, issue a decision or final order binding persons who are not identified complainants, or award individual relief to persons who are not identified complainants. This does not limit any individual's or agency's right or ability to pursue or settle class-wide claims outside the administrative process established under this part.

(4) An allegation that an agency personnel policy, practice, action, or matter affected more than one employee, former employee, or applicant for employment may be raised by one or more identified complainants and, where appropriate, may be processed together with related individual complaints or claims under this section or § 1614.606.

(b) *Assertion of putative class claims for administrative exhaustion purposes.*

(1) A complainant may assert, in a written complaint, amendment, or supplementation under § 1614.106, that an agency policy, practice, action, or matter discriminated against a putative class of employees, former employees, or applicants for employment. Such an assertion may be made for the purpose of presenting the putative class claim to the agency or the Commission and preserving the complainant's ability to contend in a subsequent civil action that administrative exhaustion requirements have been satisfied.

(2) A putative class claim asserted under this paragraph is not a class complaint under this part and shall not be processed as a class complaint under this part. A complainant who asserts a putative class claim under this paragraph is not a class agent, class representative, or representative of any person other than the complainant in proceedings under this part.

(3) A complainant asserting a putative class claim for administrative exhaustion purposes under this paragraph should identify, to the extent reasonably available:

(i) The agency policy, practice, action, or matter alleged to have affected the putative class;

(ii) The protected bases;

(iii) The complainant's own individual claim, injury, and requested relief;

(iv) The general description of the putative class; and

(v) The time period during which the alleged discrimination occurred.

(4) The agency shall include a putative class claim asserted under this paragraph in the complaint record and shall notify the complainant that the claim will not be certified, heard, decided, resolved, appealed, or enforced as a class complaint in the administrative process. The agency shall not investigate the claim as a class complaint, but may investigate the alleged policy, practice, action, or matter to the extent relevant to the complainant's individual claim or any jointly processed individual claims. The agency shall process the complainant's individual complaint, and any jointly processed individual complaints, in accordance with this part.

(5) An agency shall not dismiss an otherwise valid individual complaint solely because the complainant has asserted a putative class claim under this paragraph. The agency may dismiss or reject the putative class-processing component of the complaint on the ground that class complaints are not processed under this part, but such action shall not affect the processing of any individual complaint or claim that otherwise complies with this part.

(6) For purposes of the administrative procedures established by this part, a putative class claim asserted under this paragraph is deemed presented to the agency or the Commission on the date it is timely raised. The final agency or Commission action on the complainant's individual complaint, or the agency's or Commission's failure to

take final action within the applicable time period, constitutes final administrative action, or failure to take final administrative action, on the complaint including the putative class claim to the extent such action or inaction is required by this part or by statute before filing a civil action.

(7) Nothing in this paragraph authorizes class certification, class notice, class discovery, class settlement, class-wide adjudication, class-wide relief, tolling for persons who are not identified complainants, or any binding determination of the rights of absent persons in the administrative process.

(c) *Complaints by identified groups of complainants.*

(1) Two or more identified employees, former employees, or applicants for employment may file a single joint written complaint, or may file separate complaints, concerning substantially similar allegations of discrimination or relating to the same agency policy, practice, action, or matter.

(2) Each identified complainant must satisfy the applicable requirements of § 1614.106, including applicable time limits and pleading and signature requirements.

(d) *Requests for joint processing.*

(1) One or more identified employees, former employees, or applicants for employment may request that the agency or the Commission process related individual complaints or claims together.

(2) A request for joint processing should identify the complaints, claims, and complainants proposed for joint processing; describe the common questions of fact or law, common policy or practice, or other relationship among the claims; and explain why joint processing would promote fair, efficient, and timely resolution.

(3) The agency or the Commission shall consider a request for joint processing and notify the affected complainants and the agency whether the request is granted, denied, or granted in part. Denial of a request for joint processing does not dismiss any complaint or claim and does not affect any complainant's right to proceed individually.

(e) *Discretionary joint processing by the agency or Commission.*

(1) The agency or the Commission may, on its own initiative or on request of one or more complainants, process related individual complaints or claims together when they involve substantially similar allegations, common questions of law or fact, the same or related agency policies or practices, the same matter, or other circumstances showing that joint processing would promote fair, efficient, and timely resolution.

(2) Joint processing may include, as appropriate: coordinated or joint alternative dispute resolution; investigation; development of a common factual record; discovery or other development of evidence; hearing; agency final action; appeal; compliance proceedings; or other case-management procedures consistent with this part.

(3) Before directing joint processing, the agency or Commission shall provide appropriate notice to the affected complainants and the agency.

(f) *Severance, limitations, and case management.* The agency or Commission may decline, limit, discontinue, or modify joint processing, or may sever complaints, claims, issues, or parties, when joint processing would unduly delay resolution, prejudice a complainant or the agency, create a conflict of interest, compromise privacy or confidentiality interests, involve materially different facts or legal issues, affect classified or otherwise protected information, or otherwise fail to promote fair, efficient, and timely processing.

(g) *Individual rights preserved.*

(1) Joint processing under this section or § 1614.606, or the assertion of a putative class claim under paragraph (b) of this section, does not create a class, class complaint, class agent, class representative, class member, or class-wide presumption of discrimination.

(2) Joint processing does not alter any complainant's obligation to satisfy the requirements of this part; does not alter any election-of-remedies rule; and does not expand or restrict any complainant's rights under this part.

(3) Each complainant remains responsible for proceeding with that complainant's own complaint, whether or not the complaint is jointly processed with other complaints and whether or not the complainant has asserted a putative class claim under paragraph (b) of this section.

(h) *Decisions, settlements, and relief.*

(1) In any jointly processed matter, the agency or Commission shall make findings and determinations as to each identified complainant and each claim, except to the extent a complainant's claim is otherwise resolved, withdrawn, dismissed, severed, or terminated.

(2) In any matter in which a complainant has asserted a putative class claim under paragraph (b) of this section, the agency or Commission shall make findings and determinations only as to the identified complainant or complainants and the claims processed under this part. The agency or Commission shall not make class-wide findings or determinations and shall not determine the rights of persons who are not identified complainants.

(3) Any settlement agreement must be in writing, must identify the complainants and claims resolved, and binds only the parties to the agreement. A settlement of one complainant's claim does not resolve another complainant's claim unless that complainant knowingly and voluntarily agrees in writing.

(4) Relief may be awarded only as authorized by this part. Individual relief may be awarded only to identified complainants who are parties to the complaint or proceeding. Nothing in this section limits the authority of an agency or the Commission to order corrective, curative, preventive, or prospective relief otherwise authorized by this part in an individual complaint.

(i) *Relationship to § 1614.606.* Complaints or claims processed together under this section remain individual complaints or claims for purposes of this part. This section supplements § 1614.606 and shall be construed to preserve the authority of agencies and the Commission to consolidate or jointly process related complaints by identified complainants, without permitting class complaints or class-wide adjudication in the administrative process.

Subpart C—Related Processes

■ 14. Revise § 1614.301 to read as follows:

§ 1614.301 Negotiated grievance procedures.

(a) *Applicability.* This section applies only when 5 U.S.C. 7121(d) applies; that is, when an aggrieved employee is affected by a prohibited personnel practice described in 5 U.S.C. 2302(b)(1), the matter falls within the coverage of a negotiated grievance procedure, and the negotiated grievance procedure permits allegations of discrimination to be raised.

(b) *Election.* An employee covered by paragraph (a) of this section may raise a matter under either this part or the negotiated grievance procedure, but not both. An election under this part occurs when the employee files a written complaint under § 1614.106. Seeking pre-filing information, technical assistance, or alternative dispute resolution before filing a written complaint under § 1614.106 does not constitute an election under this part. An election under the negotiated grievance procedure occurs when the employee timely files a written grievance under that procedure. The first election controls.

(c) *Effect of election.* An agency shall dismiss a complaint, or the portion of a complaint, that concerns a matter previously elected for processing under a negotiated grievance procedure covered by paragraph (a) of this section. The dismissal shall be without prejudice to the employee's rights in the negotiated grievance procedure, including any right to seek review of a final grievance decision by the Merit Systems Protection Board or the Commission as provided by 5 U.S.C. 7121(d), 5 U.S.C. 7702, and subpart D of this part.

(d) *Matters not covered by 5 U.S.C. 7121(d).* If 5 U.S.C. 7121(d) does not apply, the existence or use of a negotiated grievance procedure does not bar processing under this part unless another statute requires an election of remedies.

■ 15. Revise § 1614.302 to read as follows:

§ 1614.302 Mixed cases: election and agency processing.

(a) *Mixed case.* A mixed case is a matter in which an employee or applicant for employment:

(1) Challenges an action that may be appealed to the Merit Systems Protection Board; and

(2) Alleges that a basis for the action was discrimination covered by 5 U.S.C. 7702(a)(1)(B) or by another statute requiring treatment under 5 U.S.C. 7702.

(b) *Mixed case complaint and mixed case appeal.* A mixed case complaint is a mixed case filed with an agency under this part. A mixed case appeal is a mixed case filed with the Merit Systems Protection Board.

(c) *Election.* An employee or applicant may initially file either a mixed case complaint with the agency or a mixed case appeal with the Merit Systems Protection Board, but not both. The first filing controls, subject to 5 U.S.C. 7702(f) and paragraph (f) of this section.

(d) *Agency processing of mixed case complaints.* A mixed case complaint filed with an agency shall be processed under subpart A of this part, except that:

(1) The agency shall complete its investigation and issue a final agency decision within 120 days after the mixed case complaint is filed;

(2) The agency's final decision shall advise that the complainant may appeal the matter to the Merit Systems Protection Board (not the Commission) within the time allowed by MSPB regulations or may file a civil action as provided in § 1614.310, but may not do both; and

(3) If the agency does not issue a final decision within 120 days after the mixed case complaint is filed, the complainant may appeal the matter to the Merit Systems Protection Board or file a civil action as provided in § 1614.310, but may not do both.

(e) *Dismissal based on prior MSPB election.* An agency shall dismiss a mixed case complaint, or the portion of a complaint, that concerns the same matter previously filed as a mixed case appeal with the Merit Systems Protection Board, unless 5 U.S.C. 7702(f) or paragraph (f) of this section requires further processing by the agency.

(f) *MSPB dismissal for lack of jurisdiction.*

(i) If an individual files a mixed case appeal with the Merit System Protection Board instead of a mixed case complaint with an agency, and the MSPB subsequently dismisses the appeal for lack of jurisdiction or otherwise determines the matter is not within the MSPB's jurisdiction, the individual may re-file the matter as a non-mixed complaint with the agency allegedly responsible for the discrimination. Any such complaint must be filed with the agency within 30 days of receipt of the MSPB's dismissal or other jurisdictional determination. The complaint must comply with all requirements under § 1614.106. The complaint relates back to the date of the original appeal to the MSPB for purposes of the time limits in § 1614.106(b) and may be considered timely to the extent required by 5 U.S.C. 7702(f). The agency shall process the complaint as a non-mixed matter consistent with this part. Nothing in this paragraph requires an agency to process a matter that is untimely, previously elected and within the MSPB's jurisdiction, or otherwise subject to dismissal, except to the extent required by 5 U.S.C. 7702(f).

(ii) If an individual files a mixed case appeal with the MSPB after receiving a final agency decision on a mixed case complaint, and the MSPB subsequently dismisses the appeal for lack of jurisdiction or otherwise determines the matter is not within the MSPB's jurisdiction, the individual may appeal the earlier final agency decision to the Commission. Any such appeal must be filed with the Commission within 30 days of receipt of the MSPB's dismissal or other jurisdictional determination. The appeal must comply with all requirements under subpart D of this part. The appeal relates back to the date of the original appeal to the MSPB for purposes of the time limits in § 1614.402(a) and may be considered timely to the extent required by 5 U.S.C. 7702(f). The Commission shall process the appeal as a non-mixed matter consistent with this part. Nothing in this paragraph requires an Commission to process a matter that is untimely, previously elected and within the MSPB's jurisdiction, or otherwise subject to dismissal, except to the extent required by 5 U.S.C. 7702(f).

(iii) If an individual files a mixed case appeal with the MSPB after not receiving a final agency decision within 120 days of filing a mixed case complaint with an agency, and the MSPB subsequently dismisses the appeal for lack of jurisdiction or otherwise determines the matter is not within the MSPB's jurisdiction, the individual may re-file the complaint with the agency as a non-mixed matter. Any such complaint must be re-filed with the agency within 30 days of receipt of the MSPB's dismissal or other jurisdictional determination. The agency shall recommence processing the re-filed complaint as a non-mixed matter consistent with this part. Nothing in this paragraph requires an agency to process a matter that is untimely, previously elected and within the MSPB's jurisdiction, or otherwise subject to dismissal, except to the extent required by 5 U.S.C. 7702(f).

(g) *Negotiated grievance procedures.* A mixed case first raised under a negotiated grievance procedure is governed by § 1614.301, 5 U.S.C. 7121(d), 5 U.S.C. 7702, applicable MSPB regulations, and subpart D of this part, as applicable.

■ 16. Revise § 1614.303 to read as follows:

§ 1614.303 Commission consideration of MSPB decisions in mixed cases.

(a) *Petition for Commission consideration.* An employee or applicant who receives a final decision from the Merit Systems Protection Board in a mixed case may petition the Commission to consider the MSPB's decision. The petition must be filed within 30 days after receipt of notice of the MSPB's final decision.

(b) *Form and service.* A petition must be in writing, identify the petitioner, identify the MSPB decision for which Commission consideration is sought, and state the alleged error concerning the discrimination issue. The petition must be filed and served in the manner prescribed by the Commission's public filing instructions.

(c) *Commission action.* Commission consideration of an MSPB mixed-case decision, including any decision whether to consider the petition, any review of the MSPB record, any supplementation of the record, any Commission decision concurring in or differing from the MSPB, and any

referral to the MSPB, shall be governed by 5 U.S.C. 7702.

(d) *MSPB action and Special Panel.* Any MSPB action following a Commission decision that differs from the MSPB decision, any certification to the Special Panel, any Special Panel proceedings, any interim relief, and enforcement of any Special Panel decision shall be governed by 5 U.S.C. 7702 and applicable MSPB regulations.

(e) *Effect of Commission determination not to consider MSPB decision.* A Commission determination not to consider an MSPB decision shall have the effect provided by 5 U.S.C. 7702 and shall not be used as evidence on any issue of discrimination in any judicial proceeding concerning that issue.

■ 17. Remove and reserve §§ 1614.304, 1614.305, 1614.306, 1614.307, 1614.308, and 1614.309.

§§ 1614.304 through 1614.309 [Reserved]

■ 18. Revise § 1614.310 to read as follows:

§ 1614.310 Civil actions in mixed cases.

(a) *Authorization.* An individual with a mixed case may file a civil action in an appropriate United States district court as authorized by 5 U.S.C. 7702 and 5 U.S.C. 7703(b)(2).

(b) *Time for filing.* A civil action in a mixed case may be filed:

(1) Within 30 days after receipt of notice of a judicially reviewable action under 5 U.S.C. 7702, including a final agency decision on a mixed case complaint if the individual does not appeal the matter to the Merit Systems Protection Board;

(2) After 120 days from the filing of a mixed case complaint with an agency if there has been no judicially reviewable action and no appeal to the Merit Systems Protection Board;

(3) After 120 days from the filing of a mixed case appeal with the Merit Systems Protection Board if there has been no judicially reviewable action, subject to 5 U.S.C. 7702(e)(1)(B); or

(4) After 180 days from the filing of a petition with the Commission under § 1614.303 if there has been no final action under 5 U.S.C. 7702(b), (c), or (d).

(c) *Non-mixed cases.* This section applies only to mixed cases. Civil actions in non-mixed cases are governed by subpart D of this part and applicable law.

Subpart D—Appeals and Civil Actions

■ 19. Revise § 1614.401 to read as follows:

§ 1614.401 Appeals to the Commission.

(a) *Complainant appeals.* A complainant may appeal to the Commission from a final agency decision on a complaint. The Commission would review the final agency decision de novo.

(b) *Agency appeals prohibited except as expressly authorized.* An agency may not appeal its own final agency decision on a complaint. An agency may appeal only where expressly authorized by this part.

(c) *Agency participation and requests for administrative judge proceedings.* An agency may participate in any appeal filed by a complainant and may request that the Commission refer the complaint, or specified claims or issues, to an administrative judge under § 1614.406. An agency request for administrative judge proceedings is not an appeal, does not affect the finality of the final agency decision, and does not extend, toll, or restrict the complainant's appeal or civil action rights.

(d) *Grievance appeals.* A grievant may appeal the final decision of the agency, arbitrator, or Federal Labor Relations Authority on a grievance when an issue of employment discrimination was raised in a negotiated grievance procedure that permits such issues to be raised. A grievant may not appeal under this part when the matter initially raised in the negotiated grievance procedure is still pending in that process, is in arbitration, is before the Federal Labor Relations Authority, is appealable to the Merit Systems Protection Board, or is not subject to 5 U.S.C. 7121(d).

(e) *Compliance appeals.* A complainant may appeal to the Commission from an agency's alleged noncompliance with a settlement agreement or final agency decision in accordance with § 1614.504.

■ 20. Revise § 1614.402 to read as follows:

§ 1614.402 Time for appeals to the Commission.

(a) *Appeal deadline.* Appeals described in § 1614.401(a), (d), and (e) must be filed within 30 days of receipt of the final agency decision, final grievance decision, final arbitration decision, final Federal Labor Relations Authority decision, or agency determination on compliance, as applicable and subject to § 1614.604(f). An agency request for administrative judge proceedings under §§ 1614.110, 1614.406, or 1614.403 is not an appeal and does not create an independent appeal period.

(b) *Receipt by attorney.* If the complainant is represented by an attorney of record, the time period provided in paragraph (a) of this section shall be calculated from receipt of the required document by the attorney. In all other instances, the time period shall be calculated from receipt by the complainant.

■ 21. Amend § 1614.403 to read as follows:

§ 1614.403 How to appeal.

(a) *Filing an appeal and requesting administrative judge proceedings.* A complainant, grievant, or other individual authorized to appeal under § 1614.401 must file an appeal with the Office of Federal Sector, Equal Employment Opportunity Commission, in a digital format acceptable to the Commission, through the EEOC Public Portal, FedSEP where applicable, or by another method prescribed by the Commission. The appellant should use EEOC Form 573, Notice of Appeal/Petition, or any successor form prescribed by the Commission, and should identify the decision, action, dismissal, or determination being appealed. The appellant may include in the appeal a request that the Commission refer the matter, or specified claims or issues, to an administrative judge under § 1614.406. Any such request must explain why administrative judge proceedings are necessary or efficient. The Commission may consider administrative judge proceedings waived if a complainant fails to request them or fails to support a request with an explanation.

(b) *Service and certification of appeal.* The appellant shall furnish a copy of the appeal to the respondent agency at the same time it is filed with the Commission. In or attached to the appeal to the Commission, the appellant must certify the date and method by which service was made on the respondent agency.

(c) *Dismissal of untimely appeals.* If an appellant does not file an appeal within the time limits of this subpart, the appeal shall be dismissed by the Commission as untimely.

(d) *Statements and briefs.* Any statement or brief on behalf of the appellant in support of the appeal must be submitted to the Office of Federal Sector within 30 days of filing the notice of appeal, unless the Commission provides otherwise. Any statement or brief on behalf of the agency must be submitted within the time provided by paragraph (f) of this section or as otherwise ordered by the Commission. In its statement or brief, the agency may request that the Commission refer the matter, or specified claims or issues, to an administrative judge under § 1614.406, and must explain why such proceedings are necessary or efficient.

(e) *Agency submission of the record and referral request.* The agency must submit the complete complaint file, any investigative file, the final agency decision, and any agency request for administrative judge proceedings, as applicable, to the Office of Federal Sector within 30 days of initial notification that an appeal has been filed. The agency must identify any portion of the record that is classified, privileged, protected by law, or subject to special handling.

(f) *Response to appeal.* Any statement or brief from the agency in response to an appeal must be submitted to the Commission and served on the appellant within 30 days of receipt of the statement or brief supporting the appeal or, if no statement or brief supporting the appeal is filed, within 60 days of receipt of the appeal, unless the Commission provides otherwise. An agency may include in its response a request for administrative judge proceedings under § 1614.406.

(g) *Digital filing by agencies and appellants.* Agencies and appellants are required to submit complaint files, investigative files, final agency decisions, requests for administrative judge proceedings, appeal briefs, and other filings to the Office of Federal Sector in a digital format acceptable to the Commission, absent a showing of good cause.

■ 22. Amend § 1614.404 to read as follows:

§ 1614.404 Appellate procedure.

(a) *Review of the record.* On behalf of the Commission, the Office of Federal Sector shall review the complaint file, the investigative file, the final agency decision, any administrative judge referral record, and all written statements and briefs submitted by either party. The Commission may supplement the record by an exchange of letters or memoranda, targeted requests for information, investigation, remand to the agency, referral to an administrative judge under § 1614.406, or other procedures consistent with this part.

(b) *Supplementation of the record and service.* If the Office of Federal Sector requests information from one or both parties to supplement the record, each party providing information shall serve a copy of the information on the other party, unless the Commission orders otherwise to protect classified information, privileged information, protected information, or other information subject to special handling.

(c) *Failure to provide requested information; nonmonetary procedural and evidentiary measures.* The Commission may require an agency, appellant, or other person to provide information, documents, records, testimony, affidavits, declarations, or other evidence necessary to resolve an appeal. When a party or Federal employee fails without good cause to respond fully and timely to the Commission's request for evidence, the Commission may consider the failure in evaluating the evidence and may take appropriate nonmonetary procedural or evidentiary measures consistent with this part and applicable law, including:

(1) Drawing an adverse inference that the requested information or testimony would have reflected unfavorably on the noncomplying party;

(2) Considering a factual issue established against the noncomplying party where the failure to respond prevents fair resolution of that issue and a lesser measure would be inadequate;

(3) Excluding evidence offered by the noncomplying party that should have been produced in response to the request;

(4) Limiting argument or evidence; or

(5) Taking other nonmonetary procedural or evidentiary action tailored to the noncompliance, the prejudice caused, and the fair, efficient, and timely resolution of the appeal.

(d) *No monetary sanction.* Nothing in this section authorizes the Commission to impose monetary sanctions against a Federal agency except to the extent Congress has expressly waived sovereign immunity for that specific monetary remedy.

■ 23. Amend § 1614.405 to read as follows:

§ 1614.405 Decisions on appeals.

(a) *Written decisions, summary affirmance, dismissals, and standard of review.* The Director, Office of Federal Sector, on behalf of the Commission, may issue a written decision setting forth the reasons for the Commission's decision, except that the Director, Office of Federal Sector may issue a summary affirmance where the appeal presents no material factual dispute, no colorable legal error, and no issue warranting a written discussion. A summary affirmance constitutes the Commission's final decision. The Commission shall dismiss appeals in accordance with §§ 1614.107, 1614.403(c), and 1614.409. The Commission shall review a final agency decision de novo on the administrative record and shall decide factual issues by a preponderance of the evidence. If the Commission's final decision contains a finding of discrimination, appropriate remedies shall be included and, where appropriate, entitlement to interest, attorney fees, or costs shall be indicated. The decision shall inform the appellant of civil action rights and shall be transmitted to the appellant and the agency.

(b) *Disposition of appeals.* In deciding an appeal, the Commission may:

(1) Affirm, reverse, or modify the final agency decision;

(2) Issue a decision finding discrimination or no discrimination;

(3) Order appropriate remedies and relief under subpart E of this part;

(4) Order targeted supplementation of the record by the agency or the parties;

(5) Remand the matter to the agency for further investigation, clarification, or final agency decision;

(6) Refer the matter, or specified claims or issues, to an administrative judge under § 1614.406;

(7) Order compliance with an enforceable settlement agreement or final agency decision;

(8) Vacate a settlement agreement and reinstate the underlying individual complaint from the point processing ceased; or

(9) Take any other action consistent with this part that is necessary for fair, efficient, and timely resolution.

(c) *Final Commission decision after administrative judge proceedings.* If the Commission refers a matter to an administrative judge, the Commission's final decision after the administrative judge proceedings shall be issued under this section. The Commission may adopt, modify, or reject the administrative judge's recommended decision, recommended findings, or report.

(d) *Time standards for appellate decisions.* The Commission shall use best efforts to issue a decision on an appeal within 180 days after receipt of the appeal. When a matter is referred to an administrative judge under § 1614.406, the Commission shall use best efforts to issue a decision within 90 days after the Office of Federal Sector receives the administrative judge's recommended decision, recommended findings, or report and any hearing record. These time standards do not limit any civil action right provided by § 1614.407.

(e) *Finality and reconsideration.* A decision issued under this section is final within the meaning of § 1614.407 unless a party timely requests reconsideration. A party may request reconsideration within 30 days of receipt of a decision of the Commission, which the Commission in its discretion may grant, if the party demonstrates that:

(1) The appellate decision involved a clearly erroneous interpretation of material fact or law; or

(2) The decision will have a substantial impact on the policies, practices or operations of the agency.

■ 24. Amend § 1614.406 to read as follows:

§ 1614.406 Administrative judge proceedings.

(a) *No automatic hearing entitlement.* A complainant or other aggrieved individual is not automatically entitled to a hearing or any other proceedings before an administrative judge. Administrative judge proceedings may be conducted only as authorized under this section.

(b) *Referral by the Commission.* In an appeal from a final agency decision, the Office of Federal Sector, on behalf of the Commission, may refer the appeal, or one or more claims or issues in the appeal, to an administrative judge when the Commission determines that such proceedings are necessary or efficient to resolve the appeal.

(c) *Requests for administrative judge proceedings.* An appellant may request administrative judge proceedings in their appeal or supporting statement. An agency may request administrative judge proceedings in its final agency decision, in the notice accompanying its final agency decision, or in its response to an appeal. A request under this paragraph must identify the issues for which administrative judge proceedings are sought and explain why such proceedings are necessary or efficient.

(d) *Grounds for referral.* The Commission may refer a matter to an administrative judge when:

(1) The appeal presents a genuine dispute of material fact that cannot be resolved fairly on the written record;

(2) Resolution of the appeal requires credibility determinations that are material to the outcome and cannot be fairly resolved on the written record;

(3) The investigative record is materially incomplete and targeted proceedings before an administrative judge would be more efficient than remand to the agency for a supplemental investigation;

(4) The appeal presents complex, recurring, or significant legal or factual issues for which administrative judge proceedings would materially assist the Commission;

(5) A finding of discrimination appears likely on the existing record and further proceedings are necessary to determine appropriate remedies;

(6) The agency requests administrative judge proceedings and the Commission determines that such proceedings would materially assist fair, efficient, and timely resolution; or

(7) Other circumstances show that administrative judge proceedings would promote fair, efficient, and timely resolution of the complaint.

(e) *Scope of referral.* The Commission may limit the referral to specified claims, issues, remedies, witnesses, documents, time periods, or factual questions. The administrative judge shall conduct proceedings within the scope of the referral unless the Commission modifies the referral. The referral shall include a deadline, tailored to the expected needs of the case, for the administrative judge to issue their recommended decision, findings, or report.

(f) *Administrative judge authority.* When a matter is referred under this section, the administrative judge may, consistent with the referral order:

(1) Order limited discovery or record supplementation;

(2) Require production of documentary or testimonial evidence;

(3) Administer oaths;

(4) Conduct status conferences, settlement conferences, prehearing conferences, or evidentiary hearings;

(5) Limit cumulative, irrelevant, immaterial, or unduly burdensome evidence;

(6) Take nonmonetary procedural or evidentiary measures reasonably necessary to protect the integrity of the proceeding and remedy prejudice caused by a party's failure to comply with an order, including drawing an adverse inference, deeming a referred fact or issue established, excluding evidence or witness testimony not produced as ordered, limiting evidence or argument, or resolving a referred issue against the noncomplying party. Any measure taken by the administrative judge shall be tailored to the noncompliance, the prejudice to the other party caused by the noncompliance, and the scope of the Commission's referral;

(7) Conduct any hearing in accordance with paragraph (j) of this section and compile the hearing record in accordance with paragraph (k) of this section;

(8) Issue recommended decisions, findings, or other report to the parties and the Commission; and

(9) Take other actions authorized by the Commission and consistent with this part.

(g) *Nature of proceedings.* Administrative judge proceedings under this section are part of the Commission's appellate review process. They are not a second de novo administrative complaint process. Proceedings shall be limited to what is necessary or efficient to resolve the appeal.

(h) *Discovery.*

(1) The parties may not engage in discovery unless authorized by the Commission's referral order or by the administrative judge.

(2) The Commission or an administrative judge may authorize discovery only upon determining discovery is necessary to fairly resolve the matters referred by the Commission and proportional to the needs of the case.

(3) The Commission or an administrative judge may limit the scope and manner of discovery, including limits on the type and number of discovery requests.

(4) Where the Commission or an administrative judge has authorized the parties to propound their own discovery requests, it shall be grounds for objection that the information sought is outside the scope of the Commission's referral; irrelevant to the referred claims, issues, remedies, witnesses, documents, time periods, or factual questions; privileged or protected; cumulative or repetitious; already available in the investigative file; obtainable from a more convenient or less burdensome source; unduly burdensome or expensive considering the needs of the case; or otherwise inconsistent with the fair, efficient, and timely resolution of the appeal. The parties shall comply with any orders from the administrative judge governing discovery disputes. Administrative judges shall resolve discovery disputes expeditiously. Failure to comply with a discovery order may result in nonmonetary procedural or evidentiary measures under paragraph (g) of this section, subject to § 1614.501(f).

(i) *Conduct of hearing.*

(1) When the Commission refers a matter to an administrative judge for an evidentiary hearing under this section, the hearing shall be limited to the claims, issues, remedies, witnesses, documents, time periods, or factual questions identified in the Commission's referral order, or as modified by any subsequent Commission order. The administrative judge shall regulate the conduct of the hearing and may limit witnesses, testimony, exhibits, and argument to avoid unnecessary burden, expense, delay, cumulative evidence, or inquiry outside the scope of the referral.

(2) The agency shall provide for the attendance, including through approved virtual means when appropriate, of Federal employees approved as witnesses by the administrative judge. The agency shall take reasonable steps

necessary to make such employees available at the time and in the manner directed by the administrative judge.

(3) Attendance at the hearing shall be limited to the complainant; the parties' representatives; agency officials whose presence the administrative judge determines is necessary for presentation of the agency's case or implementation of any order; witnesses while testifying or as otherwise authorized by the administrative judge; interpreters; court reporters; technical, security, or reasonable-accommodation support personnel; Commission personnel; and any other person whose presence the administrative judge determines is necessary for the fair, efficient, and orderly conduct of the hearing.

(4) Hearings under this section are closed to the public. They are part of the administrative complaint process and the Commission's appellate record-development process, and access to the hearing and hearing record shall be limited as provided in this part, by the administrative judge, or by other applicable law.

(5) The rules of evidence shall not be applied strictly. The administrative judge may receive evidence that is relevant, material, and not unduly repetitious, and shall exclude evidence that is irrelevant, immaterial, cumulative, repetitious, privileged or protected, unduly burdensome, or outside the scope of the Commission's referral.

(6) The administrative judge may exclude any person from the hearing for contumacious conduct, disruption, misbehavior, refusal to comply with lawful directions, or other conduct that obstructs the fair, efficient, and orderly conduct of the hearing.

(j) *Record of hearing.*

(1) Unless the administrative judge directs otherwise, the agency shall arrange and pay for a verbatim transcript of the hearing, including any transcript required for a virtual or hybrid hearing. Unless the administrative judge orders otherwise, the transcript shall be provided in an electronic format to the administrative judge, the appellant, and the agency.

(2) All documents, electronically stored information, exhibits, stipulations, testimony, and other materials submitted to and accepted by the administrative judge at the hearing shall be made part of the hearing record.

(3) If the agency submits a document or other material that is accepted into the hearing record, the agency shall provide a copy to the appellant, subject to any protective order, redaction requirement, privilege determination, classified-information procedure, or other limitation imposed by the administrative judge or by law.

(4) If the appellant submits a document or other material that is accepted into the hearing record, the administrative judge shall make the document or material available to the agency representative for reproduction or electronic access, subject to any protective order, redaction requirement, privilege determination, classified-information procedure, or other limitation imposed by the administrative judge or by law.

(5) The administrative judge may require the agency to ensure timely delivery of the transcript and may establish deadlines for correction of transcript errors, submission of post-hearing briefs, or other steps necessary to complete the hearing record.

(6) The hearing record shall be transmitted with the administrative judge's recommended decision, recommended findings, or report under paragraph (m) of this section and shall become part of the administrative record considered by the Office of Federal Sector under § 1614.405.

(k) *Recommended decision, recommended findings, or report.* Unless the Commission directs otherwise, the administrative judge shall issue recommended decisions, recommended findings, or reports to the Office of Federal Sector. The administrative judge shall transmit the recommended decision, recommended findings, or report and any hearing record to the parties and to the Office of Federal Sector.

(l) *Final Commission decision.* The Director, Office of Federal Sector, on behalf of the Commission, may issue the final Commission decision in accordance with § 1614.405 after considering the administrative judge's recommended decision, recommended findings, or report and the administrative record.

(m) *Civil action.* The referral of a matter to an administrative judge does not restrict any civil action right provided by § 1614.407. The filing of a civil action terminates Commission processing in accordance with § 1614.409.

■ 25. Revise § 1614.407 to read as follows:

§ 1614.407 Civil action: title VII, Age Discrimination in Employment Act, Rehabilitation Act, Genetic Information Nondiscrimination Act, and Pregnant Workers Fairness Act.

(a) *Authorization and time for filing civil action.* A complainant who has filed an individual complaint, including a complainant who has asserted a putative class claim under § 1614.204(b), is authorized under title VII, the Age Discrimination in Employment Act, the Rehabilitation Act, the Genetic Information Nondiscrimination Act, and the Pregnant Workers Fairness Act to file a civil action in an appropriate United States District Court:

(1) Within 90 days of receipt of the agency final action on the complaint;

(2) After 180 days from the date of filing the complaint if agency final action has not been taken;

(3) Within 90 days of receipt of the Commission's final decision on an appeal; or

(4) After 180 days from the date of filing an appeal with the Commission if there has been no final decision by the Commission.

(b) *Withdrawal of appeal after agency final action.* After filing an appeal with the Commission from an agency final action, the complainant may withdraw the appeal and file a civil action within 90 days of receipt of the agency final action. If the complainant files an appeal with the Commission from a final agency decision and more than 90 days have passed since receipt of the agency final action, the complainant may file a civil action only in accordance with paragraph (a)(3) or (a)(4) of this section.

(c) *Withdrawal of request for reconsideration.* After filing a request for reconsideration of a Commission decision on an appeal, the complainant may withdraw the request and file a civil action within 90 days of receipt of the Commission's antecedent decision on the appeal. If the complainant files a request for reconsideration of a Commission decision on an appeal and more than 90 days have passed since the complainant received the Commission's antecedent decision on the appeal, the complainant may file a civil action only in accordance with paragraph (a)(3) or (a)(4) of this section.

(d) *Exhaustion and putative class claims.* A complainant who follows the procedures described in paragraph (b) or (c) of this section shall be deemed to have exhausted administrative remedies under this part. A complainant who asserts a putative class claim under § 1614.204(b) shall be deemed to have presented that putative class claim in the administrative process for purposes of this part, but nothing in this section determines whether a court will certify a class, permit a class claim to proceed, apply tolling, or find administrative exhaustion satisfied in a civil class action.

(e) *Effect of administrative judge referral.* A referral to an administrative

judge under § 1614.406 does not extend, restrict, or otherwise alter the complainant's right to file a civil action under this section.

■ 26. Amend § 1614.409 to read as follows:

§ 1614.409 Effect of filing a civil action.

Filing a civil action under § 1614.407, § 1614.408, or § 1614.310 shall terminate Commission processing of the complaint, appeal, request for reconsideration, including any administrative judge proceedings under § 1614.406 concerning the same claims. A Commission decision on an appeal issued after a complainant files suit in district court will not be enforceable by the Commission. If a civil action is filed subsequent to the filing of an appeal and prior to a final Commission decision, the complainant should notify the Commission in writing.

Subpart E—Remedies and Enforcement

■ 27. Amend § 1614.501 by revising paragraph (a) introductory text, paragraphs (a)(3) and (4), paragraphs (b)(1)(i), (ii), and (iii), paragraph (b)(2), paragraph (c) introductory text, paragraphs (c)(1) and (2), paragraph (d) and paragraph (e), and adding paragraphs (f) and (g) to read as follows:

§ 1614.501 Remedies and relief.

(a) *Full relief following a finding of discrimination.* When an agency, in a final agency decision, or the Commission, in its final decision, finds in an individual case that an applicant or employee has been discriminated against, the agency shall provide full relief, which shall include the following elements in appropriate circumstances:

* * * * *

(3) An unconditional offer to each identified complainant who is a victim of discrimination of placement in the position the person would have occupied but for the discrimination suffered by that person, or a substantially equivalent position;

(4) Payment to each identified complainant who is a victim of discrimination on a make-whole basis for any loss of earnings the person may have suffered because of the discrimination; and

* * * * *

(b) * * *

(1)(i) When an agency, in a final agency decision, or the Commission, in its final decision, finds that an applicant for employment has been discriminated against, the agency shall offer the applicant the position that the applicant would have occupied absent discrimination or, if justified by the circumstances, a substantially equivalent position, unless a preponderance of the evidence indicates that the applicant would not have been selected even absent the discrimination. The offer shall be made in writing. The individual shall have 15 days from receipt of the offer within which to accept or decline the offer. Failure to accept the offer within the 15-day period will be considered a declination of the offer, unless the individual can show that circumstances beyond the individual's control prevented a response within the time limit.

(ii) If the offer is accepted, appointment shall be retroactive to the date the applicant would have been hired. Back pay, computed in the manner prescribed by 5 CFR 550.805, shall be awarded from the date the individual would have entered on duty until the date the individual actually enters on duty, unless a preponderance of the evidence indicates that the applicant would not have been selected even absent discrimination. Interest on back pay shall be included in the back pay computation where sovereign immunity has been waived. The individual shall be deemed to have performed service for the agency during this period for all purposes except for meeting service requirements for completion of a required probationary or trial period.

(iii) If the offer of employment is declined, the agency shall award the individual a sum equal to the back pay the individual would have received, computed in the manner prescribed by 5 CFR 550.805, from the date the individual would have been appointed until the date the offer was declined, subject to the limitation of paragraph (b)(3) of this section. Interest on back pay shall be included in the back pay computation where sovereign immunity has been waived. The agency shall inform the applicant, in its offer of employment, of the right to this award in the event the offer is declined.

(2) When an agency, in a final agency decision, or the Commission, in its final decision, finds that discrimination existed at the time the applicant was considered for employment but also finds by a preponderance of the evidence that the applicant would not have been hired even absent discrimination, the agency shall nevertheless take all steps necessary to eliminate the discriminatory practice and ensure it does not recur.

* * * * *

(c) *Relief for an employee.* When an agency, in a final agency decision, or the Commission, in its final decision, finds that an employee of the agency was discriminated against, the agency shall provide relief, which shall include, but need not be limited to, one or more of the following actions:

(1) Nondiscriminatory placement, with back pay computed in the manner prescribed by 5 CFR 550.805, unless a preponderance of evidence demonstrates that the personnel action would have been taken even absent the discrimination. Interest on back pay shall be included in the back pay computation where sovereign immunity has been waived. The back pay liability under title VII or the Rehabilitation Act is limited to two years prior to the date the discrimination complaint was filed.

(2) If a preponderance of the evidence indicates that, although discrimination existed at the time the personnel action was taken, the personnel action would have been taken even absent discrimination, the agency shall nevertheless eliminate any discriminatory practice and ensure it does not recur.

(d) *Mitigation of damages.* The complainant has a duty to make reasonable efforts to mitigate damages where mitigation is required by applicable law. The agency bears the burden of proving, by a preponderance of the evidence, that the complainant failed to mitigate and the amount by which any award should be reduced. Any reduction shall be limited to damages or monetary relief the agency proves the complainant reasonably could have avoided.

(e) *Attorney fees and costs.*

(1) *Covered claims.* Attorney fees and costs may be awarded in administrative proceedings under this part only to the extent authorized by title VII, the Rehabilitation Act, the Genetic Information Nondiscrimination Act, the Pregnant Workers Fairness Act, or another statute that authorizes such an award in the Federal-sector administrative process. Attorney fees are not available for claims under the Age Discrimination in Employment Act or the Equal Pay Act except to the extent required by applicable law.

(2) *Compensable legal services.* Attorney fees are allowable only for the services of members of the Bar and for the services of law clerks, paralegals, or law students when assisting and supervised by members of the Bar. No award of attorney fees is allowable for the services of any employee of the Federal Government.

(3) *Prevailing complainant.* A complainant is eligible for attorney fees only if the complainant is a prevailing party. A complainant prevails only

when the complainant obtains a material alteration of the legal relationship between the complainant and the agency through enforceable relief, including a final agency decision, final Commission decision, or enforceable settlement agreement.

(4) *Presumption and limitations.* In cases in which a finding of discrimination is made under a statute authorizing attorney fees, the complainant is presumed entitled to reasonable attorney fees, subject to special circumstances, limited success, the limitations in § 1614.108(j), and the reasonableness requirements of this section.

(5) *Lodestar.* The starting point for determining a reasonable attorney fee is the number of hours reasonably expended multiplied by a reasonable hourly rate. The fee applicant bears the burden of documenting entitlement to fees, the hours reasonably expended, the rate claimed, and the relationship between the work performed and the relief obtained.

(6) *Reasonable hours.* Hours are not reasonably expended to the extent they are excessive, redundant, unnecessary, inadequately documented, clerical, secretarial, duplicative, unrelated to successful claims, attributable to claims rejected as frivolous or groundless, incurred after the expiration of a valid offer of resolution under § 1614.108(j), or otherwise not properly billable to a paying client in the exercise of billing judgment.

(7) *Documentation.* A fee petition must be supported by contemporaneous or otherwise reliable billing records identifying the date, timekeeper, task performed, time spent in increments no greater than one-quarter hour, claim or issue to which the work related where practicable, hourly rate claimed, costs claimed, and billing judgment exercised. Vague, block-billed, reconstructed, or materially incomplete records may be reduced or disallowed.

(8) *Reasonable rate.* A reasonable hourly rate is the prevailing market rate in the relevant community for attorneys of reasonably comparable skill, experience, and reputation performing work comparable to the Federal-sector EEO administrative process. The fee applicant bears the burden of producing satisfactory evidence, beyond counsel's own affidavit, that the requested rate is consistent with such prevailing market rates.

(9) *Fee matrices.* Fee matrices, including fee matrices for attorney work in general, matrices for employment litigation, and fee matrices for work on complex litigation, are disfavored and are not presumptively reasonable. An agency, an administrative judge, or the Commission shall not consider a fee matrix in determining a reasonable hourly rate unless the fee applicant demonstrates, through specific and reliable evidence, that the matrix reflects the prevailing market rate in the relevant community for attorneys of reasonably comparable skill, experience, and reputation performing work comparable to the Federal-sector EEO administrative process. Absent the required showing, the agency, administrative judge, or Commission shall give the matrix no weight.

(10) *Fee agreements and nonprofit, union, or pro bono representation.* A fee agreement, reduced-rate agreement, contingency arrangement, nonprofit representation, union representation, or pro bono representation is relevant evidence, but does not by itself establish or cap the reasonable fee unless applicable law requires otherwise.

(11) *Limited success.* When the complainant achieves only limited success, the award must be reduced to reflect the degree of success obtained. No fee, or a substantially reduced fee, may be appropriate where the complainant obtains only nominal, technical, or de minimis relief and no meaningful nonmonetary relief, prospective relief, or other material benefit.

(12) *Unsuccessful claims.* Time spent on unsuccessful claims must be excluded when those claims are materially distinct from successful claims. When unsuccessful and successful claims involve a common core of facts or related legal theories, the agency, administrative judge, or Commission must consider the significance of the overall relief obtained in relation to the hours reasonably expended.

(13) *Fees for fee litigation.* Reasonable fees may be awarded for time reasonably spent preparing and defending a fee petition. Such fees must be reduced or denied to the extent the fee litigation was excessive, unnecessary, inadequately documented, disproportionate to the fee dispute, or pursued after the agency made a reasonable tender of fees and costs.

(14) *Enhancements.* The lodestar carries a strong presumption of reasonableness. Enhancements above the lodestar are permitted only in rare and exceptional circumstances supported by specific evidence and detailed findings, and may not be based on factors already subsumed in the lodestar.

(15) *Mixed-motive cases.* In a case in which the complainant establishes that a protected characteristic was a motivating factor but the agency proves by preponderant evidence it would have taken the same action absent the impermissible factor, attorney fees and costs must be limited to fees and costs directly attributable to the claim on which the complainant prevailed and must reflect the limited relief authorized by law.

(16) *Covered and noncovered claims.* When a complaint includes both fee-eligible and non-fee-eligible claims, fees may be awarded only for work reasonably related to fee-eligible claims on which the complainant prevailed, except to the extent claims share a common core of facts and cannot reasonably be separated.

(17) *Timing of compensable services.* Attorney fees may be awarded only for services performed after the filing of a written complaint, provided that the attorney provides reasonable notice of representation to the agency, administrative judge, or Commission. Fees are allowable for a reasonable period of time before notice of representation for services performed in determining whether to represent the complainant.

(18) *Fee petition.* When an entitlement to attorney fees or costs is determined, the complainant's attorney shall submit a verified statement of attorney fees, including expert witness fees where authorized, and other costs, as appropriate, within 30 days of receipt of the decision determining entitlement, unless the decision provides otherwise. The verified statement must be submitted to the agency and served on the opposing party. If the matter is pending before the Commission, the verified statement must also be submitted to the Commission. A statement of attorney fees and costs must be accompanied by an affidavit or declaration executed by the attorney of record itemizing the attorney's charges for legal services. The agency may respond to a statement of attorney fees and costs within 30 days of receipt. The verified statement, accompanying affidavit or declaration, and any agency response shall be made part of the complaint file.

(19) *Decision on fee petition.* The agency or Commission, as appropriate, shall issue a decision determining the amount of attorney fees or costs due. The decision must include the specific reasons for determining the amount of the award and, if applicable, notice of the right to appeal to the Commission. The Commission may include fees and costs within the scope of a referral to an administrative judge for a recommended decision, recommended findings, or report.

(20) *Costs and witness fees.* Costs may be awarded only to the extent authorized by applicable law. Witness fees shall be awarded in accordance with the provisions of 28 U.S.C. 1821, except that no award shall be made for a Federal employee who is in a duty status when made available as a witness.

(f) *Monetary sanctions prohibited.* Neither the agency, an administrative judge, nor the Commission may impose or recommend monetary sanctions against a Federal agency, including attorney fee sanctions, cost shifting sanctions, litigation expenses, fines, penalties, contempt sanctions, or any other monetary payment imposed as a sanction, unless Congress has expressly waived sovereign immunity for that specific monetary remedy. This paragraph does not limit the award of back pay, compensatory damages, equitable relief, attorney fees, or costs otherwise authorized by statute as relief for a proven violation of law.

■ 28. Amend § 1614.504 by revising paragraph (c) to read as follows:

§ 1614.504 Compliance with settlement agreements and final agency decisions.

* * * * *

(c) Before rendering its determination, the Commission may request additional information from the parties, may direct that additional information be developed by the agency, or may refer the matter for administrative judge proceedings under § 1614.406. The Commission shall issue its determination on the basis of the written record and any additional information or administrative judge record developed under this paragraph. If the Commission determines that the agency is not in compliance with a settlement agreement or final agency decision, and that the noncompliance is not attributable to acts or omissions of the complainant, the Commission may order compliance. For noncompliance with an enforceable settlement agreement, the Commission may order specific implementation of the settlement agreement or, alternatively, may order that the complaint be reinstated for further processing from the point processing ceased. Allegations that subsequent acts of discrimination violate a settlement agreement shall be processed as separate complaints under § 1614.106, rather than under this section.

■ 29. Remove and reserve § 1614.505.

§ 1614.505 [Reserved]

Subpart F—Matters of General Applicability

■ 30. Amend § 1614.602 by revising paragraph (a) to read as follows:

§ 1614.602 Reports to the Commission.

(a) Each agency shall report to the Commission information concerning the status, processing, and disposition of complaints under this part, including investigations, final agency decisions, appeals, compliance proceedings, settlements, administrative judge referrals, and other matters, at such times and in such manner as the Commission prescribes.

* * * * *

■ 31. Amend § 1614.603 to read as follows:

§ 1614.603 Voluntary settlement attempts.

Each agency shall make reasonable efforts to voluntarily settle complaints of discrimination as early as possible in, and throughout, the administrative processing of complaints. Any settlement reached shall be in writing and signed by both parties and shall identify the claims resolved.

■ 32. Amend § 1614.604 by revising paragraphs (c), (d), and (e) to read as follows:

§ 1614.604 Filing and computation of time.

* * * * *

(c) A complaint, appeal, request for reconsideration, request for administrative judge proceedings, brief, or other document filed by a complainant using the EEOC Public Portal, or filed by an agency using FedSEP, shall be deemed filed on the date the document is uploaded to the Public Portal or FedSEP. The timeliness of documents submitted through the Public Portal and FedSEP will be determined based on the time zone from which the document was submitted.

(d) When a document is transmitted through the Public Portal or FedSEP, the document is deemed received when it is accessed in the Portal or FedSEP, or within five days of when the document is uploaded, whichever occurs first. When a document is transmitted by email or other digital means, and is not returned as undeliverable, the document is deemed received when it is accessed, or within five days of when the document is transmitted, whichever occurs first.

(e) For purposes of §§ 1614.106 through 1614.110, 1614.204, and 1614.401 through 1614.405, the terms accept, accepted, file, filed, filing, issue, issuance, issuing, notify, notified, receive, receipt, send, serve, served, service, submit, submission, submitted, transmit, and transmitted shall include digital transmissions made through FedSEP, the EEOC Public Portal, or by email.

* * * * *

■ 33. Amend § 1614.605 by revising paragraph (a) to read as follows:

§ 1614.605 Representation and official time.

(a) At any stage in the processing of a complaint under this part, including filing, investigation, final agency decision, appeal, administrative judge proceedings, reconsideration, compliance, or settlement, the complainant shall have the right to be accompanied, represented, and advised by a representative of the complainant's choice.

* * * * *

■ 34. Revise § 1614.606 to read as follows:

§ 1614.606 Joint processing and consolidation of complaints.

Complaints filed by two or more complainants consisting of substantially similar allegations or relating to the same matter may be processed jointly by the agency or the Commission after appropriate notice to the parties. Two or more complaints filed by the same complainant may be consolidated by the agency or the Commission after appropriate notice to the complainant. When complaints are jointly processed or consolidated, the agency shall complete the investigation and issue a final agency decision within the time limits prescribed by § 1614.108 unless extended under this part. Administrative judge proceedings may occur only as provided in § 1614.406. Joint processing and consolidation under this section do not create a class complaint, class representative, class member, or class-wide adjudication.

■ 35. Amend § 1614.607 to read as follows:

§ 1614.607 Delegation of authority.

An agency head may delegate authority under this part to one or more designees, except where law, Executive order, or regulation requires action by the agency head. A delegation under this section shall not alter the reporting relationship required for the agency EEO Director under § 1614.102(b)(4).

Subpart G—Procedures Under the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act)

■ 36. Amend § 1614.701 to read as follows:

§ 1614.701 Purpose and scope.

(a) *Purpose.* This subpart implements the public posting, data, reporting, tracking, and related accountability requirements of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, as amended, including the Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020.

(b) *Scope.* This subpart sets forth the responsibilities of Federal agencies and the Commission to post complaint data and related notices on public websites; maintain and report required complaint and finding information; provide comparative data; track discrimination complaints from filing through resolution; report disciplinary action information following findings of discrimination or retaliation; and maintain required records concerning certain disciplinary actions taken for discriminatory or retaliatory conduct.

(c) *Relationship to complaint processing.* The reporting requirements in this subpart do not create, extend, limit, or otherwise alter any right, remedy, time limit, appeal right, civil action right, or complaint-processing requirement under this part.

■ 37. Amend § 1614.702 to read as follows:

§ 1614.702 Definitions.

For purposes of this subpart:

(a) *Agency or Federal agency.* Agency or Federal agency means an Executive agency as defined in 5 U.S.C. 105, the United States Postal Service, the Postal Regulatory Commission, and any other entity covered by this part.

(b) *Commission.* Commission means the Equal Employment Opportunity Commission and any subdivision or official authorized to act on the Commission's behalf.

(c) *Complaint.* Complaint means a written complaint filed under § 1614.106, including any accepted amendment. The term includes complaints jointly processed or consolidated under §§ 1614.204 or 1614.606.

(d) *Investigation.* Investigation means the agency fact-development step described in § 1614.108. For purposes of this subpart, investigation begins when a complaint is filed and ends when the agency completes the investigative file and issues a final agency decision on the merits, issues a final agency decision dismissing the entire complaint, otherwise takes final agency action, or terminates processing because a civil action has been filed.

(e) *Final agency decision or final agency action.* Final agency decision or final agency action means the agency action described in § 1614.110, including a dismissal under § 1614.107, or other final agency disposition of a complaint under this part.

(f) *Final agency decision or final agency action involving a finding of discrimination.* Final agency decision or final agency action involving a finding of discrimination means a final agency decision or final agency action in which the agency finds discrimination or retaliation prohibited by a law covered by this part.

(g) *Administrative judge proceedings.* Administrative judge proceedings means proceedings referred by the Office of Federal Sector to an administrative judge under § 1614.406. Administrative judge proceedings begin when the Office of Federal Sector refers a matter to an administrative judge and end when the administrative judge transmits a recommended decision, recommended findings, report, or hearing record to the Office of Federal Sector.

(h) *Appeal.* Appeal means the step of the Federal-sector EEO process described in subpart D of this part. For purposes of this subpart, an appeal begins when received by the Commission and ends when the Commission issues its appellate decision or otherwise terminates processing.

(i) *Basis of alleged discrimination.* Basis of alleged discrimination means the protected status or activity alleged in a complaint, including race, color, religion, sex, national origin, age, disability, genetic information, pregnancy, childbirth, or related medical conditions, Equal Pay Act claim, or retaliation.

(j) *Issue of alleged discrimination.* Issue of alleged discrimination means the challenged employment action, policy, practice, or matter identified in the complaint, using categories prescribed by the Commission.

(k) *Finding of discrimination.* Finding of discrimination means a finding by an agency, the Commission, or a court that an agency discriminated or retaliated in violation of a law covered by this part.

(l) *Final finding of discrimination.* Final finding of discrimination means a finding of discrimination for which all administrative appeals have been exhausted or for which a court of competent jurisdiction has issued a final judgment.

(m) *Disciplinary action decision.* Disciplinary-action decision means a decision whether to propose, initiate, decline, or take disciplinary action against a Federal employee as a result of a finding of discrimination or retaliation.

(n) *Class action complaint.* Class action complaint means a civil action, or other complaint where applicable, filed against an agency alleging discrimination or retaliation on behalf of a class or putative class of employees, former employees, or applicants for employment. The term does not include joint processing of identified individual complaints under §§ 1614.204 or 1614.606.

(o) *Subordinate component.* Subordinate component means any organizational subunit directly below the agency or department level that has 1,000 or more employees and is required to submit EEOC Form 715–01, or any successor form, to the Commission.

■ 38. Amend § 1614.703 to read as follows:

§ 1614.703 Manner and format of posted data and notices.

(a) *Public website posting.* Each agency shall post the information required by this subpart on its public website in a clear, prominent, and readily accessible location. The agency shall provide a link from the homepage of its public website to the page containing the information required by this subpart.

(b) *Title and organization.* Data posted under §§ 1614.704 and 1614.705 shall be clearly identified as ''No FEAR Act Data.'' Notices posted under § 1614.706(a) shall be clearly identified as ''Notification of Findings of Discrimination or Retaliation.''

(c) *Accessible and searchable format.* Agencies shall post required data and notices in an accessible electronic format that complies with section 508 of the Rehabilitation Act and is readable, searchable, and downloadable. The Commission may prescribe templates, data formats, or additional instructions for posting data under this subpart.

(d) *Date of update.* Agencies shall prominently identify the date on which the data or notice was last updated.

(e) *Subordinate component data.* In addition to aggregate agency-wide data, an agency shall post separate data for each subordinate component. Data for a subordinate component shall be identified as pertaining to that subordinate component.

(f) *Current fiscal year data.* Data posted under § 1614.704 shall be cumulative for the current fiscal year. Agencies shall not post separate quarterly datasets for the current fiscal year unless the Commission instructs otherwise.

(g) *Processing time.* Processing times required to be posted under this subpart

shall be reported in number of calendar days.

(h) *Searchability.* Agencies shall take reasonable steps to ensure that data and notices posted under this subpart can be readily located through the agency's public website and through commercial search engines.

(i) *Notification to Commission.* Each agency shall provide the Commission the Uniform Resource Locator for each page on which the agency posts information required by this subpart. An agency shall notify the Commission within 30 days after creating, changing, or discontinuing any such Uniform Resource Locator.

(j) *Privacy and protected information.* Agencies shall post data and notices under this subpart in a manner that protects personally identifiable information, medical information, confidential settlement information, classified information, privileged information, and other information protected by law. Agencies shall not include names of complainants, witnesses, alleged discriminating officials, or other individuals unless disclosure is expressly authorized by law.

■ 39. Amend § 1614.704 to read as follows:

§ 1614.704 Information to be posted—all Federal agencies.

(a) *Current fiscal year data.* No later than 30 days after the end of each fiscal quarter, each agency shall post on its public website the following cumulative current fiscal year data regarding complaints filed under this part.

(b) *Complaint filings and filers.* Each agency shall post:

(1) The number of complaints filed;

(2) The number of individuals filing complaints; and

(3) The number of individuals who filed two or more complaints.

(c) *Bases and issues alleged.* Each agency shall post:

(1) The number of complaints, whether initially or through amendment, raising each basis of alleged discrimination or retaliation, and the number of complaints in which a non-EEO basis is alleged; and

(2) The number of complaints, whether initially or through amendment, raising each issue of alleged discrimination or retaliation.

(d) *Agency processing and disposition.* Each agency shall post:

(1) For complaints in which the agency completed an investigation during the fiscal year, the average number of days from filing of the complaint to completion of the investigation;

(2) For complaints in which the agency issued a final agency decision or other final agency action during the fiscal year, the average number of days from filing of the complaint to final agency decision or other final agency action;

(3) The number of complaints dismissed by the agency under § 1614.107 and the average number of days such complaints were pending before dismissal; and

(4) The number of complaints withdrawn by complainants.

(e) *Findings of discrimination or retaliation.* Each agency shall post:

(1) The number of final agency decisions or other final agency actions issued during the fiscal year involving a finding of discrimination or retaliation;

(2) The percentage of final agency decisions or final agency actions issued during the fiscal year that involved a finding of discrimination or retaliation;

(3) Of the final agency decisions or final agency actions issued during the fiscal year involving a finding of discrimination or retaliation, the number and percentage by basis and by issue; and

(4) For each finding of discrimination or retaliation described in paragraph (e)(1) of this section, the date of the finding, the affected agency or subordinate component, the law violated, and whether a disciplinary action decision has been made as a result of the finding.

(f) *Pending inventory and timeliness.* Each agency shall post:

(1) The number of complaints pending at the beginning of the fiscal year, the number filed during the fiscal year, the number closed during the fiscal year, and the number pending at the end of the reporting period;

(2) Of the complaints pending at the end of the reporting period, the number that were first filed before the start of the then-current fiscal year and the number of individuals who filed those complaints;

(3) Of the complaints pending at the end of the reporting period, the number pending at the agency investigation or final agency action step, the Commission appeal step, the reconsideration step, and the compliance step; and

(4) The number of complaints in which the agency has not completed the investigation and issued a final agency decision or final agency action within the time required by § 1614.108(e), plus any extensions authorized by that section.

(g) *Class action complaint data.* Each agency shall post data regarding each class action complaint filed against the agency alleging discrimination or retaliation, including:

(1) The date on which the complaint was filed;

(2) A general summary of the allegations;

(3) An estimate of the total number of plaintiffs or class members joined in or covered by the complaint, if known;

(4) The current status of the complaint, including whether a class has been certified; and

(5) The case number for any civil action in which discrimination or retaliation has been found.

■ 40. Amend § 1614.705 to read as follows:

§ 1614.705 Comparative data to be posted by agencies.

(a) *Annual comparative data.* No later than January 31 of each year, each agency shall post year-end data corresponding to the categories required by § 1614.704 for each of the five immediately preceding completed fiscal years, or, if data are not available for all five fiscal years, for each of those fiscal years for which data are available.

(b) *Separate fiscal year figures.* For each category of data required by § 1614.704, the agency shall post a separate figure for each fiscal year included in the comparative data.

■ 41. Amend § 1614.706 to read as follows:

§ 1614.706 Cummings Act notices, reports, tracking, and other data.

(a) *Public notice of final findings.* Not later than 90 days after a final finding of discrimination or retaliation, the head of the agency subject to the finding shall post a notice on the agency's public website in a clear and prominent location linked directly from the homepage of that website. The notice must remain posted for not less than one year.

(b) *Contents of public notice.* A notice under paragraph (a) of this section must state that a finding of discrimination or retaliation has been made and must identify:

(1) The date on which the finding was made;

(2) The date on which each discriminatory or retaliatory act occurred;

(3) The law violated by each such act; and

(4) The rights and protections available to Federal employees and applicants under the laws covered by this part.

(c) *Disciplinary action report to Commission.* Not later than 120 days after the agency takes final action, or

receives a final Commission decision, involving a finding of discrimination or retaliation, the agency shall submit to the Commission a report stating whether disciplinary action has been proposed against a Federal employee as a result of the violation and the reasons for any disciplinary action proposed. The report shall be submitted in the form and manner prescribed by the Commission.

(d) *Complaint tracking.* Each agency shall maintain a system to track each complaint of discrimination or retaliation adjudicated through the EEO process from the filing of the complaint through resolution. The system must track whether a disciplinary-action decision has been made as a result of any finding of discrimination or retaliation.

(e) *Personnel record notation.* If an agency takes an adverse action covered by 5 U.S.C. 7512 against a Federal employee for an act of discrimination or retaliation prohibited by a law covered by this part, the agency shall, after all appeals relating to that action have been exhausted, include in the employee's personnel record a notation of the adverse action and the reason for the action.

■ 42. Amend § 1614.707 to read as follows:

§ 1614.707 Data to be posted by EEOC.

(a) *Administrative judge referral data.* No later than 30 days after the end of each fiscal quarter, the Commission shall post on its public website the following current fiscal year statistics regarding matters referred to administrative judges under § 1614.406:

(1) The number of appeals in which the Commission referred a complaint, claim, issue, remedy, witness, document, time period, or factual question to an administrative judge under § 1614.406.

(2) The number of complainants whose complaints, claims, or issues were referred to an administrative judge under § 1614.406.

(3) The number of referred matters pending before administrative judges at the beginning of the fiscal year, the number referred during the fiscal year, the number completed during the fiscal year, and the number pending at the end of the reporting period.

(4) Of the referred matters completed during the fiscal year, the number completed without an evidentiary hearing and the number completed after an evidentiary hearing.

(5) Of the referred matters completed during the fiscal year, the number in which the administrative judge transmitted a recommended decision, recommended findings, or report recommending a finding of discrimination, no discrimination, or other disposition.

(6) For referred matters completed during the fiscal year, the average number of days from referral under § 1614.406 to transmission of the administrative judge's recommended decision, recommended findings, or report to the Office of Federal Sector.

(7) The number of referred matters pending or completed during the fiscal year in which administrative judge proceedings were not completed within the time established by the Commission's referral order, scheduling order, or other applicable Commission direction.

(b) *Appeals data.* No later than 30 days after the end of each fiscal quarter, the Commission shall post on its public website the following current fiscal year statistics regarding appeals filed with the Commission under subpart D of this part:

(1) The number of appeals filed.

(2) The number of individuals filing appeals.

(3) The number of appeals involving each basis of alleged discrimination.

(4) The number of appeals involving each issue of alleged discrimination.

(5) The number of appeals pending at the beginning of the fiscal year, the number filed during the fiscal year, the number decided during the fiscal year, and the number pending at the end of the reporting period.

(6) For appeals decided during the fiscal year, the average number of days from filing of the appeal to issuance of the Commission's appellate decision.

(7) The number of appellate decisions issued during the fiscal year involving a finding of discrimination, and the percentage of all appellate decisions issued during the fiscal year that involved a finding of discrimination.

(8) Of the appellate decisions issued during the fiscal year involving a finding of discrimination, the number and percentage by basis of discrimination and by issue of discrimination.

(9) Of the appeals pending at the end of the reporting period, the number that were first filed before the start of the then-current fiscal year.

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Part III

The President

Proclamation 11057—Honoring the Memory of Dolly Parton

Federal Register
Vol. 91, No. 166
Friday, August 28, 2026

Presidential Documents

Title 3—

The President

Proclamation 11057 of August 25, 2026

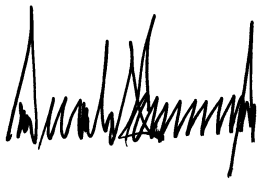
Honoring the Memory of Dolly Parton

By the President of the United States of America

A Proclamation

As a mark of respect for the memory of Dolly Parton, I hereby order, by the authority vested in me by the Constitution and the laws of the United States of America, that the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset, September 1, 2026. I also direct that the flag shall be flown at half-staff for the same period at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of August, in the year of our Lord two thousand twenty-six, and of the Independence of the United States of America the two hundred and fifty-first.



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